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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. GUTKNECHT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

HOUSE OF REPRESENTATIVES,
Washington, DC, May 1, 2002.

I hereby appoint the Honorable GIL GUTKNECHT to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Jim Congdon, Pastor, Topeka Bible Church, Topeka, Kansas, offered the following prayer:

Almighty God, we pause this morning to give You thanks.

We thank You for another day to live and work in the United States.

We thank You for Your Word, which teaches us righteousness and justice and equity.

We thank You for giving us a system of government that honors our dignity and checks our depravity.

We repent for the spirit of self-sufficiency that tells us we do not need You and the spirit of arrogance that tells us we do not need others.

On this first day of May, dear Father, we make a new commitment to live our Nation's motto, In God We Trust.

For You are the rock of our salvation.

You are our hiding place in times of terror.

You are the truth in whom we can rely.

Our Nation needs a third great spiritual awakening. May it begin here with each of us.

Bless these men and women who represent America. Bless them in their deliberations to seek and find Your wisdom, that Thy will be done on earth as it is in heaven.

Hear our prayer, for You are our Lord and savior. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. MCNULTY 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.

WELCOMING PASTOR JIM CONGDON, PASTOR, TOPEKA BIBLE CHURCH

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute.)

Mr. RYUN of Kansas. Mr. Speaker, I rise this morning to welcome my good friend, Pastor Jim Congdon, to the floor of the House of Representatives. It was my distinct honor to invite Pastor Congdon to deliver our opening prayer this morning, and I am grateful for his willingness to do so.

Pastor Congdon is from Topeka, Kansas, and pastors the Topeka Bible Church, which my family and I attended for several years. It was a privilege to call Jim my pastor, and I am grateful for his continued friendship and dedication to the ministry.

I also want to welcome Jim's wife, Melody, to the House Chamber. I know she came with Jim and she speaks for a lot of different people in the church. She is a constant source of strength and support in the ministry at the Topeka Bible Church.

Finally, I want to welcome the 62 students from Cair Paravel Latin School that are seated in the gallery. Pastor Congdon teaches philosophy at Cair Paravel, and these 9th and 10th graders are in D.C. for part of their studies. I thank them all for being here.

I thank Jim and Melody for their presence, and God bless them.

CONGRATULATING FLORIDA INTERNATIONAL UNIVERSITY SCHOOL OF NURSING

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

Ms. ROS-LEHTINEN. Mr. Speaker, keeping in mind the national nursing shortage that health care experts cite could become pervasive, I would like to congratulate the School of Nursing at my two-time alma mater, Florida International University, for its commitment to the future of nursing.

The school recently celebrated its 20th year of existence and already has produced exceptional nurses, nurse practitioners and nursing leaders who contribute to the health and well-being of south Florida. Its prominent faculty includes as director Dr. Divina Grossman; Dr. Kathleen Blais; Dr. Marie-Luise Friedemann; Paula Alexander-Delpech; and Dr. John McDonough.

By reaching out to high school and first year college students, focusing on underrepresented minority groups and retraining foreign doctors for nursing, the school is working toward a slogan of Solving the Nursing Shortage Through Excellence and Opportunity.

Mr. Speaker, the FIU School of Nursing has come a long way, and I ask that

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my colleagues join me in congratulating it for 20 years of unparalleled excellence for our community and indeed our Nation.

APRIL IS SEXUAL ASSAULT AWARENESS MONTH

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

Mr. DAVIS of Illinois. Mr. Speaker, April is Sexual Assault Awareness Month, and I join with all of those across the country who are taking the opportunity to raise this issue, and that is the issue of sexual assault that occurs far too often, often goes unreported, often leaves individuals feeling shameful and feeling that they have no place to turn.

That is a kind of terror and a kind of terrorism that our country must rid itself of. So I urge all of us to join together to make sure that we can reduce the incidences of sexual assault.

ASTHMA AWARENESS DAY

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

Mr. FOLEY. Mr. Speaker, today is Asthma Awareness Day, and as a former suffering asthmatic, I want to commend this Congress for the work and research efforts that have been undertaken by the National Institutes of Health.

I want to give my colleagues a few of the statistics that are startling: 4.8 million children have asthma; 10.6 million people have experienced an asthma attack or episode in the past 12 months; 3.9 million asthma-related outpatient visits to private physicians; and another 2 million asthma-related visits to emergency departments. Over 12,288 people died of asthma-related symptoms. The cost, of course, is staggering, $12.7 billion. Missed school days, 10.1 million annually, and missed work days, over 3 million.

Much work needs to be done, but the first most important work is to continue to promote asthma awareness and research, hopefully to bring a breath of life to young children and cure this disease.

RADIOACTIVE MATERIAL MOVING ACROSS AMERICA

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

Mr. GIBBONS. Mr. Speaker, do my colleagues recognize this symbol here, the national symbol for dangerous radioactivity? I hope so. Because these signs, and we should get used to them, will soon be in our neighborhoods, our communities, near our schools and parks, along our highways and railways in our districts.

The most dangerous toxic type of radioactive material known to man, spent nuclear fuel, is very close to being carried through 44 States, 703 counties and 109 major metropolitan areas, and probably through my colleagues' own neighborhood. If this Congress votes to pass the resolution designating Yucca Mountain as the Nation's nuclear waste dump, we will see this symbol driving by our homes, schools and churches for at least the next 38 years.

Mr. Speaker, are our constituents prepared to live near a nuclear shipping route that leads to Yucca Mountain? Are the 123 million Americans living near these routes prepared for a nuclear disaster? Let us protect our rail and highways and, more importantly, our American families. Vote no on House Joint Resolution 87.

SEXUAL ASSAULT AWARENESS MONTH

(Ms. KILPATRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KILPATRICK. Mr. Speaker, I rise today in support of the over 260,000 women who are sexually assaulted in America every year. We just concluded sexual assault month last month as we ended the month of April.

Today, May 1, I want to make sure that Americans know that sexual assault will not be tolerated. There are programs in our government, both public and private, that help sexual assault victims reach their potential if they have been horrendously assaulted. This is a better country than that. We are better people than that. There are programs both for the assaulter, as well as the woman or man who has been assaulted.

It is our responsibility as families, as leaders, to work with these people who need additional assistance. Mr. Speaker, I would hope that we as American citizens reach out to those people, support the programs and move this country forward.

TEN COMMANDMENTS AND CHILD PORNOGRAPHY

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

Mr. PITTS. Mr. Speaker, a week ago hundreds of my constituents watched something very sad in my district. A work crew placed a piece of sheet metal over a plaque depicting the Ten Commandments that hung on the wall of the Chester County Courthouse for over 80 years. The county commissioners did not want to do it, but a Federal judge ordered it.

This week, a newspaper, the Pittsburgh Post Gazette, all the way on the other end of the State, said the court's order was reminiscent of the Taliban and the Buddha statues, but I find it more disturbing than that.

Last week, the Supreme Court ruled that computer child pornography was perfectly legal as long as real kids were not used making it. We can turn on the TV at 4:00 in the afternoon, watch Jerry Springer interview people about their most disgusting sexual activities. The American Nazi Party is told they have a constitutional right to march through a Jewish neighborhood in Illinois, but a plaque of the Ten Commandments is so offensive we have to cover it up.

I am not exaggerating. The woman who sued our county said she was offended every time she went to the courthouse seeing the plaque. Mr. Speaker, something is very, very wrong with America's court system when child pornography is protected, can be viewed on computers, but the Ten Commandments have to be covered up.

MAKE EVERY MONTH SEXUAL ASSAULT AWARENESS MONTH

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

Ms. SCHAKOWSKY. Mr. Speaker, the month of April, which was Sexual Assault Awareness Month, has come to an end. However, I propose that we make every month sexual assault awareness month until there is no longer a woman in this world who fears being raped or assaulted.

We are devoting extensive resources to ending terror around the world, while at the same time 1 in 6 women continue to be terrorized by sexual assaults in their lifetime. Sadly, this is not new or shocking news as each year the statistics change very little.

It is time to take a stand. It is time that we make ending violence against women a national priority. It is time that we devote the same amount of resources to ending a form of violence that terrorizes over half the population of this globe as we provide to the war on terrorism.

We can do something about it today. There will be a motion to instruct today introduced by the gentlewoman from Colorado (Ms. DEGETTE) which will instruct conferees to agree that we should strengthen the Violence Against Women Office and make it independent within the Department of Justice. This will make sure that we put the kind of attention and resources that we need to stop violence against women.

RECOGNIZING THE GOODWILL AND ALTRUISM AT THE PLACENTIA TRAIN ACCIDENT

(Mr. GARY G. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARY G. MILLER of California. Mr. Speaker, on April 23, a terrible train accident occurred in my district in Placentia, California. Tragically 2 people lost their lives while hundreds of others were injured.

I rise today not to add commentary to the unfortunate accident, but rather to recognize the goodwill and altruism that is very much a part of America in a post-September 11 world.

Mr. Speaker, the fire, police and ambulance services, along with the local hospitals, all reacted swiftly to the accident. There were bystanders who rushed to the scene to offer aid and comfort to those who were hurt. One of those bystanders, a convenience store owner, rushed to the scene with cases of bottled water. Another grabbed a first aid kit from her car and rushed to help. Employees from a local telephone company brought dozens of cell phones to the emergency center so people could call their loved ones.

Despite the tragedy of the situation, average Americans rose to the occasion to help strangers and friends alike.

Mr. Speaker, if there is anyone who wonders what makes an American an American, they need only look at the simple acts of kindness and charity that citizens everywhere engage in when something terrible happens. America is the same today as it was in the wake of September 11. It is strong and will remain so regardless of whatever hardships are thrown our way.

GROWTH IN THE ECONOMY

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

Mr. PENCE. Mr. Speaker, we heard about the Bush recession on this floor months ago, even though the recession in which we found ourselves had begun a matter of weeks after George Bush became President of the United States. So I am waiting, Mr. Speaker, to begin to hear about the Bush recovery on this floor from our friends on the other side of aisle.

The Department of Commerce announced the economy grew by 5.8 percent in the first quarter of 2002, and even The Washington Post credited tax cuts in part for fueling this recovery.

There is more that needs to be done. There is not yet good news in the area of unemployment, so we must practice fiscal discipline and additional tax relief to certify the Bush recovery. We must make last year's tax cuts permanent, Mr. Speaker, and we must not spend one penny more than the President's request in the upcoming defense supplemental.

Tax relief, fiscal discipline, the cornerstone of the Bush recovery.

□ 1015

BRING OUR CITIZENS HOME

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

Mr. LAMPSON. Mr. Speaker, well, here we are at the beginning of May 2002. Ludwig Koonz was taken to Italy in 1994. Jeff Koonz, his father, won court cases prior to that giving him custody. Jeff continues to fight the fight to get his son returned, the U.S. citizen's son returned, to the United States of America.

The mother who took the child, Ilona Staller is still doing her pornography. She still has her Web site up. She is still doing exotic sex shows all over the world, raising her son in that environment. We have not heard from our State Department. We do not know exactly what they are doing about this to fight to bring every U.S. citizen who is outside of this country and who wants to be here in the United States home, where they belong.

All I can ask is that you consider, my colleagues, what you would do if it were your child. Would you sit by complacently, like we are doing; or would you be standing on the shores of our country demanding that every child taken out of our country be returned? Help us bring our children home.

STRENGTHEN WELFARE REFORM

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

Mr. HERGER. Mr. Speaker, I am honored to be part of the effort to strengthen the historic 1996 welfare reform law, TANF, or Temporary Assistance to Needy Families.

Since 1996, nearly 3 million children have been lifted from poverty. Nine million citizens have left the welfare rolls altogether. And the black child poverty rate is at its lowest point in history.

Mr. Speaker, over the past 6 years, we have found that a paycheck is the best path from poverty to self-sufficiency. The Republican plan and the President's plan will help even more low-income parents know the dignity that comes from a paycheck instead of a welfare check.

Through welfare reform, we can assist even more low-income Americans improve the quality of their lives for themselves and their children.

PRAYERS FOR MARTIN AND GRACIA BURNHAM

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

Mr. TIAHRT. Mr. Speaker, today marks the 340th day that Martin and Gracia Burnham have been held captive by Muslim terrorists in the Philippines.

Today is May Day, traditionally a festive day to celebrate spring time. This May Day will not be festive for Martin and Gracia. It will be a day of terror, as each of the past 339 days has been. Unfortunately, it will not be a joyous day for their children either, Jeff, Mindy, and Zach. It will another day these children are without their beloved parents.

America has the personnel, the necessary tools, the training, and the ability to rescue Martin and Gracia Burnham from the Islamic terrorists that hold them hostage. All we lack is the political will to do it.

I ask my colleagues: What would you want if you were held captive today by terrorists? I can answer that for you. You would want your government to do everything it possibly could as quickly as it could to get you free. That is exactly what we should encourage our administration to do.

As always, I ask you to join me in prayer for Martin and Gracia and for their loved ones that this nightmare may soon be over.

EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2001

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 402 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 402

Resolved, That any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2871) to reauthorize the Export-Import Bank of the United States, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except

one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 2871, it shall be in order to take from the Speaker's table S. 1372 and to consider the Senate bill in the House. All points of order against the Senate bill and against its consideration are waived. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 2871 as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendment to S. 1372 and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

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

Yesterday, the Committee on Rules met and granted a structured rule providing for consideration of the bill H.R. 2871, the Export-Import Bank Reauthorization Act of 2001. The rule waives all points of order against consideration of the bill and provides for 1 hour of general debate equally divided and controlled by the chairman and ranking member of the Committee on Financial Services.

The rule further provides the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. It waives all points of order against the bill as amended and makes in order only those amendments printed in the report of the Committee on Rules accompanying the resolution.

H. Res. 402 provides that the amendments printed in the report shall be considered only in the order printed in the report, may be offered by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to an amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

The rule also waives all points of order against the amendments printed in the report and provides one motion to recommit with or without instructions.

Finally, it provides that after the passage of H.R. 2817, it shall be in order to take from the Speaker's table S. 1372, consider it in the House, and move to strike all after the enacting clause and insert the text of H.R. 2871 as passed by the House. It waives all points of order against consideration of the Senate bill and the motion to strike and insert.

If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendments and request a conference.

H. Res. 402 is a bipartisan, fair rule; and it allows for four Democrat amendments.

Mr. Speaker, the Export-Import Bank Reauthorization Act of 2001 reauthorizes the bank for 4 years and has important provisions that encourage small business transactions; and it allows other key changes that will improve the operations of Ex-Im.

The mission of Ex-Im is to support export financing of U.S. goods and services. Ex-Im is designed to help U.S. exporters match competition from foreign export credit agencies in Japan, Germany, France, and other countries.

By law, Ex-Im is intended only to fill gaps in commercially available financing for U.S. exports by serving as a lender of last resort and not competing with private lenders. Ex-Im is also required by law to work towards securing international agreements to reduce government-subsidized export financing, thereby promoting free and fair trade.

I want to commend my colleague, the gentleman from Nebraska (Mr. BEREUTER), for responding to concerns about the dumping of steel products on the U.S. markets. He has included a provision that directs Ex-Im to reevaluate the adverse-impact test it performs. This bill now seeks to ensure the bank takes into account the interest of U.S. industries before approving a transaction.

H.R. 2871 is a strong piece of legislation that will help American manufacturers, American workers, and the American economy. This bill was crafted with substantial Democrat input and was reported out of the Committee on Financial Services on a bipartisan vote. I urge my colleagues to support this rule and to support the commonsense legislation that it underlies.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I would like to thank my good friend, the gentlewoman from Charlotte, North Carolina (Mrs. MYRICK), for yielding me this time.

Mr. Speaker, this bill reauthorizes the Export-Import Bank of the United States through fiscal year 2005. It mandates changes in bank programs and creates a new division in the Bank for Africa. And I would like to personally extend my thanks to my colleague and good friend, the gentleman from Nebraska (Mr. BEREUTER), for enhancing this bill through working with our colleagues to provide that provision.

The Export-Import Bank operates under a renewable charter, the Export-Import Bank Act of 1935, and was last fully authorized in 1997 through September 30, 2001. A short-term extension through April 30, 2002, was passed by voice vote on March 19. I supported that measure in 1997 and likely will support the base bill today.

But, Mr. Speaker, although some amendments were permitted, five, and I think each of them highlights concerns that our Congress Members have, certainly I do, of the many amendments that were not accepted, one in particular, in my judgment, should have been. That amendment, authored by the gentlewoman from Illinois (Ms. SCHAKOWSKY), represented the creation of a Human Rights Impact Assessment Office within the bank. That office would have been tasked to ensure that the bank identify human rights' concerns when projects were considered for financing.

In addition, the amendment would have directed that the new office would report to the President and the Congress on the potential human rights impact of every proposed project of $10 million or more.

Mr. Speaker, if the bank is using taxpayer dollars to fund projects, it should also have at its disposal the tools to ensure that those projects do not violate human rights. In my view, this should be a minimum expectation.

On the subject of human rights, one amendment has been permitted to be considered. It was also authored by the gentlewoman from Illinois (Ms. SCHAKOWSKY). It states the sense of the Congress that the bank should have available to them an assessment of each financed project's potential impact on human rights.

This is a good start, Mr. Speaker; but it does not direct the bank to report on the human rights impacts of its projects, nor does it identify where the bank will get this data.

□ 1030

Mr. Speaker, another important amendment accepted for consideration with this bill was introduced by the gentleman from Vermont (Mr. SANDERS). This incredibly thoughtful amendment would prohibit companies from receiving future Export-Import Bank assistance if they lay off a greater percentage of workers in the United States than they lay off in foreign countries.

Mr. Speaker, the original bill was introduced in 1935 to create jobs in the midst of the Great Depression. We need to make sure that the bank fulfills that mission, and does not simply finance large corporations with little or no thought to American workers.

An investigation in the other Chamber recently revealed that over $650 million loans were given to Enron. We still do not know if those loans will be defaulted at the taxpayers' expense. Once again, a major corporation, Enron, had a party, and the American people may have a hangover.

Mr. Speaker, this bill does take some positive steps, but in my view it does not go nearly far enough. These two amendments that I just mentioned address human rights and American workers issues which are critical to the

original intent of the bill. I urge my colleagues to support these amendments, and give active attention to the debate as it progresses today.

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

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. BEREUTER), the chairman of the Subcommittee on International Monetary Policy and Trade.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H. Res. 402, which is a rule under which the Export-Import Bank Reauthorization Act of 2001 will be debated, and I thank the gentlewoman for yielding me this time, and for the effort of the gentleman from Florida (Mr. HASTINGS) as well. And the whole Rules Committee and especially the chairman and ranking member of the committee, the gentleman from California (Mr. DREIER) and the gentleman from Texas (Mr. FROST) and their staff are owed great credit and appreciation for their assistance in crafting the rule.

The gentleman from Florida (Mr. HASTINGS) is exactly right, as the gentlewoman from North Carolina (Mrs. MYRICK) also recognized, that the legislation covered by this Rule comes to the House through a bipartisan effort, with substantial input from numerous members. In fact, I think the very complete input from both sides of the aisle, and the democratic process certainly had its positive impact at both the subcommittee and the committee level.

The Export-Import Bank is an independent U.S. Government agency that creates and sustains American jobs by providing direct loans to buyers of U.S. exports, guarantees to commercial loans to buyers of U.S. products, and insurance products which greatly benefit short-term small business sales. The Export-Import Bank finances exports such as civilian aircraft, electronics, engineering services, vehicles, agricultural equipment, and so on. It is also important to note that the Export-Import Bank charges risk-based interest and fees on the users of its credit products. As a result, last year, the Export-Import Bank generated $1 billion of net income to the U.S. Government.

To illustrate the importance of the bank, in fiscal year 2000, they supported $15.5 billion in U.S. exports through an appropriation of $759 million. Moreover, in the past 60 years, the Export-Import Bank has supported more than $300 billion in U.S. exports. It also needs to be noted that the Ex-Im Bank is only intended to be the lender of last resort, and the Bank is not intended to compete with private lenders.

Mr. Speaker, this legislation is not simply a reauthorization. While the executive branch, regardless of who is in the White House, always seems simply to want a straightforward reauthorization of everything, this committee has taken the time and made the effort to give us some basic reforms.

For example, we provide in greater detail how the following subjects will be addressed, to enhance the role of small and medium-sized businesses in using the bank, to have a dramatic outreach program, and to increase the percentage of the total resources that go to small and medium-sized businesses. The gentleman from Florida (Mr. HASTINGS) has mentioned our special effort with respect to Africa, both the reauthorization of the advisory committee for Sub-Saharan Africa, and the creation of an Office of Africa within the bank, and the latter comes from one of our Member's initiatives.

The gentleman from Pennsylvania (Mr. TOOMEY) has taken the controversial Ex-Im Bank transaction for American exporters to Benxi Iron and Steel firm, and he has given us some very important reform legislation which is a part of the bill today. It relates to American exports to those businesses abroad that are parts of sectors for which a 201 case has been made under the International Trade Commission or where dumping is formally ruled to be taking place.

Finally, the gentleman from Florida (Mr. HASTINGS) made one point about the initiative of the gentlewoman from Illinois (Ms. SCHAKOWSKY), a distinguished member of the subcommittee and committee. The only disagreement this Member has had with her approach is that she would mandate a special human rights report to be made by the Export-Import Bank. In fact, the State Department issues such country human rights reports, and we have in this legislation recognized it the key agency to provide human rights information to all of the agencies of the Federal Government.

The gentlewoman's alternative amendment, which is made in order, certainly is one I can support. And, in fact, we can strengthen it by insisting that the State Department's human rights country report for the particular country that would be the destination for an American export be considered by the Export-Import Bank by report language during a House-Senate Conference.

Mr. Speaker, I urge support of the legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, to respond to the gentleman with reference to the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY), my feeling is that the human rights division of the State Department does cover many of these measures; but I do believe that they would have to rely upon the information that they receive from the Export-Import Bank. If the Export-Import Bank does like some agencies do, then they very well may not have a full report.

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

Mr. HASTINGS of Florida. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, maybe I was not clear. I expect to support and urge support for the gentlewoman's amendment that has been made in order, and to strengthen provisions of her amendment by the report language.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Vermont (Mr. SANDERS), the former mayor of Burlington, Vermont, who has particularly keen insight into the matter the gentleman is about to discuss.

Mr. SANDERS. Mr. Speaker, I thank the Committee on Rules for making my amendment in order which we will be debating later today, and I especially thank the subcommittee chairman, the gentleman from Nebraska (Mr. BEREUTER), who promised me that he would support getting that amendment on the floor, and he did.

Mr. Speaker, I rise as the ranking member of the relevant subcommittee, and I must say, unlike many others, and perhaps as one of two independents in the House of Representatives, I have some very, very strong concerns about the direction of the Export-Import Bank. It is my belief that unless we make fundamental changes in that bank and the way that it functions, that we should eliminate it because as presently constituted, it amounts to huge corporate welfare for some of the largest multinational corporations in America.

The truth of the matter is, and I think it is high time Congress woke up to it, and this goes well beyond the Export-Import Bank, the trade policy of the United States is a failure.

Mr. Speaker, we have a $300-plus billion trade deficit. It is not just steel, it is not just textiles. All over America, in rural America, in my State, small manufacturing plants are going out of business because they cannot compete with imports that come into this country made in China where workers are being paid 20 cents an hour. The big untold story of trade policy is that corporate America has sold out American workers, sold out the American people, laid off millions of American workers in search of cheap labor all over the world. We have a $360 billion trade deficit, tell me how our trade policy is successful. The mythology out there is we do not have to worry about old manufacturing jobs, steel, textiles, cars, those are not good jobs. All of our young people are going to have high tech, computer jobs, minimum $50,000 a year, let the Mexicans and the Chinese have those other jobs. What a terrible thing to say to millions of workers.

The result is that high school graduates today who go into the job market are making 20 percent less than was the case 25 years because the factory jobs are not there, and what is there are McDonald's and Burger King, low wages, part-time, no benefits. We have to rebuild manufacturing in this country and create decent paying jobs for our working people.

Export-Import Bank is part of the problem, not the cause. Check the record. Over 80 percent of the money

that comes from Export-Import Bank goes to large, Fortune 500 corporations. We give them the money, and General Electric and Motorola and Boeing say thanks, taxpayers. By the way, we are laying off American workers because we are off to China and Mexico; but give us some more money.

Some of us have a radical idea. We think before we give taxpayer money out to large, multinational corporations, maybe, just maybe, we might want to insist that they do something about creating jobs in the United States of America. I know that that is a very radical idea, that taxpayer money be used to create jobs in America. The bottom line is that if we are going to give these Fortune 500 companies money, let them sign on the line and work on ways to create jobs in America. The major companies that have received Ex-Im money are the major job cutters in America. I want somebody to explain that to the workers in America that have been laid off, that their tax dollars go to precisely the companies that are laying off more workers than anyone else. It is absurd on the surface.

Mr. Speaker, I have an amendment that will address it, and I hope we will get strong bipartisan support. It is time that we change the trade policy in America. This is a good way to start.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mrs. MYRICK). Pursuant to House Resolution 402 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2871.

□ 1042

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2871) to reauthorize the Export-Import Bank of the United States, and for other purposes, with Mr. GUTKNECHT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to urge my colleagues to support H.R. 2871, the Export-Import Bank Reauthorization Act of 2001. This is an extremely important piece of legislation for American manufacturers, American workers and the American economy. By reauthorizing the Export-Import Bank, we will demonstrate our commitment to promoting U.S. goods throughout the world. This legislation reauthorizes the Export-Import Bank for 4 years, and makes several important changes in how Ex-Im operates.

This is the first major piece of legislation relating to international trade to come out of the Committee on Financial Services. H.R. 2871 was reported by voice vote with strong bipartisan support on October 31 of last year. I am proud of all of the hard work by the committee on this bill, and I would like to take this opportunity to thank the chairman of the subcommittee on International Monetary Policy and Trade, the gentleman from Nebraska (Mr. BEREUTER), for his leadership and dedication in crafting this bill. The gentleman has invested a lot of time and energy ensuring that Export-Import Bank remains true to its mission of supporting U.S. exports and sustaining U.S. jobs.

Mr. Chairman, reducing the trade deficit is critical to aiding the economic recovery of the United States. Our manufacturers currently face stiff competition from foreign companies seeking to expand the sale of their goods overseas.

□ 1045

There is little argument that goods made in the U.S. are of the highest quality and are in great demand. At the same time, however, foreign companies are getting lots of assistance from their export credit agencies in finding markets and negotiating prices for their goods. Without Ex-Im, U.S. importers would be forced to compete in this international marketplace with one hand tied behind their backs. Ex-Im levels the playing field of international trade by allowing U.S. companies to compete on the quality of their product.

In a perfect world we would not need export credit agencies and the free market would operate without market distortions. However, because foreign governments are in the practice of aiding their manufacturers through export credit agencies, the United States must fight fire with fire. Ex-Im works to ensure that U.S. manufacturers receive equal treatment and serves to promote U.S. exports overseas. Currently some 70 governments around the world have export credit agencies like Ex-Im providing about $500 billion a year in government-backed financing.

Mr. Chairman, as long as foreign governments are financing export credit agencies, we must support Ex-Im to ensure that our manufacturers and workers remain competitive in the global marketplace.

Increasingly, financing is a key to winning export sales. In many emerging markets, where the greatest export growth opportunities now exist, commercial banks are often unwilling to provide financing, even for creditworthy customers. In those cases, government export credit agencies step in to finance the sales, either through direct loans to the customer or through guarantees and insurance that a commercial lender will be repaid by the customer. With guarantees and insurance, commercial banks are willing to provide financing. A key role that Ex-Im plays is to help open markets to U.S. exporters and promote follow-on sales. Ex-Im has led the way in several markets, resulting in a return of commercial financing for transactions.

A good example is the efforts Ex-Im undertook in Asia after the currency crisis that that region experienced in the 1990s. When commercial banks saw that Ex-Im was able to effectively transact business in this region, they reentered this market, which contributed to Asia's economic recovery.

Many critics of Ex-Im claim that it is a giveaway for large corporations. That is simply not accurate, for several reasons. First, approximately 90 percent of Ex-Im's transactions are with small businesses. Those businesses rely on Ex-Im to help them reach overseas markets that they would otherwise not be able to reach.

Secondly, while many of Ex-Im's higher dollar transactions go to larger companies, we should remember that those large companies utilize supplies from many small and medium-sized businesses in order to create their products.

Finally, Ex-Im serves as the lender of last resort for U.S. exporters when commercial financing is not available for export sales and when the U.S. exporter is confronted with foreign competitors with financing available from their own government.

Ex-Im charges interest on its direct loans and premiums for its guarantees and insurance costs that the U.S. exporter usually passes through to its overseas customer. Those charges usually range from 5 to 17 percent of the financing obtained, depending on the risk.

From the exporters' and customers' point of view, the bank does not subsidize the cost of financing an export transaction. Ex-Im is no less expensive to use than a commercial bank or other financial intermediary.

I will defer to my colleague, the gentleman from Nebraska (Chairman BEREUTER), to describe the details of this legislation. However, I would like to highlight some of the key provisions.

First, in this bill we seek to greatly expand the use of Ex-Im by small businesses. That is achieved by expanding the required volume of small business transactions from 10 percent to 18 percent, which will ensure that more Ex-Im-related funds are getting to more local businesses. The bill also authorizes more funds to be used to increase

small business outreach efforts and improve technology so that more people can effectively use Ex-Im.

Second, H.R. 2871 contains strong provisions relating to U.S. trade laws that will ensure Ex-Im adheres to U.S. policies and does not contribute to overcapacity or dumping of goods on U.S. markets.

Third, this measure modifies a Tied Aid Credit Program by renaming it the Export Competitiveness Program and Fund and outlining its operation. The Secretary of the Treasury is empowered to establish how this fund will operate and the Ex-Im Bank Board will have the final determination of when the fund is used, thus maintaining the co-equal roles of Treasury and Ex-Im.

The fund will be used to combat tied aid, untied aid and market windows, all of which are tools that have been commonly used by foreign governments to subvert export pricing agreements.

Finally, H.R. 2871 makes many important policy changes to Ex-Im's charter. The bill contains provisions encouraging renewable energy programs and efforts to combat corruption and terrorism, and requires the Universal Declaration of Human Rights, as adopted by the UN, to be the standard by which Ex-Im's transactions are reviewed.

The committee held its first hearing on the reauthorization of Ex-Im one year ago tomorrow. At that hearing the administration submitted its authorization request for a basic 4-year reauthorization. After an additional hearing and intensive investigation, the gentleman from Nebraska (Chairman BEREUTER) crafted H.R. 2871 to reauthorize Ex-Im and make important changes in how the bank operates.

This past fall the subcommittee and the full committee reported this bill by voice vote with strong bipartisan support. Since that time, the committee and the gentleman from Nebraska (Chairman BEREUTER) have been working diligently to remedy some concerns the administration had with the original text. The results of these discussions is the manager's amendment, which makes several technical changes requested by the administration.

Mr. Chairman, Ex-Im provides assistance to both large and small corporations across the United States. Without the guarantees, insurance and direct loans provided by Ex-Im, many of those businesses would not reach high risk or emerging markets with their products. As a result, production levels would be lowered, the U.S. trade deficit would be larger and fewer Americans would be employed in high paying manufacturing jobs.

Mr. Chairman, I strongly urge my colleagues to vote in favor of U.S. manufacturers, in favor of U.S. workers, and in favor of the U.S. economy by voting yes on H.R. 2871.

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

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. LAFALCE. Mr. Chairman, I am very pleased that the Committee on Financial Services, under the able leadership of my friends, the gentleman from Ohio (Mr. OXLEY) and, on this particular bill, the gentleman from Nebraska (Mr. BEREUTER) was able to complete its work on H.R. 2871 and bring it to the floor of the House, the Export-Import Bank Reauthorization Act. One difficulty with it is its title, of course, because it has nothing to do with imports, it only has to do with exports, and one of these days we ought to change the name of the bank to the Export Bank of the United States, or the United States Export-Other Countries Import Bank. It would avoid needless confusion.

The bill, very importantly, reauthorizes Ex-Im Bank for 4 years. We have to get over the 30 days, we have to get over the 1 year, 2 year. We need a multiyear reauthorization, and 4 years is a good time frame. But, most importantly, it also contains very important provisions that could better define and guide Ex-Im's policies and programs.

Before I go into that, I want to give credit to another individual, and that is the ranking Democrat on the relevant subcommittee, the gentleman from Vermont (Mr. SANDERS), who has attempted to even better define its mission, its policies and its programs so that it could work in the best interests of working Americans.

While we may agree or disagree on a specific prescription, we surely agree on his intent and motivations, and I am hoping that, to the maximum extent possible, Ex-Im Bank officials will work to implement the existing and future laws in a manner that will effectuate those shared goals.

Some individuals suggest that Ex-Im transactions are nothing more than corporate subsidies, no better than some of the worst corporate handouts contained in the Tax Code. That is not quite true.

First, Ex-Im operates in a very competitive international environment, an environment in which export credit agencies in other countries have become increasingly aggressive in supporting the exports of the companies from their countries, our competitors. So it is critical to have Ex-Im to counter those transactions, and, in doing so, to provide leverage for the United States to negotiate a gradual reduction in export subsidy activities amongst OECD Members. That must work hand in hand. The United States must become ever more aggressive in negotiating those reductions in subsidies, but, of course, this must be done on a multilateral basis.

In short, absent the United States Ex-Im Bank, U.S. exporters would find themselves competing at a significant disadvantage against foreign exporters, who do enjoy government subsidies. With the loss or diminution of key export markets would also come the loss of export-oriented jobs in the United States, jobs which pay 18 percent more on average than non-export jobs.

Ex-Im also has the charge of providing critical export financing in cases where there is a market failure in private lending. Frequently these failures relate to the nature of the exporter; very often, for example, small businesses who face difficulties obtaining private credit for export transactions. As a result, Ex-Im has been a very important source of support for small business exporters nationwide. With the advent of the Internet and Internet marketing, this becomes ever more important for the small business person.

Market failures also relate to the nature and vocation of export markets. Markets in Sub-Saharan Africa and elsewhere in the developing world are frequently overlooked by private export credit, and Ex-Im goes where private lenders are unwilling to go, to the ultimate benefit of not only our exporters, but to the ultimate benefit of these developing countries.

That Ex-Im is charged to go into underserved markets is particularly relevant today when economic engagement with other countries is an essential element of foreign policy and national security. In the months since last September we have had to move very quickly to determine how best to reach out to countries and people who were previously of too little interest to the United States and other wealthy industrialized countries. Certainly much has been achieved already in the war on terrorism by high level engagement between the Bush administration and foreign leaders, but top level diplomacy will ultimately fail if it is not supported by bottom-up engagement in the political, the social, and the economic spheres. It is here where institutions like the Ex-Im Bank have a critical role to play.

With each export transaction supported by the bank, we have made a new connection. We have developed a new familiarity with a market, a people, and a country that had been previously slightly more foreign to us. With thousands of these transactions, we can take 1,000 steps forward toward a world of interdependence and prosperity; in short, a world in which terrorism would find it much more difficult to exist.

Let me describe just a few of the key elements of H.R. 2871. I am particularly pleased that the reauthorization bill emphasizes the need to expand outreach to small businesses. We spent a great deal of time assessing the barriers to Ex-Im assistance for small business, and I became convinced that technology enhancements, as I mentioned earlier, would be critical to any meaningful effort to expand services for that sector.

For Ex-Im's large clients, user-friendliness is not a significant issue. Large corporations have adequate resources and knowledge in-house to

interact with Ex-Im rather smoothly. But for small businesses, working with Ex-Im could be a daunting prospect, so we drafted the legislation, convinced that Ex-Im could go even further toward bringing in new small businesses and serving them better by expanding the use of technology throughout the transaction process. As a result, the legislation expands the budget authority for technology upgrades, and provides guidance to Ex-Im on the implementation of new technologies.

But the bill creates important improvements on bank policies in a number of other areas, too. In drafting the legislation, we took very seriously concerns about the condition of the United States steel industry and Ex-Im activities that may have exacerbated problems in the industry.

So the bill establishes meaningful standards to ensure that Ex-Im does not support transactions that would contradict existing countervailing duty or anti-dumping orders. The bill also raises the bar of scrutiny for transactions that may have the effect of contributing to any material injury of a U.S. industry.

□ 1100

Finally, I would like to emphasize that the bill increases authorizations for the bank's administrative expenses and for the allotment ceiling on the total amount of lending and credit the bank is authorized to have outstanding. As we require the bank to expand its assistance and outreach to small businesses, we must, in turn, be providing more, not less, funding for the administrative expenses that necessarily come with this effort.

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

Mr. OXLEY. Mr. Chairman, it gives me great pleasure to yield 5 minutes to the gentleman from Nebraska (Mr. BEREUTER) who has undertaken a very difficult task and done it superbly.

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

Mr. BEREUTER. Mr. Chairman, I rise in strong support of the Export-Import Bank Reauthorization Act of 2001.

Mr. Chairman, I want to particularly thank the gentleman from Ohio (Mr. OXLEY), the chairman of the full committee, and the gentleman from New York (Mr. LAFALCE), the ranking minority member, for their assistance in bringing this legislation to the floor. It has not been easy, but we have, of course, attempted to do something that is not always done around here, and that is to make some basic reforms in the authorizing legislation. It is oftentimes resisted by the executive branch. But I think it is true that the members of the subcommittee and committee have worked together in trying to bring the necessary reforms to that agency in order to help our business sector and, particularly, to help the employees of our business sectors that are involved in exports. We have done that with this bill.

Both Members, the chairman and ranking member, are quite familiar with this program. They have outlined very, very well and in excellent fashion the provisions of the bill, particularly those that are new or which are reform measures.

I would say, thinking back about the comments of the gentleman from New York about the title of the agency, that he is absolutely right. We would be better off to call it the Export Agency, because that is the only part of the trade subject for which they have authorization. It is easy to make the statutory change of the agency's name, but not so easy to make all the legal changes necessary to change the name. He and the gentleman from Massachusetts (Mr. FRANK), are probably the 2 Members that, along with me, have worked the longest on legislation on this bank over the years. But to the gentleman from Vermont (Mr. SANDERS), the ranking member of the subcommittee, I want to particularly thank him for his role in crafting this legislation, as we have worked together from the beginning on it. I am also appreciative of all of the members of the subcommittee, and the committee as well, who have offered their ideas about how to make this legislation better.

I would reiterate that the Export-Import Bank is an independent U.S. Government agency that creates and sustains American jobs by providing direct loans to buyers of U.S. exports, guarantees to commercial loans to buyers of U.S. products, and insurance products which greatly benefit short-term small business sales. For example, with respect to small business, already 86 percent of the transactions of the Ex-Im Bank in FY 2000 are with small or medium-sized American export firms. This bill pushes the envelope even farther for even more assistance to small business exporters through the efforts of the gentleman from Vermont (Mr. SANDERS), this Member, the chairman, and ranking minority member of the committee, and others.

The bill has been well explained already, particularly the new parts of it, but I would just briefly summarize six provisions of this legislation. First, of course, it reauthorizes the program and administrative budgets and it moves them along towards implementing greater information and office technology in the Export Import Bank, and that would be a particular benefit to small businesses as they do not always have the capability to take advantage of the programs of the Export Import Bank without improved information access.

Secondly, it reauthorizes the Sub-Saharan Africa Advisory Committee and provides additional emphasis on our businesses' interest in exporting to Africa.

Third, it provides for small business increases, pushing them to require at least 20 percent of the financial resources to go to small and medium-sized businesses.

Fourth, it increases the Ex-Im Bank's statutory ceiling for loans, grants and insurance assistance.

Fifth, it addresses the Tied Aid War Chest, and this is, of course, the most contentious part of the bill as far as the administration was concerned. In this bill we have made necessary changes so that ideologues in Treasury, Ex-Im or OMB, regardless of what administration is in office, do not misuse the fund, but to instead focus it on really helping our exporters and consistently doing that.

Sixth, it addresses the Ex-Im Bank transaction with Benxi Iron and Steel Company in China. American exporters provided exports to that company which undoubtedly increased that Chinese firm's efficiency in making steel. The gentleman from Pennsylvania (Mr. TOOMEY) has given us an amendment for part of the bill that is a very important advance.

This bill, of course, reauthorizes the bank through September 30 of 2005. As a result of this provision, the program budget which supports loans, guarantees and insurance products of Ex-Im Bank, is effectively authorized for such sums as are appropriated through fiscal year 2005.

During the subcommittee's first hearing on the subject, the Ex-Im Bank personnel testified that they were in desperate need of technology upgrades which would particularly benefit small business users of the Ex-Im Bank. As a result, this legislation authorizes $80 million for the administrative budget, which includes funding for information technology for fiscal year 2002, and indexes this authorization level for inflation between fiscal year 2003 through fiscal year 2005. Also, as I mentioned, among other changes, we make important changes to focus the Ex-Im Bank even more on exports to Africa. More detail on that will come out in the ensuing debate on this legislation.

Mr. Chairman, I urge my colleagues to support this legislation. It is reform legislation. It moves us in the right direction.

Mr. OXLEY. Mr. Chairman, I ask unanimous consent that the gentleman from Nebraska (Mr. BEREUTER) be permitted to control the time for general debate on our side.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member for yielding me this time.

Mr. Chairman, let me congratulate the committee and its chairman and

subcommittee chair and full committee chair and full committee ranking member, and certainly the gentleman from New York (Mr. LAFALCE), the full committee ranking member, and also as well, the ranking subcommittee member, whose leadership we appreciate greatly. Let me add my support to this legislation today. I think in coming to Congress, coming from Houston, Texas that has one of the largest numbers of consular offices, it has an enormously international community and, as well, it is a community that believes in the opportunities for creating vehicles to create American jobs and, as well, to insist and to help American businesses. That is what Ex-Im Bank, I think, is most successful at. Supporting U.S. jobs through exports is Ex-Im Bank's core mission.

I also want to congratulate the new chairman, Eduardo Aguirre from Houston who I believe will foster that mission and help small and minority businesses access Ex-Im Bank.

Ex-Im Bank is an independent Federal agency that helps to finance the export of American products and services that would otherwise not go forward, and I think that is an important statement, because there is great concern when we begin to talk internationally, it is important for the Nation to understand that this is an advocate for jobs going to Americans, but products and services going internationally. And in its 68-year history, Ex-Im Bank has supported over $400 billion of U.S. exports, sustaining and creating millions of jobs.

One of the other important points is that it sustains and creates thousands and tens upon thousands of jobs, so jobs that are here, it helps to hold them.

It is a great supporter of small businesses, and that is one of the reasons I rise today, because my community, the 18th congressional district, is a community that thrives with small businesses and it is also a community in which I encourage small business to utilize services such as OPIC and Ex-Im Bank.

Ex-Im Bank authorized more than $1.6 billion in support of small business exports, nearly 18 percent of total dollar value of its authorization, and they supported $4 billion in exports during this same time. Ex-Im Bank's dedication to small businesses becomes even more dramatic when we look at the Ex-Im Bank's finance transactions for the year. Ex-Im Bank approved 2,124 small business transactions in fiscal year 2001, 90 percent of their total number of transactions.

That is why I would like to support and agree with the gentleman from New York (Mr. LAFALCE) on the expanded help that this new legislation gives to small businesses, by giving them access to technology resources, giving more funding for technology resources to help small businesses. Then again, I appreciate the fact that there is language that prevents the dumping of foreign products in conflict to our laws, particularly with respect to the steel industry.

Let me just simply say, Mr. Chairman, that this is a bill that helps the continent of sub-Saharan Africa, also wih greater investment for those countries. This is a bill that I believe will help create more jobs.

Might I just conclude by saying that I do believe the amendments by the gentleman from Oregon (Mr. DEFAZIO), the gentleman from Ohio (Mr. KUCINICH), the gentleman from Vermont (Mr. SANDERS) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) will be helpful in the debate and I will be rising to support those amendments as well.

Corporations that benefit from the Ex-Im Bank should not engage in corruption.

Mr. Chairman, I ask my colleagues to support this legislation.

Mr. BEREUTER. Mr. Chairman, it is my pleasure to yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), a small businesswoman herself.

Mrs. KELLY. Mr. Chairman, I thank the gentleman from Nebraska for yielding me this time.

Mr. Chairman, I rise in strong support for H.R. 2871, the Export Import Bank Reauthorization Act. This legislation needs to be passed for one simple reason: saving U.S. jobs.

The core mission of the Ex-Im Bank is support for U.S. jobs. The bank does this by providing credit guarantees for U.S. exports deemed too risky by private lenders. In addition, Ex-Im will make loans, offer financing, and offer insurance on U.S.-made products.

In our global economy, companies must constantly be seeking new markets for our products, and our government must support these efforts, because it supports U.S. jobs. Unfortunately, we do not live in a world in which our trading partners play fair with U.S. businesses and our U.S. businesses must compete with nations which directly subsidize their competitors. In order to add some level of fairness, we created the Ex-Im Bank.

Last year, Ex-Im supported $12.5 billion of U.S. exports. In my area of New York, this translated to over $70 million, which benefited a total of 12 large and small businesses involving thousands of jobs in my district alone, and tens of thousands of jobs in New York State.

As we have heard today, 90 percent of the total number of Ex-Im Bank's transactions were in support of small businesses. This is good, but we must also work to increase the amount of funds which are used by small businesses. In this committee's review of the Ex-Im's performance, we determined that a greater effort must be made to increase the amount of funds which go to these small businesses. Hence, this legislation requires a 10 percent increase in the volume of funds going to small businesses, and that is good for our small businesses in the United States. Ex-Im Bank cannot stop there, however. We have challenged them to go even further.

I strongly support the committee's work to improve the operation of the Tied Aid Credit Program. I believe the changes the committee has made to this program in this bill will permit the program to operate more efficiently and effectively, while maintaining the coequal role of Ex-Im and the Treasury Department.

Ex-Im provides an invaluable service to U.S. workers. Many U.S. products and services would never have been able to find new buyers in the global marketplace without the assistance of the Ex-Im. The international market presents many new problems for the U.S. businesses that are seeking new opportunities, and we have to work to alleviate these problems for U.S. employers, or the incentives to move jobs overseas will only grow and the pressure will be strong. One way we ensure that more products bear the ''made in the USA'' label abroad is by supporting this legislation. I urge my colleagues on both sides of the aisle to support this legislation.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I thank the gentleman from New York (Mr. LAFALCE) for yielding me this time.

I rise in support of H.R. 2871, the Export Import Bank Reauthorization Act. As a businessman from the United States-Mexico border region, I know how important exports are to our economy and to businesses, both large and small and medium. The Export Import Bank has been an important partner in helping companies find foreign markets and to export their goods.

In the 15th congressional district of Texas that I represent, the Export-Import Bank has provided over $145 million of assistance in the form of loan guarantees, insurance, and working capital. Access to capital means expansion of business firms who create many jobs in neglected regions like mine where the unemployment rate was in double digits for over 3 decades.

The Export-Import Bank is partially responsible for helping reduce the rate from 20 percent to only 10.5 percent in Hidalgo County in south Texas. One company, for example, Hermes Trading Company in Pharr, Texas, is a small company that sells musical instruments. The assistance from the Ex-Im Bank has allowed them to expand their business into new markets, and they have doubled their sales. I agree with the gentleman from New York (Mr. LAFALCE), the ranking member, in his efforts to raise the level of awareness and importance of this important bank.

Mr. Chairman, I urge my colleagues to support this bill and reauthorize the Export Import Bank.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. HINOJOSA. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, the gentleman mentioned his community that the Export-Import Bank has impacted. I represent a district that has a large percentage of minority businesses and I have seen the impact there.

Does the gentleman believe that this legislation will help generate more opportunities for minority businesses?

Mr. HINOJOSA. Yes, Mr. Chairman, I agree with the gentlewoman. I can tell my colleague that in south Texas, three out of every four businesses are owned by minority businesses and they are benefitting a great deal from this bank.

□ 1115

My region is one of the areas that has grown 48 percent from 1990 to 2000, and has created, with the help of the bank and the Small Business Administration, the Women's Development Center, hundreds of new small businesses, creating four and five jobs in each one, and that is what is helping drive down the unemployment rate to my region.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I know the work the gentleman has done, and I think this new emphasis on small businesses will be very helpful to encourage our minority businesses to utilize this.

I do want to note that the President selected Eduardo Aguirre from my congressional community to be the chairperson, who has a sensitivity to expanding the outreach to small businesses.

I hope that, with the passage of this legislation, we will be able to do more outreach to small businesses and minority businesses to take advantage of helping to create this income trail, if you will, internationally. I thank the gentleman.

Mr. HINOJOSA. I thank the gentlewoman for helping us crystallize the importance of this bank in areas like ours, Houston, and, of course, San Antonio, and the Rio Grande valley of south Texas.

Mr. BEREUTER. Mr. Chairman, it is my pleasure to yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), a member of the Subcommittee on Trade of the Committee on Ways and Means and a person very much involved in exports.

Ms. DUNN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2871, the Export-Import Bank Reauthorization Act. It is a vital program that helps United States exporters compete overseas.

For most United States companies, access to foreign markets is no longer an optional business practice, but it is a necessity in order to survive. To compete and succeed in a global market, U.S. companies must have access to financing resources.

This is exactly why the Export-Import Bank is very important to us. By providing guarantees, loans, and insurance to American companies, the Export-Import Bank helps to reduce the risks involved in exporting and ensure that our exporters have access to credits that may not be available in the private sector.

The Export-Import Bank helps both small and large businesses, as we have already heard in this debate. In 2001, 90 percent of the tax credits, representing 18 percent of the Ex-Im Bank's dollar volume, directly benefited small business; and in my State of Washington, Ex-Im Bank helped 56 small companies export $16.8 million in goods and services over the past 5 years.

Large exporters, like the Boeing Company in Washington State, also benefit from Export-Import Bank. Over the past 5 years, Boeing and its workers have benefited from $19.5 billion of loans for the sales of our aircraft overseas. Traditionally, half of the Boeing aircraft sales are for overseas customers, and this is a trend that will continue, if not increase, in the future.

Of the planes that are sold to foreign airlines, over 20 percent are financed by the Export-Import Bank. This program not only benefits Boeing, but it also benefits thousands of other United States companies that provide supplies and parts needed to manufacture commercial aircraft.

In a State like mine, where one out of three jobs are related to trade, the Ex-Im Bank is critical in keeping Puget Sound businesses competitive overseas while helping to create jobs, those jobs that are so dearly needed to stimulate our economic recovery.

I ask my colleagues to support this fine legislation to reauthorize the Ex-Im Bank.

Mr. LAFALCE. Mr. Chairman, I reserve the balance of my time.

Mr. BEREUTER. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from Illinois (Mr. MANZULLO), chairman of the Committee on Small Business and a member of the Committee on Financial Services, very much committed and interested in trade issues.

Mr. MANZULLO. Mr. Chairman, our Nation's small manufacturer exporters are hurting across the Nation. The main city in the district I represent, Rockford, Illinois, has an economy based on 35 percent manufacturing, double the average of most U.S. cities. They already experience thin profit margins from stiff foreign competition, both here at home and in markets abroad.

They have a problem with the strong American dollar; and in addition, those who use steel in their production now have to pay up to 30 percent more for the price of this raw material.

There are very few banks that extend international finance; and for those that do, credit standards have tightened over the past year. This is on top of the huge regulatory and tax burden that they already face.

Ex-Im Bank was one of the few government programs that actually serve small businesses. The number of small business exporters increased by more than three-fold between 1987 and 1999, going from 66,000 to 224,000. I am proud the Committee on Financial Services has greatly enhanced more of these loans that will be going to small businesses.

This is not just about money going directly to Boeing to help that company; but when money goes for Boeing aircraft, it goes to 60 subcontractors in the district that I represent that provide $232 million worth of goods and services. That is good news for the employees at Dip Seal Plastics; Wells Manufacturing; Eclipse, Incorporated; and Ipsen International.

There are also some new aspects of Ex-Im financing. United Parcel Service, which has the Midwest hub in Rockford, Illinois, owns a bank, and they are one of the largest volume dealers of export-import financing. UPS helps make the match between the foreign manufacturer and the American company. They do the documentation for financing, if necessary. They will do domestic financing and then factor in the international agreement. If international financing is necessary, they will provide the Ex-Im Bank. They do the collection, and then they do the transportation.

So the Ex-Im Bank provides a very useful tool by which small businesses across the Nation, especially those involved in manufacturing, really have the opportunity in this tremendous economy that we have. With regard to the challenges that face small business people, Ex-Im provides that opportunity to get involved in more exports.

I would respectfully request that the Members will take a look at what is going on with Ex-Im in their home districts and then vote to reauthorize the bill.

Mr. BEREUTER. Mr. Chairman, it is my pleasure to yield 3 minutes to the gentleman from Pennsylvania (Mr. TOOMEY), who has taken an issue, a controversial issue, addressed it by amendment, and dramatically improved this bill.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. TOOMEY).

The CHAIRMAN. The gentleman from Pennsylvania (Mr. TOOMEY) is recognized for 4 minutes.

Mr. TOOMEY. Mr. Chairman, I thank the distinguished gentlemen for yielding time to me. I also thank the full committee chairman and the full committee ranking member for their important work on this bill.

I really want to commend the gentleman from Nebraska (Mr. BEREUTER) for crafting a very good bill, making Export-Import Bank more accountable to taxpayers.

Specifically, I thank the gentleman from Nebraska for working with me to be sure Export-Import Bank does not reward foreign industries and companies that are in violation with U.S. trade law with money from the pockets of U.S. taxpayers.

As most of us appreciate, the domestic steel industry has simply been devastated by a global steel overcapacity. Since 1997, at least, perhaps further back, the domestic steel industry has been overwhelmed by a flood of imports. Foreign governments subsidize their steel production. That creates overcapacity, which in turn leads to a glut of steel on the international markets. That, of course, depresses prices; and the result has been devastating.

Nobody disputes that this has happened. Our own Commerce Department and the ITC have confirmed this, and the result has been that over 33 American steel companies have been forced into bankruptcy since 1997. Bethlehem Steel, headquartered in my district, filed Chapter 11 last year and joined that long list of companies devastated by this phenomenon.

Of course, the result of all these bankruptcies is an uncertain future, at best, for over 72,000 steelworkers, their communities, and their families. But it has also jeopardized the retirement security of hundreds of thousands of steel retirees, who are also dependent on the continued success of American steel companies for their health care benefits, for their pension. There are tens of thousands of such steel retirees in my district about whom I am very concerned.

Well, despite the recognized problem, widely acknowledged problem of global overcapacity, in early 2000, in the midst of this entire crisis Export-Import Bank granted a loan to a Chinese steel producer, which further increased by 1.5 million metric tons the world's excess steel capacity.

In taking this action, the Export-Import Bank ignored on-the-record objections from the Secretary of the Treasury, the Secretary of Commerce, the Steel Caucus, the entire steel industry. What this tax credit really amounted to was the Ex-Im Bank using American taxpayer dollars to subsidize a foreign company, making a serious American economic problem worse.

That is why I offered my amendment in the Committee on Financial Services, and I am delighted the committee adopted my amendment. The language is in this bill.

What the amendment is is a bipartisan, long-term solution to prevent a similar situation to that loan guarantee that went to the Benxi Iron and Steel Company from ever recurring in steel or any other industry. Specifically, it would prohibit the Export-Import Bank from extending loans to foreign companies that are in violation of U.S. trade law. It would do that by prohibiting the extension of financial assistance to an entity for the production of a product that is subject to a countervailing duty or antidumping order, and it would also prohibit the extension of a loan or guarantee to any entity subject to a definitive conclusion by the ITC under section 201 of our trade laws.

In other words, we would not grant loans to companies that are already proven to be violating U.S. laws and harming American industries.

I think this is a very balanced approach. We worked this out in the committee, discussed various ways of addressing the difficult and challenging issue. We have set a significant hurdle that has to be overcome before this prohibition would be invoked, and I think we have reached a very reasonable conclusion on this.

I appreciate the cooperation on both sides of the aisle, especially from the subcommittee chairman, the gentleman from Nebraska (Mr. BEREUTER). I would also like to thank the American Iron and Steel Institute, the United Steelworkers of America, and the Congressional Steel Caucus for their support of this provision.

Mr. Chairman, I include for the RECORD their letters of support, and I urge my colleagues to support this bill, because this does not merely extend authorization for the Export-Import Bank, but it makes substantive, positive reforms in that authorization.

I would like to commend my colleagues for a job well done.

The material referred to is as follows:

UNITED STEELWORKERS OF AMERICA,
Washington, DC, October 30, 2001.

HOUSE FINANCIAL SERVICES COMMITTEE,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE: The United Steelworkers of America wishes to express its support for an amendment to the Export-Import Bank Reauthorization Bill which will be marked up in the Financial Services Committee tomorrow.

This amendment addresses a very serious issue which affects the economic recovery and viability of the America steel industry. First, the amendment would prohibit Ex-Im Bank loans and guarantees to companies found to be in violation of U.S. trade laws. Second, the amendment would prohibit any transaction which adds to the production of a product in oversupply where the U.S. government has determined that there is a glut of imports causing serious domestic injury.

In December, 2000, the Ex-Im Bank approved a loan guarantee for a project which will increase China's hot-rolled steel capacity at the Benxi Iron and Steel Company by 1.5 million metric tons. This action was taken by the Bank at a time when the Organization for Economic Co-Operation and Development (OECD) has found over 300 million tons of excess steelmaking capacity worldwide. China is already the largest steel producer in the world.

The American steel industry and our steelworkers are reeling from a collapse in domestic steel prices directly attributable to the flood of foreign steel being imported to the U.S., including foreign steel which has been ''dumped'' into the U.S. market in violation of our trade laws. Since 1998, 23 American steel companies have filed for bankruptcy. Six of these have ceased operations. Some 27,000 steelworkers have lost their jobs.

The Ex-Im Bank's loan to China is an example of gross insensitivity to the plight of American steel companies and steelworkers. We urge you to vote for the amendment when it comes up for a vote.

Sincerely,

WILLIAM J. KLINEFELTER,
Assistant to the President, Legislative and Political Director.

AMERICAN IRON AND STEEL INSTITUTE,
Washington, DC, September 19, 2001.

PLEASE SUPPORT THE TOOMEY AMENDMENT TO H.R. 2871, THE EXPORT-IMPORT REAUTHORIZATION BILL.

TO: MEMBERS OF THE SUBCOMMITTEE ON INTERNATIONAL MONETARY POLICY AND TRADE.

Background: In December 2000, the Export-Import Bank (EXIM) approved a loan guarantee for a project that will increase by 1.5 million tons the hot-rolled steel capacity of China. At a time of massive world steel overcapacity and crisis in the U.S. and world steel industry, EXIM made their decision—over the strong objection of the Commerce Department, many Members of Congress and the U.S. steel industry—to provide $18 million in official financing support. While ill-advised, misguided and almost certainly harmful to U.S. industry, the decision was technically permissible under the Bank's authorizing law and its rules of practice.

Situation: On Friday, September 21, the House Subcommittee on International Monetary Policy and Trade will be marking up H.R. 2871, the Export-Import Reauthorization Bill. Representative Pat Toomey (R–PA) will offer an amendment to establish reasonable and adequate safeguards to ensure that the EXIM take into account any serious adverse effect its loans and guarantees would have on U.S. industry and employment.

Argument: While the AISI position on steel project EXIM requests has been shaped by the crisis in the steel sector and by the role of world steel overcapacity in helping to cause the crisis, it is important to understand that AISI is not anti-EXIM. To the contrary, we have always supported—and we continue to support—the authorization and appropriation of adequate EXIM resources to help U.S. manufacturers compete worldwide. We do however have a recognized, persistent problem, which is massive world steel overcapacity, perpetuated and exacerbated by governments assistance for additional, unneeded steel capacity buildups. AISI cannot support taxpayer dollars being used to harm U.S. industry and employment.

Action Requested: Please support Rep. Toomey's amendment to be offered this Friday (September 21) at the Subcommittee markup of H.R. 2871, the Export-Import Reauthorization Bill. Please contact Gregg Richard in Rep. Toomey's Office (x5–6411) for more detailed information.

Thank you for your continued support on behalf of the American steel industry.

ANDREW G. SHARKEY III,
President and CEO.

Mr. BEREUTER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, just one clarification or point for emphasis. The credit instruments of the Export-Import Bank can only go to American exporters in any case; but in the case of the Benxi Steel, the kind of assistance that went to an American exporter ended up helping Benxi Steel. That is something the gentleman's amendment has stopped for all time.

Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California (Mr. ROHRABACHER), a distinguished member of the House who may have a different view on this.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROHRABACHER).

The CHAIRMAN. The gentleman from California (Mr. ROHRABACHER) is recognized for 3 minutes.

Mr. ROHRABACHER. Yes, I do, Mr. Chairman, have a different view. I rise in strong opposition to reauthorizing the Export-Import Bank.

We in Congress have had little hesitation to get ordinary American citizens off of welfare after 5 years, but we cannot seem to get our biggest corporations off of welfare after 5 years. We authorize the Export-Import Bank.

We just heard an example a moment ago of how our tax dollars were going to destroy American jobs. The last time we reauthorized the Export-Import Bank, we were told that was impossible, that is not what is going on; we are actually subsidizing exports of American goods, and we were not putting people out of work.

Surprise, surprise. After all these years, we find out right here in the debate an example of how Export-Import money has eliminated U.S. jobs. Let me contend that that will still go on and go on.

We keep hearing that the money is going to be going to small businesses, and that never changes. Apparently only 18 percent of the Export-Import Bank loans go to small businesses, or their funds go to small businesses.

Time Magazine suggests that the top five recipients of the Export-Import Bank subsidies receive 60 percent of all funds. Just to let Members know, of those five major recipients, they, in total, have reduced their workforce by 38 percent over the last decade.

Now, why is that? That is because much of the money that we are being told is creating jobs here, that is not creating jobs here. What we are doing is subsidizing and guaranteeing loans for American businesses to set up factories in other countries. That is what is going on.

Many of these loans about so-called selling our own products end up with little clauses in them. They say, yes, we will buy your product, and the Export-Import Bank will actually subsidize it or guarantee the loan, but you are going to have to, in order to sell us the product, build a factory in our country. This is common practice.

So what do we have here? We have a situation where, in the name of selling vacuum cleaners or whatever it is to a country like China, we end up subsidizing the creation of a vacuum factory in China.

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And then what do they do? They do not sell those vacuums, by the way, just in China. They end up exporting them to the United States and putting our people out of work. And we just heard an example of how that was happening just a few moments ago by a proponent of this legislation. But that has all been cleared up now. That has not been cleared up. You can mark my words that has not been cleared up. Five years from now we will find lots of other examples of just that very same thing, maybe not the steel industry but other industries.

Come on. It is time to realize that when the government starts giving away money in terms of subsidies and loan guarantees, you are going to have very wealthy and powerful interests manipulating that for their own benefit. And that is what is happening with the Export-Import Bank. Yes, there are a few little guys who get help but the vast majority of funds, not the vast majority of loans, goes to the very wealthiest corporations to create jobs overseas. I am against the Export-Import Bank. Let us not reauthorize it.

Mr. LAFALCE. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) has 13½ minutes remaining.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to speak on this bill.

Mr. Chairman, I take modest exception with my colleague from California. Over time the majority of the loans have gone to small business, but at issue for me is not small business, large business, it is whether or not we are going to be able to help American companies penetrate difficult markets around the world. I have had an example in my own community.

We have a company, a freight liner, that is the largest manufacturer of heavy trucks in the country. It employs all union employees, primarily machinists. They are paid family wages in order to do their work. But they are undergoing tough times in Oregon. They have been involved with significant layoffs. They have benefitted from a loan from the Ex-Im Bank to be able to transact a shipment of 10 trucks to Chile, it would not have happened without that loan. It would have gone to somebody else. It kept people in my community working and it helped us penetrate the market.

There are lots of subsidies that we know around the world. In fact, that is one of the problems that American companies face as they attempt to compete internationally, that other countries have subtle ways of subsidizing activities for other companies. This is a way for us to be able to give access to capital for American companies going into tough markets to be able to secure their place in the market place. I would rather, frankly, have the Chinese dealing with Boeing than Airbus. I understand that there is some difficult issues that are going on there.

I listen to some of my friends from the other side of this issue, but it is pretty stark. We are going to be a lot worse off if we are not able to penetrate those markets around the world. I strongly urge that we reauthorize the Ex-Im Bank.

I hope that each year as we come up with issues here that raise questions, there are areas of refinements. I think we ought to increase their sensitivity in terms of the application of those loans to the environment, to worker rights, to be able to make sure that we are targeting where we want it the most. But the Ex-Im Bank, OPIC, these are tools that have made a difference in my community. I have seen it for small and medium size businesses, I have seen it for large businesses that are struggling, when we are trying to compete around the world when we are facing some difficult economic times at home. This is not the time to turn our back on it. I strongly urge support for the legislation.

Mr. BEREUTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. PAUL), a member of the committee.

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

Mr. PAUL. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, we are here today to reauthorize the Export-Import Bank, but it has nothing to do with a bank, do not mislead anybody. This has to do with an agency of the government that allocates credit to special interests and to the benefit of foreign entities. So it is not a bank in that sense. To me it is immoral in the fact that it takes from some who cannot defend themselves to give to the rich who get the benefits. And I just do not see that as being a very good function and a very good program for the U.S. Congress. Besides, I would like to see where somebody gives me the constitutional authority for doing what we do here and we have been doing, of course, for a long time.

But I do not want to talk about the immorality of this so-called bank or the unconstitutionality of it. I want to talk just a second or two about the economics of it. It is really bad economics. It is pointed that it helps a company here or there, but what it has never talked about what you do not see. This is credit allocation.

In order to take billions of dollars and give it to one single company, it is taken out of the pool of funds available. And nobody talks about that. There is an expense. Why would not a bank loan when it is guaranteed by the government? Because it is guaranteed. So if you are a smaller investor or a marginal investor, there is no way that you are going to get the loan. For that investor to get the loan, the interest rates have to be higher.

So it is a form of credit allocation, and it is also a form of protectionism. We do a lot of talk around here about free trade. Of course, there is a lot of tariff activity going on as well, but this is a form of protectionism. Because some argue, well, this company has to compete and another government subsidizes their company so, therefore, we have to compete. So it is competitive subsidization of special interest corporations in order to do this.

Now, it seems strange that we here in the Congress are willing to give the beneficiary China the most number of

dollars. They qualify for nearly $6 billion worth of credits. And that just does not seem like the reasonable thing for us to do. So I strongly urge a no vote on this bill.

Mr. Chairman, Congress should reject H.R. 2871, the Export-Import Reauthorization Act, for economic, constitutional, and moral reasons. The Export-Import Bank (Eximbank) takes money from American taxpayers to subsidize exports by American companies. Of course, it is not just any company that receives Eximbank support; the majority of Eximbank funding benefit large, politically powerful corporations.

Enron provides a perfect example of how Eximbank provides politically-powerful corporations competitive advantages they could not obtain in the free market. According to journalist Robert Novak, Enron has received over $640 million in taxpayer-funded ''assistance'' from Eximbank. This taxpayer-provided largesse no doubt helped postpone Enron's inevitable day of reckoning.

Eximbank's use of taxpayer funds to support Enron is outrageous, but hardly surprising. The the vast majority of Eximbank funds benefit Enron-like outfits that must rely on political connections and government subsidies to survive and/or multinational corporations who can afford to support their own exports without relying on the American taxpayer.

It is not only bad economics to force working Americans, small business, and entrepreneurs to subsidize the export of the large corporations: it is also immoral. In fact, this redistribution from the poor and middle class to the wealthy is the most indefensible aspect of the welfare state, yet it is the most accepted form of welfare. Mr. Speaker, it never ceases to amaze me how members who criticize welfare for the poor on moral and constitutional grounds see no problem with the even more objectionable programs that provide welfare for the rich.

The moral case against Eximbank is strengthened when one considers that the government which benefits most from Eximbank funds is communist China. In fact, Eximbank actually underwrites joint ventures with firms owned by the Chinese government! Whatever one's position on trading with China, I would hope all of us would agree that it is wrong to force taxpayers to subsidize in any way this brutal regime. Unfortunately, China is not an isolated case: Colombia and Sudan benefit from taxpayer-subsidized trade, courtesy of the Eximbank!

At a time when the Federal budget is going back into deficit and Congress is once again preparing to raid the Social Security and Medicare trust funds, does it really make sense to use taxpayer funds to benefit future Enrons, Fortune 500 companies, and communist China?

Proponents of continued American support for the Eximbank claim that the bank ''creates jobs'' and promotes economic growth. However, this claim rests on a version of what the great economist Henry Hazlitt called, the ''broken window'' fallacy. When a hoodlum throws a rock through a store window, it can be said he has contributed to the economy, as the store owner will have to spend money having the window fixed. The benefits to those who repaired the window are visible for all to see, therefore it is easy to see the broken window as economically beneficial. However, the ''benefits'' of the broken window are revealed as an illusion when one takes into account what is not seen: the businesses and workers who would have benefited had the store owner not spent money repairing a window, but rather had been free to spend his money as he chose.

Similarly, the beneficiaries of Eximbank are visible to all. What is not seen is the products that would have been built, the businesses that would have been started, and the jobs that would have been created had the funds used for the Eximbank been left in the hands of consumers.

Some supporters of this bill equate supporting Eximbank with supporting ''free trade,'' and claim that opponents are ''protectionists'' and ''isolationists.'' Mr. Chairman, this is nonsense, Eximbank has nothing to do with free trade. True free trade involves the peaceful, voluntary exchange of goods across borders, not forcing taxpayers to subsidize the exports of politically powerful companies. Eximbank is not free trade, but rather managed trade, where winners and losers are determined by how well they please government bureacrats instead of how well they please consumers.

Expenditures on the Eximbank distort the market by diverting resources from the private sector, where they could be put to the use most highly valued by individual consumers, into the public sector, where their use will be determined by bureaucrats and politically powerful special interests. By distorting the market and preventing resources from achieving their highest valued use, Eximbank actually costs Americans jobs and reduces America's standard of living!

Finally, Mr. Chairman, I would like to remind my colleagues that there is simply no constitutional justification for the expenditure of funds on programs such as Eximbank. In fact, the drafters of the Constitution would be horrified to think the Federal Government was taking hard-earned money from the American people in order to benefit the politically powerful.

In conclusion, Mr. Chairman, Eximbank distorts the market by allowing government bureaucrats to make economic decisions in place of individual consumers. Eximbank also violates basic principles of morality, by forcing working Americans to subsidize the trade of wealthy companies that could easily afford to subsidize their own trade, as well as subsidizing brutal governments like Red China and the Sudan. Eximbank also violates the limitations on congressional power to take the property of individual citizens and use it to benefit powerful special interests. It is for these reasons that I urge my colleagues to reject H.R. 2871, the Export-Import Bank Reauthorization Act.

Mr. LAFALCE. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the ranking member from the great State of New York for giving me the time and for his leadership on this important bill.

Mr. Chairman, after a successfully passing two 30-day reauthorizations of the Ex-Im Bank in the last month, I am pleased to rise today to support the reauthorization of the Ex-Im Bank through 2005.

As my colleagues have stated, the Export-Import Bank is a successful government entity that facilitates and supports American business and worker interest by making exports possible to areas of the world that would otherwise be closed to U.S. companies. Through its loan guarantee, insurance and direct lending programs, the Ex-Im Bank supported over $15.5 billion in U.S. exports on a subsidy of $759 million in fiscal year 2000.

While a small fraction of U.S. exports, the bank acts very much as a lender of last resort supporting U.S. exports and U.S. jobs that otherwise would fail to, would go to foreign competitors. The Ex-Im allows U.S. exporters to match competition from foreign export credit agencies. Japan, Germany, France, Canada, and other countries. This support is especially critical in today's global economy which is increasingly dependent on trade.

While the bank is a proven success, the changes in the reauthorization will make a positive impacts on its future. The reauthorization contains new provisions ensuring that Ex-Im complies with U.S. anti-dumping and countervailing duty laws. It includes an amendment I offered in the Committee on Financial Services giving the bank explicit authority to turn down an application for Ex-Im bank support for companies that have a history of engaging and fraudulent business practices. The reauthorization also continues the banks commitment to small business and to working with African countries.

Across the country, Ex-Im Bank support goes to businesses both large and small. In my district, the bank has supported over 70 different businesses with exports valued at over $1 billion since 1995. The work of the Ex-Im Bank is highly complex, and shepherding this reauthorization to the House floor has proven very challenging. I want to compliment the leaders of the Committee on Financial Services for moving the bill to this point today.

The ranking member, the gentleman from New York (Mr. LAFALCE) has been an extremely thoughtful and effective leader on the Democratic side. My good friend and subcommittee chairman, the gentleman from Nebraska (Mr. BEREUTER) and his staff likewise have worked tremendously hard to produce this bill today.

In the hearings we heard testimony from the bank, the business community, labor and environmental organizations. The final product that we are considering today benefitted from all of this input and puts the bank on solid footing for the next 4 years. I further appreciate the work in making sure is that we have a fair rule today, that the Republican party did allow important amendments from the ranking member, the gentleman from Vermont (Mr. SANDERS) and the gentleman from Ohio (Mr. KUCINICH). I believe that that is fair and I support the rule and I support the bill.

The CHAIRMAN. The Chair would announced that the gentleman from

Nebraska (Mr. BEREUTER) has 2¼ minutes remaining. The gentleman from New York (Mr. LAFALCE) has 7 minutes remaining.

Mr. BEREUTER. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. GARY G. MILLER) a distinguished member of the committee.

Mr. GARY G. MILLER of California. Mr. Chairman, I would like to acknowledge the gentleman from Nebraska (Mr. BEREUTER) for his efforts on H.R. 2871, the Export-Import Bank Reauthorization Act.

Mr. Chairman, in my opinion, many government programs do not work. However, that is not the case with the Export-Import Bank. Specifically, the Export-Import Bank benefits California. During the fiscal years 1996 to 2000, 722 California companies benefitted, 225 communities benefitted. The value of exports was $8.5 billion from California and there were 120,403 jobs sustained.

Some try to make you believe this only benefits large businesses but that is not the fact. 72 percent of the transactions benefitted small businesses and those are nice figures but let us put a face on those figures.

ZMG Enterprises in Walnut, California owned by Mr. Joe Gomez is a longstanding user of the bank's short term multi-buyer insurance policy to cover to sale of nearly $11 million in annual sales of canned vegetables, fruits and table sauces, primarily to Mexico. Mexico has benefitted on this and we have because our products are going there. Mexico has been a traditional COD country, and the insurance policy backed by the bank enables Mr. Gomez to offer short-term credit to Mexican supermarkets so the grocers can purchase more of his products in a single sale.

That benefits small businesses. And there is an old saying that I really believe in and it boils down to the simple fact that when you help small businesses, you help American.

Mr. LAFALCE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to make about three points in reference to comments that have been made by members in opposition.

First of all, there is no credit assistance extended by the Ex-Im Bank to a foreign country. They are extended only to American exporters. It happens, in fact, that we have huge market potential in China, so a large number of our people want to export to China, and the kind of products that can be exported is controlled under the Export Administration Act.

Secondly, I would note that 86 percent of all transactions go to small and medium-sized businesses. That is about 18 percent of the total financial assistance from its Ex-Im Bank and we are pushing them to do more and they will.

Finally, I want to say, the gentleman from California (Mr. ROHRABACHER) has kind of turned the argument on the Ex-Im Bank purposes on its head either unintentionally or cleverly. American and other countries' corporations are really footloose today. What this legislation does is give an incentive to Americans to continue to produce the exports here. Instead of moving plants and jobs abroad, they will continue to have an opportunity, under the Export-Import Bank, to compete with foreign countries for those exports and that will keep American jobs here, not send them abroad. It will help keep them here.

We reduce the incentives for American firms to export part of their operations abroad by the passage of this legislation. I ask for my colleagues to give this bill a strong vote of support.

AEROSPACE INDUSTRIES ASSOCIATION, AMERICAN BUSINESS COUNCIL OF THE GULF COUNTRIES, AMT—THE ASSOCIATION FOR MANUFACTURING TECHNOLOGY, BANKERS ASSOCIATION FOR FINANCE AND TRADE, COALITION FOR EMPLOYMENT THROUGH EXPORTS, EMERGENCY COMMITTEE FOR AMERICAN TRADE, INTERNATIONAL ENERGY DEVELOPMENT COUNCIL, NATIONAL ASSOCIATION OF MANUFACTURERS, NATIONAL FOREIGN TRADE COUNCIL, SMALL BUSINESS EXPORTERS ASSOCIATION, U.S. CHAMBER OF COMMERCE, U.S.-CHINA BUSINESS COUNCIL, U.S. COUNCIL FOR INTERNATIONAL BUSINESS, U.S.-RUSSIA BUSINESS COUNCIL,

April 26, 2002.

Re: House action on H.R. 2871, Ex-Im Bank Reauthorization

Hon. DOUG BEREUTER,
2184 RHOB, Washington, DC.

DEAR REPRESENTATIVE BEREUTER: As the House prepares to consider H.R. 2871, to reauthorize the Export-Import Bank, we write to reiterate our strong support for the Bank. Our collective members include many of the U.S. exporters and financial institutions that rely on the Bank as the lender of last resort in meeting the fierce competition for export opportunities in world markets. In FY 2001 alone, the Bank financed some 2,300 export transactions, 90 percent of which were for small and medium-sized firms.

Ex-Im Bank plays a crucial role in supporting the export of American-made goods and American-provided services in markets where commercial financing is difficult to obtain and when foreign competitors have the active support of their governments' export credit agencies. In 2000 alone, the most-active export credit agencies worldwide financed more than $500 billion in exports. Ex-Im Bank financed $15.5 billion in U.S. exports that year.

To deal with this increasingly aggressive foreign competition, H.R. 2871 would authorize the Bank to respond to new export financing programs offered by foreign governments, including so-called ''market windows''. The bill also provides the Bank with clear authority to use the tied-aid war chest to respond aggressively to foreign governments' use of foreign assistance to supplement their export credit activities (so-called ''tied-aid'').

It is important to note that Ex-Im charges risk-based interest, premiums and other fees for its loans, loan guarantees and insurance. These fees are paid by exporters, banks and overseas customers. Last year, the Bank's revenues generated a $1 billion net income for the U.S. government. Moreover, the Bank maintains some $10 billion in reserves to protect against the risk of loss. The Bank's conservative lending policies and aggressive loss-recovery efforts have resulted in a very low 1.9 percent historical loss rate.

Amendments of concern

Two amendments may be offered which, in our judgement, would impede the ability of U.S. exporters to effectively utilize the Bank, thus weakening the Bank's programs and causing a loss of U.S. exports and the jobs of American workers. We urge you to oppose these amendments if offered during House floor action:

(1) Rep. Sanders may offer an amendment to deny Ex-Im Bank financing for U.S. companies that are growing internationally. It would make the Bank completely unusable for any U.S. exporter that is succeeding in world markets. The proposal runs contrary to U.S. trade policy and market-based economic growth. It would make no sense for the Congress to seek open world markets, but then deny U.S. firms access to one of the key tools to take advantage of these new opportunities. Since Ex-Im Bank only finances U.S.-origin goods and services, shutting off the Bank would only result in making the Bank less effective in creating and keeping U.S. jobs here at home.

(2) Rep. Schakowsky may offer an amendment to require a human rights assessment of about 600 export transactions supported by the Bank annually. This proposal is unnecessary because the Export-Import Bank Act already includes a procedure under which the Bank relies on the U.S. State Department for human rights analysis. The amendment would require the Bank to establish an unnecessary new bureaucracy that would duplicate the long-established State Department human rights office. The amendment would require U.S. exporters to submit any proposed transaction over $10 million to a costly and time-consuming notice and comment period, which inevitably would lead to the loss of export sales to our foreign competitors. The current, long-established, process works well to ensure that human rights issues are analyzed by the State Department's experts and included in the Bank's consideration of export transactions.

We urge the House to approve H.R. 2871 and to oppose amendments that would weaken the Bank and impede U.S. exports.

Sincerely,

Don Carlson, President, AMT—The Association for Manufacturing Technology.

Calman J. Cohen, President, Emergency Committee for American Trade.

Timothy E. Deal, Senior Vice President, U.S. Council for International Business.

John W. Douglass, President and CEO, Aerospace Industries Association.

John Hardy, Chairman, Standing Committee, International Energy Development Council.

Robert Kapp, President, U.S.-China Business Council.

Eugene Lawson, President, U.S.-Russia Business Council.

James Morrison, President, Small Business Exporters Association.

John Pratt, Chairman, American Business Council of the Gulf Countries.

William Reinsch, President, National Foreign Trade Council.

Edmund B. Rice, President, Coalition for Employment Through Exports.

Consider W. Ross, Executive Director, Bankers Association for Finance and Trade.

Franklin J. Vargo, Vice President, National Association of Manufacturers.

Willard A. Workman, Senior Vice President, U.S. Chamber of Commerce.

Date: April 30, 2002
To: Members of the United States House of Representatives
From: Donald G. Ogilvie, Executive Vice President, American Bankers Association Consider W. Ross, Executive Director, Bankers' Association for Finance and Trade
Re: Support H.R. 2871, Export-Import Bank Reauthorization Act

As the House prepares to consider H.R. 2871, the Export-Import Bank Reauthorization Act, we write to urge you to vote for the bill and oppose any amendments that would impede the Bank's ability to assist American exports. The Export-Import Bank is vitally important to our members that finance the sale of U.S. products and services for their exporter customers.

The Export-Import Bank supports only American-made goods and American-supplied services. It is one of the few tools available to help sustain export-related jobs in the United States. Without the Export-Import Bank, the ability of U.S. companies to compete for export sales would be reduced.

Our exporter customers need the Export-Import Bank because overseas companies and banks are aggressively using their export credit agencies to take sales from the United States. Every major trading nation has a government export credit agency. Those agencies together issue more than $500 billion a year in export financing. By contrast, the U.S. Export-Import Bank is small, supporting only $12–15 billion a year in U.S. exports.

The Export-Import Bank is a fee-for-service agency. Fees and interest are paid for the Export-Import Bank support. In the last two years, the Export-Import's revenues have generated a net $1.3 billion surplus for the U.S. Treasury. The Bank has a very low 1.9 percent historical loss rate and has $10 billion in reserves to protect the U.S. taxpayer.

Please support passage of H.R. 2871 so Congress can complete the reauthorization of the Export-Import Bank and help thousands of exporters compete on a more level playing field in world markets.

Mr. RANGEL. Mr. Chairman, H.R. 2871, the Export-Import Reauthorization Act, strengthens an important tool to promote U.S. exports and U.S. jobs. By law, the Export-Import Bank finances only exports made in the United States. In other words, the Bank supports American jobs. Last year, the Bank supported $12.5 billion in U.S. exports, which in turn supported tens of thousands of American jobs. In the 67 years of its existence, the Bank has supported more than $400 billion of U.S. exports and the hundreds of thousands of jobs that depend on those exports.

I would like to note my support for many of the important provisions in the reauthorization. First, I am pleased to see the substantial increase in the Bank's aggregate loan, guarantee, and insurance authority. Second, I am particularly happy to see the new provisions creating an Office of Africa within the Bank to promote exports to sub-Saharan Africa. The Export-Import Bank's role in recent years in strengthening the role and expanding the opportunities for U.S. business in sub-Saharan Africa, particularly in the wake of passage in 2000 of the African Growth and Opportunity Act, has been critical. Third, I am pleased to see the required increases in the Bank's lending to small businesses, which often have difficulty accessing foreign markets.

The Export-Import Bank is also important to help U.S. companies compete abroad. The export banks in many other countries—including Canada, the European countries, and Japan—often provide much higher levels of assistance to exporters from those countries. If U.S. firms and their workers did not have the Export-Import Bank, they would be at a real disadvantage when competing in the international marketplace. Moreover, the Export-Import Bank does its job efficiently. It is a fee-for-service agency. In the last two years, the Bank's revenues have generated a net $1.3 billion surplus for the U.S. Treasury.

In conclusion, the Export-Import Bank helps American exports and it helps American jobs. We can debate about whether or not there are some things wrong with U.S. trade policy, but the Export-Bank is not one of them. I support its activities and I urge my colleagues to do the same.

Mr. BLUMENAUER. Mr. Chairman, one of my priorities in Congress is strengthening the economies of my community and of nations around the world. By supporting HR 2897, I support an institution that provides assistance to businesses who often operate in riskier markets where financing is not available from private banks.

The Bank has a strong record of supporting U.S. businesses. In FY2001, Export-Import Bank (Ex-Im Bank) supported over $12.5 billion in U.S. exports to markets worldwide. Some critics argue that these loans primarily benefited large multinational corporations, however, in reality the majority of the Bank's transactions—9 out of 10—benefited small businesses.

The fact is that each year more than 2,000 American companies—large, medium, and small—in almost every state utilize Ex-Im Bank services. One of these small businesses in my district is Oxis International, Inc.—a manufacturer of medical diagnostic equipment used to test levels of therapeutic drugs in the blood. Oxis used Ex-Im Bank's multibuyer short-term insurance policy for almost five years, and the company's exports grew from one-third to approximately one-half of sales. According to Jon Pitcher, chief financial officer of Oxis International, Inc. ''As a result of using Ex-Im Bank's insurance policy, we have been able to increase our sales, and these exports are now the fastest-growing part of our business.''

In another instance, Pacific/Hoe Saw and Knife Company of Portland, a manufacturer of saw blades, industrial saws, and wholesale sawmill equipment, has used Ex-Im Bank's multibuyer short-term (up to 180 days) insurance policy for 10 years to increase sales to South America, Africa, Asia, Australia, and New Zealand. Following this successful trend, last September Portland's Calbag Metal Company recently paid off their $50 million loan to the Ex-Im bank on schedule. Finally Freightliner LLC—a heavy-duty truck manufacturer that employs 14,000 people—benefited from a guarantee that made it possible for Freightliner to transport ten trucks to Santiago, Chile where they were sold. The prices for these trucks would have likely been undercut, the trucks never shipped, and the jobs associated with building the trucks never allocated, if Ex-Im Bank did not assist Freightliner.

Overall, the past five years Ex-Im Bank has supported $190 million in exports for companies like Freightliner, Oxis, Calbag Metals, Pacific/Hoe Saw and Knife Company that are based in Oregon. A closure of the bank would feasibly reduce these companies' exports, jeopardize the jobs that are associated with those sales, and make them unable to counter export financing packages provided by foreign governments to their own exporters.

I withhold my support of the Sanders Amendment. This provision naively assumes that firms produce only one product when in reality many corporations produce a variety of products that affect employment levels across product lines in different ways. Because Freightliner, for example, is a subsidiary of DaimlerChrysler, the amendment would make Freightliner ineligible for Bank funding if a greater percentage of their truck machinists are laid off in Portland than those who build Mercedes-Benz's in Brazil. Clearly the semi-truck market and the luxury automobile market are not related and should not be irrationally penalized.

I urge my colleagues to support the overall bill. It helps strengthen American businesses, create jobs, and improve critical trade relations with foreign markets.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise in support of H.R. 2871 the Export-Import Bank Reauthorization Act. I would like to commend Mr. OXLEY, the Chairman of the Financial Services Committee, and Mr. LAFALCE, the Ranking Member, and also the sponsor, Mr. BEREUTER, for crafting a bill that reauthorizes the Export-Import Bank, with several significant improvements, and thereby enhances American competitiveness in the global marketplace.

It is our responsibility in the U.S. Congress to foster an environment where business, and therefore the nation's economy, can flourish. The Importance of foreign trade to the U.S. economy and its impact on American jobs is clear. The Export-Import Bank plays a critical role in enabling our businesses to compete more effectively overseas. In fact, according to USA Exports, a Coalition for Employment through Exports, ''Ex-Im Bank returns to the U.S. economy an average of $18 of export value for every $1 appropriated by the U.S. Congress—a true ''bang for the buck.''

One element of this bill that I strongly support is the emphasis on small business. Small business is the major job creator in America, and it is where minorities and women are making their greatest economic advances. In Oklahoma we call Small Business—Big Business. Enabling such companies to engage in foreign trade benefits the nation.

In addition, Mr. Chairman, I strongly support the provision to create an Office for Africa at the Export-Import Bank. Africa faces daunting challenges. But during my two trips to the region last year, with representatives of more than 30 U.S. companies, under the auspices of the Trade-Aid Coalition, we witnessed significant efforts in several countries to build an economic infrastructure. This foundation is essential to future growth, and is based on their evolving appreciation for the principles of open markets, free trade, and private enterprise. Fostering this appreciation is the goal of the Trade-Aid Coalition. And the efforts of U.S. business, supported by the Export-Import Bank, to trade with these nations reinforce these positive developments.

I do understand that there is not unanimous agreement on all aspects of this bill. It is my understanding that the current bill language would remove the Treasury Department's ability to direct how funds for the Tied Aid War Chest should be used. The Treasury Department has used the Tied Aid War Chest since

1986 to successfully reduce subsidies by other governments.

This has saved taxpayers hundreds of millions of dollars and has helped increase U.S. exports by an average of over $1 billion dollars a year. It is my understanding that the Senate bill preserves the Treasury's role in using the Tied Aid War Chest. I would urge that in conference we find a satisfactory compromise that protects the interests of U.S. taxpayers and does not undermine the Treasury's ability to fight foreign subsidies or other trade distorting measures.

Mr. Chairman, as our nation adjusts to a changing world after September 11th, we face two inescapable facts: First, we must focus on economic security, by working to ensure a strong economy that creates jobs for the American people. Second, we must reach out to developing nations across the globe, often beset by forces of terror, and demonstrate how free markets, open trade, and private enterprise under the rule of law can lead to prosperity for their citizens. Our national security improves when global stability prevails.

Reauthorizing the Export-Import Bank helps accomplish both of these goals, and I encourage my colleagues to vote ''yes.''

Ms. VELAZQUEZ. Mr. Chairman, I rise in support of H.R. 2871, the Export-Import Bank Reauthorization act of 2001.

When people think of American exports, most think of the cars, computers, machinery and agricultural products made by major American corporations. But this perception is only part of the reality. Just as small businesses set the pace for the American economy, they also are pioneers in international trade.

In fact, 88 percent of American exporters are small businesses with fewer than 100 employees. That statistic, while impressive, does not tell the whole story. The Department of Commerce also estimates that only 2 percent of small manufacturers with export potential actually engage in trade. Clearly, a great potential for expanding trade opportunities exists with the many small businesses that may want to export but are intimidated by those prospects.

The Export-Import Bank is one of the most powerful tools that we have for growing the number of small business exporters. The export loans and insurance programs provided by the Ex-Im Bank help to reduce both anxiety and economic risk for potential small business exporters.

Since the Bank was established in 1945, it has supported billions of dollars in small business exports. Last year, the Bank supported $1.6 billion in small business exports in 2,124 transactions. This represented almost 18 percent of the total export loan volume and over 90 percent of total trade transactions. More importantly, the Bank supported over $32 million in exports by women-owned businesses and $34 million in exports by minority-owned businesses.

While these are impressive achievements, more can—and should—be done. The bill that we are considering this afternoon is a step in the right direction. It would increase the target for small business loan volume from 10 percent to 20 percent and create an office within the Bank that is dedicated to making small business loans. Lastly, H.R. 2871 would authorize an additional $1 million to increase its small business marketing activities.

Ex-Im Bank has had great success marketing its programs to small businesses. This bill will go even further by recognizing those gains while providing the Bank with a renewed small business emphasis and additional resources to expand this mission.

While this bill will go a long way to increasing the Bank's focus on small business exporters, it is only one step in the right direction. We need to work with the Bank to improve service on small business transactions.

Small businesses are particularly sensitive to delays in closing deals. A three-week delay in obtaining transaction financing can be the difference between a successful sale and a missed opportunity. Through the creation of a small business office in the Bank, we will need to continue to monitor how well small business needs are met.

To this end, we will need to harmonize the Capital Guarantee programs of both the Ex-Im Bank and the Small Business Administration. There is no reason that these programs, which can operate as one, should be crushed by the weight of different rules, applications, uses, and lenders. Two similar but competing programs only will confuse the small business exporter. In the coming year, I hope to resolve the twin problems of expedited service and harmonization of the capital guarantee programs.

I appreciate the opportunity to speak in favor of this important legislation. It is hard to underestimate the impact that small businesses have in both the domestic and international marketplace, and this bill is a huge leap in the right direction toward supporting further small business participation in the global marketplace.

Mr. BENTSEN. Mr. Chairman, I rise today in strong support of H.R. 2871, the Export-Import (Ex-Im) Bank Reauthorization Act. As a senior member of the House Financial Services Committees, I believe we need to act to ensure that Ex-Im bank can continue to operate to ensure the U.S. companies can export their products and services to foreign countries. I believe that this legislation is necessary to ensure the American companies enjoy the same export financing that other nations provide for their companies.

In 2000, the Ex-Im bank helped to provide $12.6 billion in loans, guarantees, and insurance for the export of the U.S.-made goods and services which is equal to approximately 2 percent of U.S. exports annually. In my congressional district, the Ex-Im bank has helped to finance more than $130 million in projects during the past five years. I am particularly pleased that this financing has helped many small businesses in my district to sell their products and services to foreign nations. For example, Hickham Industries in LaPorte, Texas is using an Ex-Im bank loan and guarantees to sell $226,000 worth of their products to other nations. I also believe it is important to highlight that none of these financial mechanisms are available through our capital markets. By law, the Ex-Im bank is the leader of last resort, when no other commercial entity will help with a project.

I also want to highlight several reforms included in this legislation to improve the Ex-Im Bank. For instance, this legislation would establish an Office of Small Business Exporters so small businesses could go directly to one location within the Ex-Im bank to explore financing options. This Office would be required to conduct outreach to small businesses. In addition, this bill requires the Ex-Im bank to provide at least 8 percent of their financing to small businesses with less than 100 employees and encourages the Ex-Im bank to increase its percentage of small business transactions from 10 percent to 20 percent. In addition, this legislation direct the Ex-Im bank to make certain technology improvements so small businesses can better access information about the Ex-Im bank using the Internet and other technologies.

This measure also included critically important provisions to ensure that Ex-Im bank financing is not used in industries which are subject to a countervailing duty or anti-dumping duty under U.S. trade laws. We must ensure that the taxpayers funds are not used to supersede our trade laws. This bill also encourages the Ex-Im bank to evaluate whether a nation has been helpful in our efforts to eradicate terrorism. I believe that all of these reforms will enhance the Ex-Im bank.

By targeting financing gaps and officially supported competition, the Ex-Im Bank supports export sales that otherwise could not move forward. These export sales expand employment in sectors where jobs are among the highest paid in the country, and has an important effect on the overall strength of our economy. I urge my colleagues to support this legislation which helps to create jobs an expands the markets for U.S.-made products.

Mr. ROUKENA. Mr. Chairman, I have been a strong supporter of the Ex-Im Bank since coming to Congress in 1981. The Bank plays a very significant role in US trade policy. It ensures that US businesses will not be denied access to overseas markets because of market imperfections that prevent them from obtaining financing from the private sector or because of unfair competition from foreign export agencies. Ex-Im has initiated thousands of transactions in foreign markets that commercial banks deem too risky to enter. Because of the Ex-Im, U.S. businesses export more goods and develop new and stronger trading relationships abroad. More intense need now in our global incoming and with Trade Promotion Authority currently ready for authorization.

The world of finance and the international trading system are changing fast. Other countries are finding more sophisticated ways of assisting their exporters and new financing mechanisms are being developed. Instead of placing restrictions on the Ex-Im and cutting its funding, we should be working to enhance the banks capabilities to assist business abroad by making sure they have the tools necessary to assist US exporters in this changing global economy.

In fiscal year 2001 Ex-Im Bank financed nearly $12.5 billion of US exports world wide which supported millions of US jobs. Nearly 90 percent of Ex-Im Bank's transaction in fiscal year 2001 was on behalf of small businesses.

In New Jersey alone, the Ex-Im Bank has suppported over 214 companies and 138 communities. It is estimated that over 44,974 jobs are sustained by Ex-Im efforts. For example, JB Williams Company located in Glen Rock, New Jersey, is a small, 45-employee manufacturer of specialty soaps and bath products that has been using Ex-Im Bank's short-term export credit insurance sine 1998 to expand its exports to Saudi Arabia, Poland, Korea, Colombia, and other countries.

H.R. 2871, the Export-Import Bank Reauthorization Act of 2001, extends the charter of

the U.S. Export-Import Bank for 4 years and creates offices on Small Business Exporters and on Africa within the Bank. The legislation also increases the value of transactions that the Bank can hold in its portfolio at any time, raises the percentage of small business transactions the Bank should pursue, and improves the operation of the Tied Aid Credit Program. This measure further mandates that the Bank take into consideration U.S. trade laws when considering a transaction, examine whether a recipient company has been involved in any corrupt practices prior to a transaction's approval, and assess whether a country has been helpful or unhelpful in U.S. efforts to combat terrorism.

The Financial Services Committee authorized an increase in the administrative expenses of Ex-Im to $80 million adjusted annually for inflation. This budgetary increase was deemed necessary for Ex-Im to retain qualified staff, to improve its technology infrastructure and increase outreach to small businesses. The mandate for small business activity will be raised from 10 percent to 20 percent of the total value of Ex-Im transactions, with 8 percent of the total going to businesses with less than 100 employees. H.R. 2871 also raises the level of total Ex-Im portfolio (loans guarantees, and insurance) outstanding at any one time from the current level of $75 billion to $130 billion by FY 2005.

Consistent with and supplemental to the trade bills we have ''Fast Track'' better known as Trade Promotion Authority.

The Ex-Im Bank improves America's competitiveness overseas promotes small business and creates and sustains U.S. jobs. I urge my colleagues to support HR 2871, the Export Import Bank Reauthorization Act.

Mr. SHAYS. Mr. Chairman, I rise in support of reauthorizing the Export-Import Bank.

Exports are an extremely vital part of our nation's economic well-being. The Export-Import Bank is a relatively modest investment that promotes U.S. businesses abroad and creates jobs back home.

With financing moving across borders faster and faster and more frequently than at any time in history, and with every corner of the world touched by globalization, Ex-Im helps U.S. businesses stay connected to emerging markets they would otherwise have difficulty reaching.

For a variety of reasons, from currency devaluation to political instability, U.S. firms find it difficult to secure financing for these markets. Private-sector lenders, perceiving a risk, are oftentimes reluctant to provide long-term financing to emerging markets and to support small business exports. This is unfortunate because nearly 90 percent of the world's population is in these countries, and this is where the greatest increase in economic growth will occur.

That's where the Ex-Im Bank steps in. The agency acts as a ''lender of last resort,'' allowing U.S. goods to access hard-to-reach markets. It places an emphasis on small business exports, and today's legislation raises the statutory requirement for small business financing from a minimum of 10 percent of Ex-Im's activities to 20 percent.

Mr. Chairman, last year, Ex-Im Bank authorized $9.2 billion in loans, guarantees and export credit insurance, supporting $12.5 billion of U.S. exports. I urge my colleagues to support this reauthorization bill, so we can continue to expand U.S. exports and promote economic growth.

Mr. BEREUTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2871

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Export-Import Bank Reauthorization Act of 2001''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Clarification that purposes include United States employment.
Sec. 3. Extension of authority.
Sec. 4. Administrative expenses.
Sec. 5. Increase in aggregate loan, guarantee, and insurance authority.
Sec. 6. Activities relating to Africa.
Sec. 7. Small business.
Sec. 8. Technology.
Sec. 9. Tied Aid Credit Fund.
Sec. 10. Expansion of authority to use Tied Aid Credit Fund.
Sec. 11. Renaming of Tied Aid Credit Program and Fund as Export Competitiveness Program and Fund.
Sec. 12. Annual competitiveness report.
Sec. 13. Renewable energy sources.
Sec. 14. GAO reports.
Sec. 15. Human rights.
Sec. 16. Steel.
Sec. 17. Correction of references.
Sec. 18. Authority to deny application for assistance based on fraud or corruption by the applicant.
Sec. 19. Consideration of foreign country helpfulness in efforts to eradicate terrorism.
Sec. 20. Outstanding orders and preliminary injury determinations.
Sec. 21. Sense of the Congress relating to renewable energy targets.

SEC. 2. CLARIFICATION THAT PURPOSES INCLUDE UNITED STATES EMPLOYMENT.

Section 2(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)(1)) is amended by striking the 2nd sentence and inserting the following: ''The objects and purposes of the Bank shall be to aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals of any such country, and in so doing to contribute to the employment of United States workers. To further meet the objective set forth in the preceding sentence, the Bank shall ensure that its loans, guarantees, insurance, and credits are contributing to maintaining or increasing employment of United States workers.''.

SEC. 3. EXTENSION OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) are each amended by striking ''2001'' and inserting ''2005''.

SEC. 4. ADMINISTRATIVE EXPENSES.

(a) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is amended by adding at the end the following:

''(f) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—For administrative expenses incurred by the Bank, including technology-related expenses to carry out section 2(b)(1)(E)(x), there are authorized to be appropriated to the Bank not more than—

''(A) for fiscal year 2002, $80,000,000; and

''(B) for each of fiscal years 2003 through 2005, the amount authorized by this paragraph to be appropriated for the then preceding fiscal year, increased by the inflation percentage (as defined in section 6(a)(2)(B)) applicable to the then current fiscal year.

''(2) OUTREACH TO SMALL BUSINESSES WITH FEWER THAN 100 EMPLOYEES.—Of the amount appropriated pursuant to paragraph (1), there shall be available for outreach to small business concerns (as defined under section 3 of the Small Business Act) employing fewer than 100 employees, not more than—

''(A) $2,000,000 for fiscal year 2002; and

''(B) for each of fiscal years 2003 through 2005, the amount required by this paragraph to be made available for the then preceding fiscal year, increased by the inflation percentage (as defined in section 6(a)(2)(B)) applicable to the then current fiscal year.''.

(b) REQUIRED BUDGET SUBCATEGORIES.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

''(34) with respect to the amount of appropriations requested for use by the Export-Import Bank of the United States, a separate statement of the amount requested for its program budget, the amount requested for its administrative expenses, and of the amount requested for its administrative expenses, the amount requested for technology expenses and the amount requested for expenses for outreach to small business concerns (as defined under section 3 of the Small Business Act) employing fewer than 100 employees.''.

(c) SENSE OF THE CONGRESS ON THE IMPORTANCE OF TECHNOLOGY IMPROVEMENTS.—

(1) FINDINGS.—The Congress finds that—

(A) the Export-Import Bank of the United States is in great need of technology improvements;

(B) part of the amount budgeted for administrative expenses of the Export-Import Bank is used for technology initiatives and systems upgrades for computer hardware and software purchases;

(C) the Export-Import Bank is falling behind its foreign competitor export credit agencies' proactive technology improvements;

(D) small businesses disproportionately benefit from improvements in technology;

(E) small businesses need Export-Import Bank technology improvements in order to export transactions quickly, with as great paper ease as possible, and with a quick Bank turn-around time that does not overstrain the tight resources of such businesses;

(F) the Export-Import Bank intends to develop a number of e-commerce initiatives aimed at improving customer service, including web-based application and claim filing procedures which would reduce processing time, speed payment of claims, and increase staff efficiency;

(G) the Export-Import Bank is beginning the process of moving insurance applications from an outdated mainframe system to a modern, web-enabled database, with new functionality including credit scoring, portfolio management, work flow and e-commerce features to be added; and

(H) the Export-Import Bank wants to continue its e-commerce strategy, including web site development, expanding online applications and establishing a public/private sector technology partnership.

(2) SENSE OF THE CONGRESS.—The Congress emphasizes the importance of technology improvements for the Export-Import Bank of the

United States, which are of particular importance for small businesses.

SEC. 5. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

Section 6(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)) is amended to read as follows:

''(a) LIMITATION ON OUTSTANDING AMOUNTS.—

''(1) IN GENERAL.—The Export-Import Bank of the United States shall not have outstanding at any one time loans, guarantees, and insurance in an aggregate amount in excess of the applicable amount.

''(2) APPLICABLE AMOUNT.—

''(A) IN GENERAL.—In paragraph (1), the term 'applicable amount' means—

''(i) during fiscal year 2002, $100,000,000,000, increased by the inflation percentage applicable to fiscal year 2002;

''(ii) during fiscal year 2003, $110,000,000,000, increased by the inflation percentage applicable to fiscal year 2003;

''(iii) during fiscal year 2004, $120,000,000,000, increased by the inflation percentage applicable to fiscal year 2004; and

''(iv) during fiscal year 2005, $130,000,000,000, increased by the inflation percentage applicable to fiscal year 2005.

''(B) INFLATION PERCENTAGE.—For purposes of subparagraph (A) of this paragraph, the inflation percentage applicable to any fiscal year is the percentage (if any) by which—

''(i) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on December 31 of the immediately preceding fiscal year; exceeds

''(ii) the average of the Consumer Price Index (as so defined) for the 12-month period ending on December 31 of the 2nd preceding fiscal year.

''(3) SUBJECT TO APPROPRIATIONS.—All spending and credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.''.

SEC. 6. ACTIVITIES RELATING TO AFRICA.

(a) EXTENSION OF ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.—Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking ''4 years after the date of enactment of this subparagraph'' and inserting ''on September 30, 2005''.

(b) COORDINATION OF AFRICA ACTIVITIES.—Section 2(b)(9)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(A)) is amended by inserting '', in consultation with the Department of Commerce and the Trade Promotion Coordinating Council,'' after ''shall''.

(c) CONTINUED REPORTS TO THE CONGRESS.—Section 7(b) of the Export-Import Bank Reauthorization Act of 1997 (12 U.S.C. 635 note) is amended by striking ''4'' and inserting ''8''.

(d) CREATION OF OFFICE ON AFRICA.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is further amended by adding at the end the following:

''(g) OFFICE ON AFRICA.—

''(1) ESTABLISHMENT.—There is established in the Bank an Office on Africa.

''(2) FUNCTION.—The Office on Africa shall focus on increasing Bank activities in Africa and increasing visibility among United States companies of African markets for exports.

''(3) REPORTS.—The Office on Africa shall, from time to time not less than annually, report to the Board on the matters described in paragraph (2).''.

SEC. 7. SMALL BUSINESS.

(a) IN GENERAL.—Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended—

(1) by striking ''10'' and inserting ''20''; and

(2) by inserting '', and from such amount, not less than 8 percent of such authority shall be made available for small business concerns employing fewer than 100 employees'' before the period.

(b) OUTREACH TO BUSINESSES OWNED BY SOCIALLY DISADVANTAGED INDIVIDUALS OR WOMEN.—Section 2(b)(1)(E)(iii)(II) of such Act (12 U.S.C. 635(b)(1)(E)(iii)(II)) is amended by inserting after ''Bank'' the following: '', with particular emphasis on conducting outreach and increasing loans to businesses not less than 51 percent of which are directly and unconditionally owned by 1 or more socially disadvantaged individuals (as defined in section 8(a)(5) of the Small Business Act) or women,''.

(c) OFFICE FOR SMALL BUSINESS EXPORTERS.—Section 3 of such Act (12 U.S.C. 635a) is further amended by adding at the end the following:

''(h) OFFICE FOR SMALL BUSINESS EXPORTERS.—

''(1) ESTABLISHMENT.—There is established in the Bank an Office for Small Business Exporters.

''(2) FUNCTION.—The Office for Small Business Exporters shall focus on increasing Bank activities to enhance small business exports and to meet the unique trade finance needs of small business exporters.

''(3) REPORTS.—The Office for Small Business Exporters shall, from time to time not less than annually, report to the Board on the how the Office for Small Business Exporters is achieving the goals as described in paragraph (2).

''(4) SENSE OF CONGRESS.—It is the sense of the Congress that the Bank should redirect and prioritize existing resources and personnel to establish the Office for Small Business Exporters.''.

SEC. 8. TECHNOLOGY.

(a) SMALL BUSINESS.—Section 2(b)(1)(E) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)) is amended by adding at the end the following:

''(x) The Bank shall implement technology improvements which are designed to improve small business outreach, including allowing customers to use the Internet to apply for all Bank programs.''.

(b) ELECTRONIC TRACKING OF PENDING TRANSACTIONS.—Section 2(b)(1) of such Act (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

''(J) The Bank shall implement an electronic system designed to track all pending transactions of the Bank.''.

(c) REPORTS.—

(1) IN GENERAL.—During each of fiscal years 2002 through 2005, the Export-Import Bank of the United States shall submit to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate an interim report and a final report on the efforts made by the Bank to carry out subsections (E)(x) and (J) of section 2(b)(1) of the Export-Import Bank Act of 1945, and on how the efforts are assisting small businesses.

(2) TIMING.—The interim report required by paragraph (1) for a fiscal year shall be submitted April 30 of the fiscal year, and the final report so required for a fiscal year shall be submitted on November 1 of the succeeding fiscal year.

SEC. 9. TIED AID CREDIT FUND.

(a) PROCESS AND STANDARDS.—Section 10(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(b)) is amended—

(1) in paragraph (2)(A), by striking ''Secretary's recommendations'' and all that follows and inserting ''process and standards developed pursuant to paragraph (5);''; and

(2) by adding at the end the following:

''(5) PROCESS AND STANDARDS GOVERNING USE OF THE FUND.—

''(A) IN GENERAL.—The Secretary shall develop a process for, and the standards to be used in, determining how the amounts in the Tied Aid Credit Fund could be used most effectively and efficiently to carry out the purposes of subsection (a)(6).

''(B) CONTENT OF PROCESS AND STANDARDS.—

''(i) CONSIDERATION OF CERTAIN STANDARDS.—In developing the standards referred to in subparagraph (A), the Secretary shall consider administering the Tied Aid Credit Fund in accordance with the following standards:

''(I) The Tied Aid Credit Fund will be used to counter a foreign tied aid credit confronted by a United States exporter when bidding for a capital project.

''(II) Credible information about an offer of foreign tied aid will be required before the Tied Aid Credit Fund is used to offer specific terms to match such an offer.

''(III) The Tied Aid Credit Fund will be used to enable a competitive United States exporter to pursue further market opportunities made possible by the use of the Fund.

''(IV) Each use of the Tied Aid Credit Fund will be in accordance with the Arrangement unless a breach of the Arrangement has been committed by a foreign export credit agency.

''(V) The Tied Aid Credit Fund will be used to defend potential sales by United States companies to a project that is environmentally sound.

''(VI) The Tied Aid Credit Fund will be used to preemptively counter potential foreign tied aid offers without triggering foreign tied aid use.

''(ii) LIMITATION.—The process and standards referred to in subparagraph (A) shall not result in the Secretary having the authority to veto a specific deal.

''(C) INITIAL REPORT.—As soon as is practicable but not later than 6 months after the date of the enactment of this paragraph, the Secretary shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the process and standards developed pursuant to subparagraph (A).

''(D) TRANSITIONAL STANDARDS.—The standards set forth in subparagraph (B)(i) shall govern the use of the Tied Aid Credit Fund until the report required by subparagraph (C) is submitted.

''(E) UPDATE AND REVISION; REPORTS.—The Secretary should update and revise, as needed, the process and standards developed pursuant to subparagraph (A), and, on doing so, shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the process and standards so updated and revised.''.

(b) RECONSIDERATION OF BOARD DECISIONS ON USE OF FUND.—Section 10(b) of such Act (12 U.S.C. 635i–3(b)) is further amended by adding at the end the following:

''(6) RECONSIDERATION OF DECISIONS.—

''(A) IN GENERAL.—Taking into consideration the time sensitivity of transactions, the Board of Directors of the Bank shall expeditiously reconsider a decision of the Board to deny an application of the use of the Tied Aid Credit Fund if the applicant submits the request for reconsideration within 3 months of the denial.

''(B) PROCEDURAL RULES.—In any such reconsideration, the applicant may, but shall not be required to, provide new information on the application.''.

SEC. 10. EXPANSION OF AUTHORITY TO USE TIED AID CREDIT FUND.

(a) UNTIED AID.—

(1) NEGOTIATIONS.—The Secretary of the Treasury shall seek to negotiate an OECD Arrangement on Untied Aid. In the negotiations, the Secretary shall seek agreement on subjecting untied aid to the rules governing the Arrangement, including the rules governing disclosure.

(2) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the successes, failures, and obstacles in

reaching the agreement described in paragraph (1).

(b) MARKET WINDOWS.—

(1) NEGOTIATIONS.—The Secretary of the Treasury shall seek to negotiate an OECD Arrangement on Market Windows. In the negotiations, the Secretary shall seek agreement on subjecting market windows to the rules governing the Arrangement, including the rules governing disclosure.

(2) REPORT TO THE CONGRESS.—Within 2 years after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the successes, failures, and obstacles in reaching the agreement described in paragraph (1).

(c) USE OF TIED AID CREDIT FUND TO COMBAT UNTIED AID AND MARKET WINDOWS.—Section 10 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', and market windows used by'' before ''other countries'';

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

(C) in paragraph (5), by inserting '', or market windows,'' before ''for commercial'' the 1st and 3rd places it appears; and

(D) by redesignating paragraph (5) as paragraph (6) as inserting after paragraph (4) the following:

''(5) the Bank has, at a minimum, the following two tasks:

''(A)(i) First, the Bank should match, and even overmatch, foreign export credit agencies when they engage in tied aid outside the confines of the Arrangement and when they exploit loopholes, such as market windows and untied aid;

''(ii) such matching and overmatching is needed to provide the United States with leverage in efforts at the OECD to reduce the overall level of export subsidies;

''(iii) only through matching or bettering foreign export credit offers can the Bank buttress United States negotiators in their efforts to bring these loopholes within the disciplines of the Arrangement; and

''(iv) in order to bring market windows within the discipline of the Arrangement, the Bank should sometimes initiate highly competitive financial support when the Bank learns that foreign market window support may be part of a transaction; and

''(B) Second, the Bank should support United States exporters when the exporters face foreign competition that is consistent with the letter and spirit of the Arrangement and the Subsidies Code of the World Trade Organization, but which nonetheless is more generous than the terms available from the private financial market; and''; and

(2) in subsection (b)(1)—

(A) in subparagraph (A), by inserting ''and market windows used'' after ''extended''; and

(B) in subparagraph (B)(i), by inserting ''or market windows'' after ''untied aid credits''.

(d) DEFINITION OF MARKET WINDOW.—Section 10(h) of such Act (12 U.S.C. 635i–3(h)) is amended by adding at the end the following:

''(7) MARKET WINDOW.—The term 'market window' means the provision of export financing through an institution (or a part of an institution) that claims to operate on a commercial basis while benefiting directly or indirectly from some level of government support.''.

SEC. 11. RENAMING OF TIED AID CREDIT PROGRAM AND FUND AS EXPORT COMPETITIVENESS PROGRAM AND FUND.

Section 10 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3) is further amended—

(1) by striking all that precedes paragraph (1) of subsection (a) and inserting the following:

''SEC. 10. EXPORT COMPETITIVENESS FUND.

''(a) FINDINGS.—The Congress finds that—'';

(2) in subsection (a)(6) (as so redesignated by section 9(c)(1)(D) of this Act), by striking ''tied aid program'' and inserting ''export competitiveness program'';

(3) in the heading of subsection (b), by striking ''TIED AID CREDIT'' and inserting ''EXPORT COMPETITIVENESS'';

(4) in subsection (b)(1)—

(A) by striking ''tied aid credit program'' and inserting ''export competitiveness program''; and

(B) by striking ''Tied Aid Credit fund'' and inserting ''Export Competitiveness Fund'';

(5) in subsection (b)(2), by striking ''tied aid credit program'' and inserting ''export competitiveness program'';

(6) in subsection (b)(3)—

(A) by striking ''tied aid credit program'' and inserting ''export competitiveness program''; and

(B) by striking ''Tied Aid Credit Fund'' and inserting ''Export Competitiveness Fund'';

(7) in subsection (b)(5) (as added by section 9(a)(2) of this Act), by striking ''Tied Aid Credit Fund'' each place it appears and inserting ''Export Competitiveness Fund'';

(8) in subsection (b)(6) (as added by section 9(b) of this Act), by striking ''Tied Aid Credit Fund'' and inserting ''Export Competitiveness Fund'';

(9) in subsection (c)—

(A) in the subsection heading, by striking ''TIED AID CREDIT'' and inserting ''EXPORT COMPETITIVENESS''; and

(B) in paragraph (1), by striking ''Tied Aid Credit'' and inserting ''Export Competitiveness'';

(10) in subsection (d), by striking ''tied aid credit'' and inserting ''export competitiveness''; and

(11) in subsection (g)(2)(C), by striking ''Tied Aid Credit'' and inserting ''Export Competitiveness''.

SEC. 12. ANNUAL COMPETITIVENESS REPORT.

(a) TIMING.—

(1) IN GENERAL.—Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)) is amended in the 4th sentence by striking ''on an annual basis'' and inserting ''on June 30 of each year''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to reports for calendar years after calendar year 2000.

(b) ADDITIONAL MATTERS TO BE ADDRESSED.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is amended by adding at the end the following: ''The Bank shall include in the annual report a description of the volume of financing provided by each foreign export credit agency, and a description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support.''.

(c) NUMBER OF SMALL BUSINESS SUPPLIERS OF BANK USERS.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further amended by adding at the end the following: ''The Bank shall estimate on the basis of an annual survey or tabulation the number of entities that are suppliers of users of the Bank and that are small business concerns (as defined under section 3 of the Small Business Act) located in the United States, and shall include the estimate in the annual report.''.

(d) OUTREACH TO BUSINESSES OWNED BY SOCIALLY DISADVANTAGED INDIVIDUALS OR BY WOMEN.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further amended by adding at the end the following: ''The Bank shall include in the annual report a description of outreach efforts made by the Bank to any business not less than 51 percent of which is directly and unconditionally owned by 1 or more socially disadvantaged individuals (as defined in section 8(a)(5) of the Small Business Act) or women, and any data on the results of such efforts.''.

SEC. 13. RENEWABLE ENERGY SOURCES.

(a) PROMOTION.—Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)), as amended by section 8(b) of this Act, is amended by adding at the end the following:

''(K) The Bank shall promote the export of goods and services related to renewable energy sources.''.

(b) DESCRIPTION OF EFFORTS TO BE INCLUDED IN ANNUAL COMPETITIVENESS REPORT.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further amended by adding at the end the following: ''The Bank shall include in the annual report a description of the efforts undertaken under subparagraph (K).''.

SEC. 14. GAO REPORTS.

(a) POTENTIAL OF WTO TO REMEDY UNTIED AID AND MARKET WINDOWS.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that examines—

(1) whether a case could be brought by the United States in the World Trade Organization seeking relief against untied aid and market windows, and if so, the kinds of relief that would be available if the United States were to prevail in such a case; and

(2) the scope of penalty tariffs that the United States could impose against imports from a country that uses untied aid or market windows.

(b) COMPARATIVE RESERVE PRACTICES OF EXPORT CREDIT AGENCIES AND PRIVATE BANKS.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that examines the reserve ratios of the Export-Import Bank of the United States as compared with the reserve practices of private banks and foreign export credit agencies.

SEC. 15. HUMAN RIGHTS.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by inserting ''(as provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948)'' after ''human rights''.

SEC. 16. STEEL.

(a) REEVALUATION.—The Export-Import Bank of the United States shall re-assess the effects of the approval by the Bank of an $18,000,000 medium-term guarantee to support the sale of computer software, control systems, and main drive power supplies to Benxi Iron & Steel Company, in Benxi, Liaoning, China, for the purpose of evaluating whether the adverse impact test of the Bank sufficiently takes account of the interests of United States industries.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the re-assessment required by subsection (a).

SEC. 17. CORRECTION OF REFERENCES.

(a) Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by striking ''Banking and''.

(b) Each of the following provisions of the Export-Import Bank Act of 1945 is amended by striking ''Banking, Finance and Urban Affairs'' and inserting ''Financial Services'':

(1) Section 2(b)(6)(D)(i)(III) (12 U.S.C. 635(b)(6)(D)(i)(III)).

(2) Section 2(b)(6)(H) (12 U.S.C. 635(b)(6)(H)).

(3) Section 2(b)(6)(I)(i)(II) (12 U.S.C. 635(b)(6)(I)(i)(II)).

(4) Section 2(b)(6)(I)(iiii) (12 U.S.C. 635(b)(6)(I)(iii)).

(5) Section 10(g)(1) (12 U.S.C. 635i–3(g)(1)).

SEC. 18. AUTHORITY TO DENY APPLICATION FOR ASSISTANCE BASED ON FRAUD OR CORRUPTION BY THE APPLICANT.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

''(f) AUTHORITY TO DENY APPLICATION FOR ASSISTANCE BASED ON FRAUD OR CORRUPTION BY PARTY TO THE TRANSACTION.—In addition to any other authority of the Bank, the Bank may deny an application for assistance with respect to a transaction if the Bank has substantial credible evidence that any party to the transaction has committed an act of fraud or corruption in connection with a transaction involving a good or service that is the same as, or substantially similar to, a good or service the export of which is the subject of the application.''.

SEC. 19. CONSIDERATION OF FOREIGN COUNTRY HELPFULNESS IN EFFORTS TO ERADICATE TERRORISM.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is further amended by adding at the end the following:

''(L) It is further the policy of the United States that, in considering whether to guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or information by a national or agency of any nation, the Bank shall take into account the extent to which the nation has been helpful or unhelpful in efforts to eradicate terrorism. The Bank shall consult with the Department of State to determine the degree to which each relevant nation has been helpful or unhelpful in efforts to eradicate terrorism.''.

SEC. 20. OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.

Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) is amended—

(1) in paragraph (2), by striking ''Paragraph (1)'' and inserting ''Paragraphs (1) and (2)''; and

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following:

''(2) OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.—

''(A) ORDERS.—The Bank shall not provide any loan or guarantee to an entity for the resulting production of substantially the same product that is the subject of—

''(i) a countervailing duty or antidumping order under title VII of the Tariff Act of 1930; or

''(ii) a determination under title II of the Trade Act of 1974.

''(B) AFFIRMATIVE DETERMINATION.—Within 60 days after the date of the enactment of this Act, the Bank shall establish procedures regarding loans or guarantees provided to any entity that is subject to a preliminary determination of a reasonable indication of material injury to an industry under title VII of the Tariff Act of 1930. The procedures shall help to ensure that these loans and guarantees are likely to not result in a significant increase in imports of substantially the same product covered by the preliminary determination and are likely to not have a significant adverse impact on the domestic industry. The Bank shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of these procedures.

''(C) COMMENT PERIOD.—The Bank shall establish procedures under which the Bank shall notify interested parties and provide a comment period with regard to loans or guarantees reviewed pursuant to subparagraph (B).''.

SEC. 21. SENSE OF THE CONGRESS RELATING TO RENEWABLE ENERGY TARGETS.

(a) ALLOCATION OF ASSISTANCE AMONG ENERGY PROJECTS.—It is the sense of the Congress that, of the total amount available to the Export-Import Bank of the United States for the extension of credit for transactions related to energy projects, the Bank should, not later than the beginning of fiscal year 2006, use—

(1) not more than 95 percent for transactions related to fossil fuel projects; and

(2) not less than 5 percent for transactions related to renewable energy and energy efficiency projects.

(b) DEFINITION OF RENEWABLE ENERGY.—In this section, the term ''renewable energy'' means projects related to solar, wind, biomass, fuel cell, landfill gas, or geothermal energy sources.

The CHAIRMAN. No amendment to that amendment is in order except those printed in House Report 107–423. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider Amendment No. 1 printed in House Report 107–423.

□ 1145

AMENDMENT NO. 1 OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BEREUTER:

Page 12, line 19, strike ''PROCESS AND'' and insert ''PRINCIPLES, PROCESS, AND''.

Page 12, strike lines 22 through 25 and insert the following:

(1) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) in consultation with the Secretary and in accordance with the principles, process, and standards developed pursuant to paragraph (5) of this subsection and the purposes described in subsection (a)(5);''; and

Page 13, line 2, strike ''PROCESS AND'' and insert ''PRINCIPLES, PROCESS, AND''.

Page 13, line 4, after ''Secretary'' insert ''and the Bank jointly''.

Page 13, line 5, insert ''principles and'' before ''standards''.

Page 13, line 10, strike ''PROCESS AND'' and insert ''PRINCIPLES, PROCESS, AND''.

Page 13, strike line 13 and insert ''PRINCIPLES AND STANDARDS.—In developing the principles and standards''.

Page 13, line 15, after ''retary'' insert ''and the Bank''.

Page 13, line 17, insert ''principles and'' before ''standards''.

Page 13, after line 17, insert the following:

''(I) The Tied Aid Credit Fund should be used to leverage multilateral negotiations to restrict the scope for aid-financed trade distortions through new multilateral rules, and to police existing rules.''.

Page 13, line 18, strike ''(I)'' and insert ''(II)''.

Page 13, line 23, strike ''(II)'' and insert ''(III)''.

Page 14, line 3, strike ''(III)'' and insert ''(IV)''.

Page 14, line 6, insert ''on commercial terms'' after ''opportunities''.

Page 14, line 8, strike ''(IV)'' and insert ''(V)''.

Page 14, line 13, strike ''(V)'' and insert ''(VI)''.

Page 14, line 14, strike ''will'' and insert ''may only''.

Page 14, line 17, strike ''(VI)'' and insert ''(VII)''.

Page 14, line 18, strike ''will'' and insert ''may''.

Page 14, line 21, insert ''principles,'' before ''process''.

Page 15, line 1, strike ''REPORT'' and insert ''PRINCIPLES, PROCESS, AND STANDARDS''.

Page 15, line 3, after ''Secretary'' insert ''and the Bank''.

Page 15, line 7, strike ''report on the process'' and insert ''copy of the principles, process,''.

Page 15, line 10, insert ''PRINCIPLES AND'' before ''STANDARDS''.

Page 15, line 11, insert ''principles and'' before ''standards''.

Page 15, line 13, strike ''report'' and insert ''principles, process, and standards''.

Page 15, line 13, strike ''is'' and insert ''are''.

Page 15, line 15, strike ''; REPORTS''.

Page 15, line 16, after ''Secretary'' insert ''and the bank jointly''.

Page 15, line 17, strike ''process and'' and insert ''principles, process, and''.

Page 15, line 22, strike ''report on the process'' and insert ''copy of the principles, process,''.

Page 16, line 8, after ''tiously'' insert ''pursuant to paragraph (2)''.

Page 16, line 14, strike '', but shall not''.

Page 16, line 22, strike ''shall'' and insert ''should''.

Page 17, line 7, after ''in'' insert ''initiating negotiations, and if negotiations were initiated, in''.

Page 17, line 13, strike ''shall'' and insert ''should''.

Page 17, line 22, after ''in'' insert ''initiating negotiations, and if negotiations were initiated, in''.

Page 17, line 25, strike ''AND MARKET WINDOWS''.

Page 18, strike lines 2 through 6 and insert ''amended in subsection (a)—''.

Page 18, line 7, strike ''(B)'' and insert ''(A)''.

Page 18, line 9, strike ''(C)'' and insert ''(B)''.

Page 18, line 10, strike ''market windows'' and insert ''untied aid''.

Page 18, line 12, strike ''(D)'' and insert ''(C)''.

Page 18, line 13, strike ''as'' and insert ''and''.

Page 18, line 18, insert ''and aid agencies'' after ''agencies''.

Page 18, line 21, strike ''market windows and''.

Page 19, line 6, strike ''market windows'' and insert ''untied aid''.

Page 19, beginning on line 10, strike ''market window support may be part of a transaction'' and insert ''untied aid offers will be made''.

Page 19, line 19, strike ''; and'' and insert a period.

Page 19, strike lines 20 through 24.

The CHAIRMAN. Pursuant to House Resolution 402, the gentleman from Nebraska (Mr. BEREUTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume to explain the manager's amendment.

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

Mr. BEREUTER. Mr. Chairman, the changes in the manager's amendment are to the Tied Aid War Chest section of the legislation and are the result of negotiations with the administration.

As a way of background, this legislation would make important clarifications in the administration of the Tied Aid War Chest which finances tied aid transactions. The Tied Aid War Chest was intended to be used by the Ex-Im Bank to protect American exporters by matching the concessionary financing of foreign export credit agencies. The Tied Aid War Chest has been grossly underutilized, which is due in part to the disagreements between the Ex-Im Bank and the Department of Treasury over the years on how to use the funds.

These past problems would be addressed in this legislation by the creation of a new definitive step-by-step process to be followed by the Ex-Im Bank and the Treasury Department regarding how the Tied Aid War Chest is to be administered. The manager's amendment would make the following changes to how the Tied Aid War Chest is administered.

Number 1, under the bill as reported, the Secretary of the Treasury would set the process and standards on how the amounts in the Tied Aid War Chest can be effectively used and efficiently used, and it would do this in consultation with the Ex-Im Bank. In the manager's amendment, the word ''principles'' is inserted before the word ''process.'' This change is made throughout the manager's amendment where applicable.

Number 2, the Ex-Im Bank would be allowed to jointly set the principles, process and standards which govern the use of the Tied Aid War Chest with the Secretary of the Treasury.

Three, the Tied Aid War Chest also must be used in accordance with the purposes described in section 10(a)(5) of the Ex-Im Bank charter. This reference to section 10(a)(5) is in current law.

Number 4, adds a new standard which will govern the use of the Tied Aid War Chest in the interim period before the Secretary of the Treasurer and the Ex-Im Bank submit their principles, process and standards to Congress. This new standard states that the Tied Aid War Chest should be used to leverage multilateral negotiations in such places as the OECD in Paris to restrict the scope of aid-financed trade distortions and to police existing rules. This new standard is added to the six existing standards in the bill as reported.

Number 5, under H.R. 2871, as reported, an applicant for the Tied Aid War Chest is given an opportunity for an expeditious reconsideration by the Ex-Im Bank board within 3 months of the denial of an application for assistance. Under this legislation, as reported, the applicant may, but shall not be required to provide any information for the application to be reconsidered. That is at the suggestion of the administration. The manager's amendment states that the applicant may be required to provide new information in order for the application to be reconsidered.

Number 6, under the bill, as reported, the Tied Aid War Chest can be used to combat untied aid and market windows. Under the current law, the Tied Aid War Chest can only be used to combat tied aid from foreign export credit agencies. The manager's amendment does not allow the Tied Aid War Chest to be used for market windows. Market windows are defined as export financing that claims to operate on a commercial basis while benefiting directly or indirectly from some level of government support.

This change was made at the request of the administration because the Ex-Im Bank is still trying to understand how countries such as Germany and Canada use the market windows device. As a result, this Member believes that we should not legislate an issue until we fully understand how the market windows device actually functions.

Number 7, finally, the manager's amendment also makes other minor technical corrections.

Mr. Chairman, in summary, as a result of the manager's amendment, the Export-Import Bank will administer the Tied Aid War Chest in consultation with the Secretary of the Treasury in accordance with both the principles, process and standards developed jointly by the Secretary of the Treasury and the Ex-Im Bank and in accordance the purposes which are currently listed in the Ex-Im charter. This Member believes that the changes in the manager's amendment are essential to further clarify the administration of the Tied Aid War Chest.

Mr. Chairman, in conclusion, this Member would urge his colleagues to support the manager's amendment to H.R. 2871.

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

The CHAIRMAN. Who rises to claim the time in opposition?

Mr. LAFALCE. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume. I am very pleased to rise in support of the gentleman from Nebraska's (Mr. BEREUTER) amendment which attempts to meet objections to the bill raised by the Treasury Department, and I know that the gentleman from Nebraska has negotiated in great faith with Treasury officials.

Unfortunately, they have withheld support for the bill, primarily due to the tied aid credit fund provisions within it, and I am appreciative of the gentleman's enormous efforts to address Treasury's concerns during the past 5 months over what is essentially a territorial dispute.

The manager's amendment represents his best effort to accommodate Treasury. To that end, I fully support it. I only regret that it has taken 5 months for the Republican House leadership to decide that the U.S. Treasury Department does not set the schedule in the House of Representatives.

Having said that, let me also add that I did support a 6-month extension of the authorization for Ex-Im Bank last year, and then I supported an additional 30-day extension, and yesterday I supported an additional 30-day extension. We have until the Memorial Day recess to reconcile the differences between the House Ex-Im reauthorization bill and the Senate Ex-Im reauthorization bill.

The differences are not that great. We should be able to resolve them at one meeting which could take place this week or next week. Most of the issues, I should not say this, could be settled by a flip of the coin between the House and Senate. Treasury might still oppose, and if Treasury is allowed to hold up the conference report, I just tell them now that I will not support another extension.

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

Mr. BEREUTER. Mr. Chairman, I yield myself the balance of the time, and I want to thank the distinguished gentleman from New York (Mr. LAFALCE) for his patience and his support through this process. I actually welcome the statement the gentleman made about the upcoming House-Senate conference, and his suggestion is exactly the method that I am going to try to advance, with the Chairman's help, if, in fact, we have an opportunity to go to conference today, as I expect.

I would like to say to the gentleman that he and I have shared frustration for so many years over the lack of use of the war chest when it is appropriate, and in part, that failure or deficiency is because of the subject that I think we are addressing in the manager's amendment.

Again, I thank the gentleman for his support and his patience through this long consultation process with the administration. We have made as many accommodations as we possibly can without making the ultimate one because we understand what they want is not consistent with what this body, as a legislative body, should do.

I urge support of the manager's amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report No. 107–423.

AMENDMENT NO. 2 OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DEFAZIO:

At the end of the bill, add the following:

SEC. ___. BAN ON ASSISTANCE FOR PROJECT INVOLVING PRIVATIZATION OF GOVERNMENT-HELD INDUSTRY OR SECTOR.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

''(13) BAN ON ASSISTANCE FOR PROJECT INVOLVING PRIVATIZATION OF GOVERNMENT-HELD INDUSTRY OR SECTOR.—The Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with the export of any good or service for a project that involves the privatization of a government-held industry or sector if—

''(A) the privatization transaction is not implemented in a transparent manner;

''(B) the privatization transaction is not implemented in a manner that adequately protects the interests of workers, small investors, and vulnerable groups in society to the extent that they are affected by the privatization transaction; or

''(C) appropriate regulatory regimes have not been established to esnure the proper function of competitive markets in the industry or sector.''.

The CHAIRMAN. Pursuant to House Resolution 402, the gentleman from Oregon (Mr. DEFAZIO) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume. We will not use all of the time here.

The amendment which I drafted is based substantially on language which will be included in legislation to come up later today, H.R. 2604, the Multinational Development Bank Reauthorization. It is a bipartisan piece of legislation which the gentleman from Nebraska (Mr. BEREUTER) as the Chairman of the Subcommittee on International Monetary Policy and Trade introduced and was cosponsored by the gentleman from New York (Mr. LAFALCE), ranking member, and the gentleman from Vermont (Mr. SANDERS).

I looked at that legislation, and although I will admit that the issue before us here, the Ex-Im Bank, is not normally the principal source of funding for potential privatization efforts, but there are instances where Ex-Im Bank has followed in acquisitions and has essentially been linked to privatization efforts.

Oftentimes there may well be nothing wrong with the U.S. firm being involved in a privatization effort overseas, as long as there is a regulatory structure in place, as long as the government or the taxpayers of that country get full value in a process which is transparent in terms of the bidding, but unfortunately, there have been a number of cases, a couple of which involved the Enron corporation in Panama and the Dominican Republic, where that was not the case. In fact, a study after the fact in the Dominican Republic found that the assets were undervalued by $907 million, and the Panama case, there was a problem with basically some corruption within the government which had led to a low bid and an improper acquisition.

I think putting in place some basic rules is needed to make sure that the Ex-Im Bank either in the first instance or in follow-on to U.S. acquisition, in supplying follow-on to that, does not become involved in improper privatization efforts.

The standards are quite simple: That the assistance should only go to projects that are implemented in a transparent manner; that they are implemented in a manner that protects the interests of workers, small investors, vulnerable groups in society; or, if appropriate, the regulatory regimes have been established to ensure properly functioning competitive markets.

It is further my understanding that the Chairman has some concerns about the capability of enforcing this and statutory language but would perhaps be willing to support this as a sense of Congress within the conference.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding. I would have claimed the time in opposition, but the gentleman has accurately described the derivation of this language, and there is certainly nothing wrong with the intent.

He is also right in recognizing that the primary entities that could have an impact on such a situation, as described in this amendment, are multilateral development banks, but if the gentleman would withdraw this amendment, I will do my best to assure that language like this, probably exactly like it, would be a included as sense of the Congress language or, at least that if we have problems with the Senate conferees, it be included in report language. But it would be my intent to attempt to add such language as sense of the Congress language, as the gentleman has offered it.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for his support and his great work on the legislation to come up later today. I believe these are essential reforms and limitations that should be put into the law, and I thank the gentleman.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report No. 107–423.

AMENDMENT NO. 3 OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. KUCINICH:

At the end of the bill, add the following:

SEC. ___. REQUIREMENT THAT APPLICANTS FOR ASSISTANCE DISCLOSE WHETHER THEY HAVE VIOLATED THE FOREIGN CORRUPT PRACTICES ACT; MAINTENANCE OF LIST OF VIOLATORS.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is further amended by adding at the end the following:

''(M) The Bank shall require an applicant for assistance from the Bank to disclose whether the applicant has been found by a court of the United States to have violated the Foreign Corrupt Practices Act, and shall maintain a list of persons so found to have violated such Act.''.

Amend the table of contents accordingly.

The CHAIRMAN. Pursuant to House Resolution 402, the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment will require the Ex-Im Bank to gather information relating to compliance by applicants with the Foreign Corrupt Practices Act, as amended.

The Foreign Corrupt Practices Act of 1977 makes it unlawful for any domestic corporation to corruptly bribe a foreign official in order to obtain or retain business. It also requires those companies that are required to register with the Securities and Exchange Commission to keep detailed and accurate books, records, and accounts of corporate payments and transactions.

Under my amendment, Ex-Im would request that applicants report whether or not they had been found guilty by a U.S. court to be in violation of the Foreign Corrupt Practices Act, and importantly, the Ex-Im Bank would also independently keep a list of companies that had violated the Act.

Mr. Chairman, this amendment is based upon the following premise: That taxpayers should not subsidize the venture of companies that use corrupt methods to obtain business or deceive taxpayers with false financial reports.

Recently, a large multinational energy corporation based in the United States was revealed to have intentionally misled the public about its finances and its profits, leading to drastic consequences for shareholders and its employees. In part, Enron accomplished this deception by concealing the complex corporate transactions that allowed it to inflate its profits.

□ 1200

Now, what if a company like this one used similar practices in order to cover up its bribery of a foreign official? How would this affect its application for financing from the Ex-Im Bank?

Under current practice, applicants for Ex-Im financing are required to certify they have not violated and will not violate the Foreign Corrupt Practices Act. That is good, and this amendment is not meant to stop the Ex-Im Bank from doing this. But the Ex-Im Bank is not required on its own to compile a list of FCPA violators. So a company that lied about its Foreign Corrupt

Practices Act history on its application would not be in danger of discovery by the Ex-Im Bank.

Is such a scenario out of the realm of possibility? Our experience with Enron should make it clear that it is not. A recent Enron loan application to the Ex-Im Bank for a natural gas plant in Venezuela included the company's 1998 annual report, which Enron admitted was falsified. Did Ex-Im discover this? No. Has the Ex-Im taken any action against Enron for submitting falsified materials? Not that I know of. In a recent column by Bob Novak this matter is detailed.

In fact, Ex-Im loaned Enron nearly $200 million for this project, according to this report by the Institute for Policy Studies. Overall, Ex-Im has financed Enron projects to the tune of $826 million.

Now, ideally, this amendment should be passed in conjunction with another amendment I submitted to the Committee on Rules. The second amendment would have barred Ex-Im from providing financing to any company that violated the Foreign Corrupt Practices Act. Unfortunately, the rule for this bill did not make the second amendment in order. Nevertheless, the current amendment makes an important contribution by codifying Ex-Im's current practice of requiring applicants to certify their compliance with the Foreign Corrupt Practices Act and, further, by requiring the Ex-Im Bank to independently compile a list of companies that are in violation of this act. I encourage my colleagues to support this amendment.

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

Mr. BEREUTER. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Nebraska (Mr. BEREUTER) is recognized for 15 minutes.

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume, and I do not intend to oppose the gentleman's amendment. Actually, I think it is quite appropriate.

The Foreign Corrupt Practices Act does regulate the practices of American businesses doing business abroad. It requires them to keep accurate books, records and accounts. It requires issuers to register with the Securities and Exchange Commission to maintain a responsible and internal accounting control system, and it prohibits bribery by American corporations of foreign officials.

In the way of background, the Foreign Corrupt Practices Act was a U.S. initiative and we have tried very hard, through the Organization for Economic Cooperation and Development in Europe, OECD, to have other countries adopt similar kinds of national legislation. Until recently, many of our west European export competitors have actually permitted their corporations to have their bribes as tax deductible, incredible as that may seem. We have recently had positive action by many of these countries in that respect, but now the proof is in the pudding. That is to say, will they, in fact, have enforcement to make sure that no such bribery is not encouraged or permitted under their tax codes.

In any case, the gentleman's amendment, I think, is highly appropriate. This kind of information should be made available and, in fact, generated, if necessary, within the Export-Import Bank. And it is my expectation that as a result of having that information and being encouraged to give it careful consideration the Ex-Im Bank will be able to avoid providing any kind of transaction assistance to an American firm that would be in violation of the Foreign Corrupt Practices Act.

Mr Chairman, my hope is that in fact something like the Foreign Corrupt Practices Act can be applied internationally by actions of national legislative bodies. So I do speak in support of the gentleman's amendment, and I thank him for his initiative in offering it.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman for his expression of support for transparency and integrity in international transactions.

Mr. Chairman, I submit for the RECORD the article by Bob Novak I referred to earlier:

[From the Chicago Sun-Times, Apr. 29, 2002]

ENRON'S CORPORATE WELFARE

(By Robert Novak)

A bipartisan Senate Finance Committee investigation has found that Enron Corp., no paragon of free-market deregulation, gorged itself on corporate welfare. The Clinton administration gave more than $650 million in Export-Import Bank loans to Enron-related companies. While the Senate now probes whether the bankrupt energy company falsified loan requests, the bigger question is why Enron was subsidized at all.

Export-Import officials early this year, expressing confidence in the accuracy of information provided by Enron in its loan applications, were not interested in an investigation. However, Ex-Im Vice Chairman Eduardo Aguirre sang a different tune in his April 23 letter to Sen. Chuck Grassley of Iowa, the Finance Committee's senior Republican. ''Please let me assure you that Ex-Im Bank takes very seriously potential violations of law . . . and works very closely with the Department of Justice,'' Aguirre wrote.

Finance staffers have found that Ex-Im, as well as the Overseas Private Investment Corp., in a Democratic administration routinely approved loan requests from a supposedly Republican company. Lavish bipartisan political contributions may have helped, as well as a top Enron executive sitting on Ex-Im's Advisory Committee.

Actually, one official of the agency informed a Senate investigator that all Ex-Im really monitors is loan repayment. Ironically, it is unclear whether Enron loans will be defaulted at American taxpayer expense. While the rationale for the Export-Import Bank's existence is to give U.S. businesses a level playing field against government-subsidized foreign competition, the Enron loans merely buttressed questionable projects where the company often was both producer and exporter.

The classic case is a September 1994 Ex-Im direct loan of $302 million ($175 million of which remains unpaid) to Dabhol Power Co. in India, then 80 percent owned by Enron. In this deal, Enron was the ''foreign'' company, and its allies, Bechtel Group and General Electric, were the exporters. With an Indian utility that could not pay its bills (and was pressured by the Bush administration to do so) as its only customer, Dabhol went bankrupt even before Enron.

A less-publicized loan scrutinized by Senate investigators provided $135 million (only $4 million of which has repaid) to the Accroven partnership for a natural gas plant in Venezuela. Nearly half the company's stock was owned by Enron while Enron also was the exporter. Thus, the U.S. taxpayer was paying Enron money so that Enron could buy gas from Enron.

Enron's loan application for the Accroven project included the company's 1998 annual report, which the company has admitted was falsified. ''I'm troubled by the Ex-Im's seeming lack of interest in this matter,'' Grassley wrote Aguirre on April 2.

Ex-Im lent $250 million to Trakya Elektrik of Turkey, owned 50 percent by Enron, which was buying goods and services from Enron. Ex-Im insured a $3.6 million Citibank loan to Promigas in Colombia, owned 42.3 percent by Enron. Whether or not these loans were based on misleading information, it is difficult to see how any of these deals fulfills the Export-Import Bank's avowed purpose of promoting American competition against the world.

While Democratic Sen. Ernest F. Hollings delivered his memorable judgment that Enron benefitted from the Bush presidency on a cash-and-carry basis, the symbiosis between big business and the purveyors of corporate welfare is bipartisan. Just as Enron gave to both parties, Bechtel has contributed $820,000 to Republicans and $730,000 to Democrats since the 1992 elections. Rebecca A. McDonald, CEO of Enron Global Assets, was on Ex-Im's Advisory Committee under President Clinton in 2000 and remained there under President Bush in 2001. How can it be that a major recipient of government largess is advising the agency handing it out?

Except for a fitful effort to trim it down in the early months of the Reagan administration in 1981 and some by the current Bush administration, the Export-Import Bank has sailed through governments of both parties—hardly noticed and never critically examined. A broader scrutiny of the agency's global pursuits is still wanting.

Mr. KUCINICH. Mr. Chairman, I yield back the balance of my time.

Mr. BEREUTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in House Report 107–423.

AMENDMENT NO. 4 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

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

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SANDERS:

At the end of the bill, add the following:

SEC. ___. INFORMATION AND CERTIFICATIONS REQUIRED FROM COMPANIES SEEKING OR RECEIVING NEW ASSISTANCE.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is further amended by adding at the end the following:

''(g)(1) As a condition of providing assistance to a company in connection with a transaction entered into on or after the date of the enactment of this subsection, the Bank shall require the company to submit to the Bank the following information on an annual basis:

''(A) The number of individuals employed by the company in the United States and its territories.

''(B) The number of individuals employed by the company outside the United States and its territories.

''(C) A description of the wages and benefits being provided to the employees of the company in the United States and its territories.

''(2)(A) Beginning 1 year after the Bank provides assistance to a company in connection with a transaction entered into on or after the date of the enactment of this subsection, the company shall, on an annual basis, provide the Bank with a written certification of—

''(i) the percentage of the workforce of the company employed in the United States or its territories that has been laid off or induced to resign from the company during the preceding year; and

''(ii) the percentage of the total workforce of the company that has been laid off or induced to resign from the company during the preceding year.

''(B)(i) If, in the certification provided by the company, the percentage described in subparagraph (A)(i) is greater than the percentage described in subparagraph (A)(ii), then the company shall be ineligible for further assistance from the Bank until the company provides to the Bank a new written certification in which, for the year covered by the new certification, the percentage described in subparagraph (A)(i) is not greater than the percentage described in subparagraph (A)(ii).

''(ii) If the company does not provide a certification required by subparagraph (A), or provides a false certification under this paragraph, then 60 days thereafter the Bank shall withdraw all assistance from the company, and the company shall thereafter be ineligible for assistance from the Bank.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 402, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I hereby submit for the RECORD a letter sent to the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), by every large multinational corporate trade organization in the country, people who contribute hundreds of millions of dollars into the political process, because they are opposed to the amendment.

AEROSPACE INDUSTRIES ASSOCIATION, AMERICAN BUSINESS COUNCIL OF THE GULF COUNTRIES, AMT—THE ASSOCIATION FOR MANUFACTURING TECHNOLOGY, BANKERS ASSOCIATION FOR FINANCE AND TRADE, COALITION FOR EMPLOYMENT THROUGH EXPORTS, EMERGENCY COMMITTEE FOR AMERICAN TRADE, INTERNATIONAL ENERGY DEVELOPMENT COUNCIL, NATIONAL ASSOCIATION OF MANUFACTURERS, NATIONAL FOREIGN TRADE COUNCIL, SMALL BUSINESS EXPORTERS ASSOCIATION, U.S. CHAMBER OF COMMERCE, U.S.-CHINA BUSINESS COUNCIL, U.S COUNCIL FOR INTERNATIONAL BUSINESS,

April 16, 2002.

Hon. DENNIS HASTERT,
Speaker of the House,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House Republican leadership considers scheduling floor action on H.R. 2871, to reauthorize the Export-Import Bank, we write to reiterate our strong support for the Bank. Our collective members include many of the U.S. exporters and financial institutions that rely on the Bank as the lender of last resort in meeting the fierce competition for export opportunities in world markets. In FY 2001 alone, the Bank financed some 2,300 export transactions, 90 percent of which were for small and medium-sized firms.

Ex-Im Bank plays a crucial role in supporting the export of American-made goods and American-provided services in markets where commercial financing is difficult to obtain and when foreign competitors have the active support of their governments' export credit agencies. In 2000 alone, the most-active export credit agencies worldwide financed more than $500 billion in exports. Ex-Im Bank financed $15.5 billion in U.S. exports that year.

To deal with this increasingly aggressive foreign competition, H.R. 2871 would authorize the Bank to respond to new export financing programs offered by foreign governments, including so-called ''market windows''. The bill also provides the Bank with clear authority to use the tied-aid war chest to respond aggressively to foreign governments' use of foreign assistance to supplement their export credit activities (so-called ''tied-aid'').

It is important to note that Ex-Im charges risk-based interest, premiums and other fees for its loans, loan guarantees and insurance. These fees are paid by exporters, banks and overseas customers. Last year, the Bank's revenues generated a $1 billion net income for the U.S. government. Moreover, the Bank maintains some $10 billion in reserves to protect against the risk of loss. The Bank's conservative lending policies and aggressively loss-recovery efforts have resulted in a very low 1.9 percent historical loss rate.

AMENDMENTS OF CONCERN

Two amendments may be offered which, in our judgment, would impede the ability of U.S. exporters to effectively utilize the Bank, thus weakening the Bank's programs and causing a loss of U.S. exports and the jobs of American workers. We urge you to oppose these amendments if offered during House floor action:

(1) Rep. Sanders may offer an amendment to deny Ex-Im Bank financing for U.S. companies that are growing internationally. It would make the Bank completely unusable for any U.S. exporter that is succeeding in world markets. The proposal runs contrary to U.S. trade policy and market-based economic growth. It would make no sense for the Congress to seek open world markets, but then deny U.S. firms access to one of the key tools to take advantage of these new opportunities. Since Ex-Im Bank only finances U.S.-origin goods and services, shutting off the Bank would only result in making the Bank less effective in creating and keeping U.S. jobs here at home.

Rep. Schakowsky may offer an amendment to require a human rights assessment of about 600 export transactions supported by the Bank annually. This proposal is unnecessary because the Export-Import Bank Act already includes a procedure under which the Bank relies on the U.S. State Department for human rights analysis. The amendment would require the Bank to establish an unnecessary new bureaucracy that would duplicate the long-established State Department human rights office. The amendment would require U.S. exporters to submit any proposed transaction over $10 million to a costly and time-consuming notice and comment period, which inevitably would lead to the loss of export sales to our foreign competitors. The current, long-established, process works well to ensure that human rights issues are analyzed by the State Department's experts and included in the Bank's consideration of export transactions.

We urge the House to approve H.R. 2871 and to oppose amendments that would weaken the Bank and impede U.S. exports.

Sincerely,

Don Carlson, President, AMT–The Association For Manufacturing Technology; Calman J. Cohen, President, Emergency Committee For American Trade; Timothy E. Deal, Senior Vice President, U.S. Council for International Business; John W. Douglass, President, and CEO, Aerospace Industries Association; John Hardy, Chairman, Standing Committee, International Energy Development Council; Robert Kapp, President, U.S.-China Business Council; James Morrison, President, Small Business Exporters Association; John Pratt, Chairman, American Business Council of the Gulf Countries; William Reinsch, President, National Foreign Trade Council; Edmund B. Rice, President, Coalition For Employment Through Exports; Consider W. Ross, Executive Director, Bankers Association for Finance and Trade; Franklin J. Vargo, Vice President, National Association of Manufacturers; Willard A. Workman, Senior Vice President, U.S. Chamber of Commerce.

Mr. Chairman, these gentlemen, representing the largest multinational corporations in this country, are opposed to this amendment. And why not? They are receiving huge amounts of corporate welfare. They think it is a good deal. So, yes, they will be opposed to the amendment. And I would hope that gives Members a good reason why they should think about voting for this amendment.

I am very proud that this amendment is cosponsored by the gentleman from Texas (Mr. PAUL) and the gentleman from Oregon (Mr. DEFAZIO), and we are united, along with many other Members here, to protect American workers and to fight corporate welfare.

Mr. Chairman, some of my colleagues will say that the Ex-Im Bank has helped businesses and workers throughout the United States. They are right. But that should not be a great surprise for an agency that has a budget of some $1 billion and has the capability

of guaranteeing some $15 billion in loans a year. If we stood outside on street corners all over America and gave out money, we would do some good. We would help people. We would create jobs.

The question that we want to ask is: Given the amount of money that we are spending, are American taxpayers and are American workers getting good value for their dollars? And I think any objective analysis of Ex-Im would suggest that we are not.

At the present moment, Ex-Im is wasteful, it is inefficient, and it is a major example of corporate welfare. If we cannot make fundamental changes in the way that program is run, it should be killed.

Mr. Chairman, let us be clear about who the major beneficiaries of Ex-Im are. My colleagues have heard a lot about how small businesses are benefiting. The reality, however, is that 80 percent of the real dollars goes to the Fortune 500, some of the largest corporations in America. Now, let us hear who those tiny small businesses are who receive this corporate welfare from the American people.

Well, they are Boeing, General Electric, Caterpillar, and Mobile Oil. They are a struggling small company. Westinghouse and AT&T. Another little tiny mom and pop company. Motorola, Lucent Technologies, Enron, IBM, FedEx, General Motors, Haliburton, Siemens, Raytheon, and United Technologies. The list goes on and on.

Workers in this country, working 50, 60 hours a week to keep their heads above water, veterans not getting the benefits they are entitled to, but, hey, all these little tiny companies they are on the welfare line. Name the largest multinational corporation in America, many of whom make substantial campaign contributions, and there they are getting their money from Ex-Im.

Further, many of these companies pay exorbitant salaries and benefits to their CEOs. One example, which I have experience with, IBM, on the welfare line, gave their former CEO Lou Gerstner, over $260 million in stock options, while they cut back on pensions and retirement health benefits of their workers and retirees and they are opening plants in China. No doubt, no doubt that the American taxpayers should be giving them their welfare check.

Now, even more importantly, what else do these companies have in common? What they have in common is that company after company that receive Ex-Im money are some of the largest job cutters in America. In the name of job creation, we are giving huge amounts of money to large corporations who are laying off hundreds of thousands of American workers, and they are moving their plants to China, where they are paying desperate people there 20 cents an hour; moving to Mexico, moving to Vietnam, moving anyplace in the world where they can get cheap labor. Well, that is a smart public-policy move on our part.

Let me give a couple of examples. General Electric has received over $2.5 billion in direct loans and loan guarantees from Ex-Im Bank. And what was the result? From 1985 to 1995, GE reduced its workforce from 243,000 to 150,000. A real success story for the Ex-Im Bank.

General Motors. They received $500 million in direct loans and loan guarantees from Ex-Im. The result, GM has shrunk its U.S. workforce from 559,000 to 314,000. Congratulations Ex-Im.

Motorola. They have reduced their workforce; only 56 percent of their workers are from the United States.

Now, if a company wants to receive taxpayer support, fine. But what that company has got to do is say we pledge to protect American jobs. And the amendment that I am offering is very, very simple. What it says is that if a company is going to lay off workers, then they cannot lay off more American workers than they lay off people abroad. Now, I do not think that is too much to ask for companies that receive subsidies from the American taxpayer.

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

Mr. BEREUTER. Mr. Chairman, I claim the time in opposition, and would be glad to allow the gentleman from Vermont to continue to yield.

The CHAIRMAN pro tempore. The gentleman from Nebraska (Mr. BEREUTER) is recognized for 15 minutes.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR), who has been one of the strongest fighters in the U.S. Congress for American workers.

Ms. KAPTUR. Mr. Chairman, I rise in strong support of this Sanders amendment. It is eminently reasonable and aims to protect the jobs of American workers and strike a blow against the corporate welfare state.

This amendment is beautifully simple. It says no more Export-Import Bank help for corporations that lay off a greater percentage of workers in America than in other countries where they employ workers, including Mexico or China and other low-wage platforms. No more Export-Import Bank help for General Electric when it cans workers in Bloomington, Indiana, and exports all their jobs to Mexico.

Why cut workers' throats in our country with their own taxpayer dollars? Eighty percent of Ex-Im subsidies go to the biggest boys on the block, the Fortune 500 countries with global reach. And how do they return the favor to the American taxpayer? Well, General Motors gets more than $.5 billion from Ex-Im and then shrinks its U.S. workforce from 559,000 to 314,000 workers. That is almost a quarter million lost jobs in America. Motorola took $.5 billion from the taxpayers in the form of Export-Import Bank help and then slashed the American percentage of its workforce down to 56 percent.

Here is how I see it: if we cannot have the Ex-Im Bank for American workers, then at least we should stop cutting our own throats with this giveaway to the runaway multinational companies that export jobs and leave American workers, American families, and American communities holding the bag.

Say ''no'' to this abuse of taxpayer dollars and this betrayal of American communities. Stand up for the Sanders amendment. Vote ''yes'' on the Sanders amendment, which actually says, ''Do not hurt America first.'' If we have to take cuts, at least make those cuts equal globally to other countries. It does not say only serve America, it only says be fair to all concerned.

Support the Sanders amendment.

Mr. BEREUTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BEREUTER) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2871) to reauthorize the Export-Import Bank of the United States, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 2646, FARM SECURITY AND RURAL INVESTMENT ACT OF 2002

Mr. COMBEST submitted the following conference report and statement on the bill (H.R. 2646) to provide for the continuation of agricultural programs through fiscal year 2011.

CONFERENCE REPORT (H. REPT. 107–424)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2646), to provide for the continuation of agricultural programs through fiscal year 2011, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Farm Security and Rural Investment Act of 2002''.

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

Sec. 1. Short title; table of contents.

TITLE I—COMMODITY PROGRAMS

Sec. 1001. Definitions.

Subtitle A—Direct Payments and Counter-Cyclical Payments

Sec. 1101. Establishment of base acres and payment acres for a farm.

Sec. 1102. Establishment of payment yield.

Sec. 1103. Availability of direct payments.

Sec. 1104. Availability of counter-cyclical payments.

Sec. 1105. Producer agreement required as condition of provision of direct payments and counter-cyclical payments.

Sec. 1106. Planting flexibility.
Sec. 1107. Relation to remaining payment authority under production flexibility contracts.
Sec. 1108. Period of effectiveness.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.
Sec. 1202. Loan rates for nonrecourse marketing assistance loans.
Sec. 1203. Term of loans.
Sec. 1204. Repayment of loans.
Sec. 1205. Loan deficiency payments.
Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.
Sec. 1207. Special marketing loan provisions for upland cotton.
Sec. 1208. Special competitive provisions for extra long staple cotton.
Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.

Subtitle C—Peanuts

Sec. 1301. Definitions.
Sec. 1302. Establishment of payment yield and base acres for peanuts for a farm.
Sec. 1303. Availability of direct payments for peanuts.
Sec. 1304. Availability of counter-cyclical payments for peanuts.
Sec. 1305. Producer agreement required as condition on provision of direct payments and counter-cyclical payments.
Sec. 1306. Planting flexibility.
Sec. 1307. Marketing assistance loans and loan deficiency payments for peanuts.
Sec. 1308. Miscellaneous provisions.
Sec. 1309. Termination of marketing quota programs for peanuts and compensation to peanut quota holders for loss of quota asset value.
Sec. 1310. Repeal of superseded price support authority and effect of repeal.

Subtitle D—Sugar

Sec. 1401. Sugar program.
Sec. 1402. Storage facility loans.
Sec. 1403. Flexible marketing allotments for sugar.

Subtitle E—Dairy

Sec. 1501. Milk price support program.
Sec. 1502. National dairy market loss payments.
Sec. 1503. Dairy export incentive and dairy indemnity programs.
Sec. 1504. Dairy product mandatory reporting.
Sec. 1505. Funding of dairy promotion and research program.
Sec. 1506. Fluid milk promotion.
Sec. 1507. Study of national dairy policy.
Sec. 1508. Studies of effects of changes in approach to national dairy policy and fluid milk identity standards.

Subtitle F—Administration

Sec. 1601. Administration generally.
Sec. 1602. Suspension of permanent price support authority.
Sec. 1603. Payment limitations.
Sec. 1604. Adjusted gross income limitation.
Sec. 1605. Commission on application of payment limitations.
Sec. 1606. Adjustments of loans.
Sec. 1607. Personal liability of producers for deficiencies.
Sec. 1608. Extension of existing administrative authority regarding loans.
Sec. 1609. Commodity Credit Corporation Inventory.
Sec. 1610. Reserve stock level.
Sec. 1611. Farm reconstitutions.
Sec. 1612. Assignment of payments.
Sec. 1613. Equitable relief from ineligibility for loans, payments, or other benefits.
Sec. 1614. Tracking of benefits.
Sec. 1615. Estimates of net farm income.
Sec. 1616. Availability of incentive payments for certain producers.
Sec. 1617. Renewed availability of market loss assistance and certain emergency assistance to persons that failed to receive assistance under earlier authorities.
Sec. 1618. Producer retention of erroneously paid loan deficiency payments and marketing loan gains.

TITLE II—CONSERVATION

Subtitle A—Conservation Security

Sec. 2001. Conservation security program.
Sec. 2002. Conservation compliance.
Sec. 2003. Partnerships and cooperation.
Sec. 2004. Administrative requirements for conservation programs.
Sec. 2005. Reform and assessment of conservation programs.
Sec. 2006. Conforming amendments.

Subtitle B—Conservation Reserve

Sec. 2101. Conservation reserve program.

Subtitle C—Wetlands Reserve Program

Sec. 2201. Reauthorization.
Sec. 2202. Enrollment.
Sec. 2203. Easements and agreements.
Sec. 2204. Changes in ownership; agreement modification; termination.

Subtitle D—Environmental Quality Incentives

Sec. 2301. Environmental quality incentives program.

Subtitle E—Grassland Reserve

Sec. 2401. Grassland reserve program.

Subtitle F—Other Conservation Programs

Sec. 2501. Agricultural management assistance.
Sec. 2502. Grazing, wildlife habitat incentive, source water protection, and Great Lakes basin programs.
Sec. 2503. Farmland protection program.
Sec. 2504. Resource conservation and development program.
Sec. 2505. Small watershed rehabilitation program.
Sec. 2506. Use of symbols, slogans, and logos.
Sec. 2507. Desert terminal lakes.

Subtitle G—Conservation Corridor Demonstration Program

Sec. 2601. Definitions.
Sec. 2602. Conservation corridor demonstration program.
Sec. 2603. Implementation of conservation corridor plan.
Sec. 2604. Funding requirements.

Subtitle H—Funding and Administration

Sec. 2701. Funding and administration.
Sec. 2702. Regulations.

TITLE III—TRADE

Subtitle A—Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

Sec. 3001. United States policy.
Sec. 3002. Provision of agricultural commodities.
Sec. 3003. Generation and use of currencies by private voluntary organizations and cooperatives.
Sec. 3004. Levels of assistance.
Sec. 3005. Food Aid Consultative Group.
Sec. 3006. Maximum level of expenditures.
Sec. 3007. Administration.
Sec. 3008. Assistance for stockpiling and rapid transportation, delivery, and distribution of shelf-stable prepackaged foods.
Sec. 3009. Sale procedure.
Sec. 3010. Prepositioning.
Sec. 3011. Transportation and related costs.
Sec. 3012. Expiration date.
Sec. 3013. Micronutrient fortification programs.
Sec. 3014. John Ogonowski Farmer-to-Farmer Program.

Subtitle B—Agricultural Trade Act of 1978

Sec. 3101. Exporter assistance initiative.
Sec. 3102. Export credit guarantee program.
Sec. 3103. Market access program.
Sec. 3104. Export enhancement program.
Sec. 3105. Foreign market development cooperator program.
Sec. 3106. Food for progress.
Sec. 3107. McGovern-Dole International Food for Education and Child Nutrition Program.

Subtitle C—Miscellaneous

Sec. 3201. Surplus commodities for developing or friendly countries.
Sec. 3202. Bill Emerson Humanitarian Trust Act.
Sec. 3203. Emerging markets.
Sec. 3204. Biotechnology and agricultural trade program.
Sec. 3205. Technical assistance for specialty crops.
Sec. 3206. Global market strategy.
Sec. 3207. Report on use of perishable commodities and live animals.
Sec. 3208. Study on fee for services.
Sec. 3209. Sense of Congress concerning foreign assistance programs.
Sec. 3210. Sense of the Senate concerning agricultural trade.

TITLE IV—NUTRITION PROGRAMS

Sec. 4001. Short title.

Subtitle A—Food Stamp Program

Sec. 4101. Encouragement of payment of child support.
Sec. 4102. Simplified definition of income.
Sec. 4103. Standard deduction.
Sec. 4104. Simplified utility allowance.
Sec. 4105. Simplified determination of housing costs.
Sec. 4106. Simplified determination of deductions.
Sec. 4107. Simplified definition of resources.
Sec. 4108. Alternative issuance systems in disasters.
Sec. 4109. State option to reduce reporting requirements.
Sec. 4110. Cost neutrality for electronic benefit transfer systems.
Sec. 4111. Report on electronic benefit transfer systems.
Sec. 4112. Alternative procedures for residents of certain group facilities.
Sec. 4113. Redemption of benefits through group living arrangements.
Sec. 4114. Availability of food stamp program applications on the Internet.
Sec. 4115. Transitional food stamps for families moving from welfare.
Sec. 4116. Grants for simple application and eligibility determination systems and improved access to benefits.
Sec. 4117. Delivery to retailers of notices of adverse action.
Sec. 4118. Reform of quality control system.
Sec. 4119. Improvement of calculation of State performance measures.
Sec. 4120. Bonuses for States that demonstrate high or most improved performance.
Sec. 4121. Employment and training program.
Sec. 4122. Reauthorization of food stamp program and food distribution program on Indian reservations.
Sec. 4123. Expanded grant authority.
Sec. 4124. Consolidated block grants for Puerto Rico and American Samoa.
Sec. 4125. Assistance for community food projects.
Sec. 4126. Availability of commodities for the emergency food assistance program.

Subtitle B—Commodity Distribution

Sec. 4201. Commodity supplemental food program.
Sec. 4202. Commodity donations.

Sec. 4203. Distribution of surplus commodities to special nutrition projects.
Sec. 4204. Emergency food assistance.

Subtitle C—Child Nutrition and Related Programs

Sec. 4301. Commodities for school lunch program.
Sec. 4302. Eligibility for free and reduced price meals.
Sec. 4303. Purchases of locally produced foods.
Sec. 4304. Applicability of Buy-American requirement to Puerto Rico.
Sec. 4305. Fruit and vegetable pilot program.
Sec. 4306. Eligibility for assistance under the special supplemental nutrition program for women, infants, and children.
Sec. 4307. WIC farmers' market nutrition program.

Subtitle D—Miscellaneous

Sec. 4401. Partial restoration of benefits to legal immigrants.
Sec. 4402. Seniors farmers' market nutrition program.
Sec. 4403. Nutrition information and awareness pilot program.
Sec. 4404. Hunger fellowship program.
Sec. 4405. General effective date.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

Sec. 5001. Direct loans.
Sec. 5002. Financing of bridge loans.
Sec. 5003. Amount of guarantee of loans for farm operations on tribal lands.
Sec. 5004. Guarantee of loans made under State beginning farmer or rancher programs.
Sec. 5005. Down Payment Loan Program.
Sec. 5006. Beginning farmer and rancher contract land sales program.

Subtitle B—Operating Loans

Sec. 5101. Direct loans.
Sec. 5102. Suspension of limitation on period for which borrowers are eligible for guaranteed assistance.

Subtitle C—Emergency Loans

Sec. 5201. Emergency loans in response to an emergency resulting from quarantines.

Subtitle D—Administrative Provisions

Sec. 5301. Evaluations of direct and guaranteed loan programs.
Sec. 5302. Eligibility of trusts and limited liability companies for farm ownership loans, farm operating loans, and emergency loans.
Sec. 5303. Debt settlement.
Sec. 5304. Temporary authority to enter into contracts; private collection agencies.
Sec. 5305. Interest rate options for loans in servicing.
Sec. 5306. Elimination of requirement that Secretary require county committees to certify in writing that certain loan reviews have been conducted.
Sec. 5307. Simplified loan guarantee application available for loans of greater amounts.
Sec. 5308. Inventory property.
Sec. 5309. Administration of certified lenders and preferred certified lenders programs.
Sec. 5310. Definitions.
Sec. 5311. Loan authorization levels.
Sec. 5312. Reservation of funds for direct operating loans for beginning farmers and ranchers.
Sec. 5313. Interest rate reduction program.
Sec. 5314. Reamortization of recapture payments.
Sec. 5315. Allocation of certain funds for socially disadvantaged farmers and ranchers.
Sec. 5316. Waiver of borrower training certification requirement.
Sec. 5317. Timing of loan assessments.
Sec. 5318. Annual review of borrowers.
Sec. 5319. Loan eligibility for borrowers with prior debt forgiveness.
Sec. 5320. Making and servicing of loans by personnel of State, county, or area committees.
Sec. 5321. Eligibility of employees of State, county, or area committee for loans and loan guarantees.

Subtitle E—Farm Credit

Sec. 5401. Repeal of burdensome approval requirements.
Sec. 5402. Banks for cooperatives.
Sec. 5403. Insurance corporation premiums.

Subtitle F—General Provisions

Sec. 5501. Technical amendments.

TITLE VI—RURAL DEVELOPMENT

Subtitle A—Consolidated Farm and Rural Development Act

Sec. 6001. Eligibility of rural empowerment zones and rural enterprise communities for direct and guaranteed loans for essential community facilities.
Sec. 6002. Water or waste disposal grants.
Sec. 6003. Rural business opportunity grants.
Sec. 6004. Child day care facilities.
Sec. 6005. Rural water and wastewater circuit rider program.
Sec. 6006. Multijurisdictional regional planning organizations.
Sec. 6007. Loan guarantees for certain rural development loans.
Sec. 6008. Tribal college and university essential community facilities.
Sec. 6009. Emergency and imminent community water assistance grant program.
Sec. 6010. Water and waste facility grants for Native American tribes.
Sec. 6011. Grants for water systems for rural and native villages in Alaska.
Sec. 6012. Grants to nonprofit organizations to finance the construction, refurbishing, and servicing of individually-owned household water well systems in rural areas for individuals with low or moderate incomes.
Sec. 6013. Loans and loan guarantees for renewable energy systems.
Sec. 6014. Rural business enterprise grants.
Sec. 6015. Rural cooperative development grants.
Sec. 6016. Grants to broadcasting systems.
Sec. 6017. Business and industry loan modifications.
Sec. 6018. Use of rural development loans and grants for other purposes.
Sec. 6019. Simplified application forms for loan guarantees.
Sec. 6020. Definition of rural and rural area.
Sec. 6021. National Rural Development Partnership.
Sec. 6022. Rural telework.
Sec. 6023. Historic barn preservation.
Sec. 6024. Grants for NOAA weather radio transmitters.
Sec. 6025. Grants to train farm workers in new technologies and to train farm workers in specialized skills necessary for higher value crops.
Sec. 6026. Rural community advancement program.
Sec. 6027. Delta Regional Authority.
Sec. 6028. Northern Great Plains Regional Authority.
Sec. 6029. Rural business investment program.
Sec. 6030. Rural strategic investment program.
Sec. 6031. Funding of pending rural development loan and grant applications.

Subtitle B—Rural Electrification Act of 1936

Sec. 6101. Guarantees for bonds and notes issued for electrification or telephone purposes.
Sec. 6102. Expansion of 911 access.
Sec. 6103. Enhancement of access to broadband service in rural areas.

Subtitle C—Food, Agriculture, Conservation, and Trade Act of 1990

Sec. 6201. Alternative Agricultural Research and Commercialization Corporation.
Sec. 6202. Rural electronic commerce extension program.
Sec. 6203. Telemedicine and distance learning services in rural areas.

Subtitle D—SEARCH Grants for Small Communities

Sec. 6301. Definitions.
Sec. 6302. SEARCH grant program.
Sec. 6303. Report.
Sec. 6304. Funding.

Subtitle E—Miscellaneous

Sec. 6401. Value-added agricultural product market development grants.
Sec. 6402. Agriculture innovation center demonstration program.
Sec. 6403. Fund for Rural America.
Sec. 6404. Rural local television broadcast signal loan guarantees.
Sec. 6405. Rural firefighters and emergency personnel grant program.
Sec. 6406. Sense of Congress on rural policy coordination.

TITLE VII—RESEARCH AND RELATED MATTERS

Subtitle A—Extensions

Sec. 7101. National rural information center clearinghouse.
Sec. 7102. Grants and fellowships for food and agricultural sciences education.
Sec. 7103. Policy research centers.
Sec. 7104. Human nutrition intervention and health promotion research program.
Sec. 7105. Pilot research program to combine medical and agricultural research.
Sec. 7106. Nutrition education program.
Sec. 7107. Continuing animal health and disease research programs.
Sec. 7108. Appropriations for research on national or regional problems.
Sec. 7109. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.
Sec. 7110. National research and training virtual centers.
Sec. 7111. Hispanic-serving institutions.
Sec. 7112. Competitive grants for international agricultural science and education programs.
Sec. 7113. University research.
Sec. 7114. Extension service.
Sec. 7115. Supplemental and alternative crops.
Sec. 7116. Aquaculture research facilities.
Sec. 7117. Rangeland research.
Sec. 7118. National genetics resources program.
Sec. 7119. High-priority research and extension initiatives.
Sec. 7120. Nutrient management research and extension initiative.
Sec. 7121. Agricultural telecommunications program.
Sec. 7122. Assistive technology program for farmers with disabilities.
Sec. 7123. Partnerships for high-value agricultural product quality research.
Sec. 7124. Biobased products.
Sec. 7125. Integrated research, education, and extension competitive grants program.
Sec. 7126. Equity in Educational Land-Grant Status Act of 1994.
Sec. 7127. 1994 Institution research grants.
Sec. 7128. Endowment for 1994 Institutions.
Sec. 7129. Precision agriculture.
Sec. 7130. Thomas Jefferson Initiative for crop diversification.

Sec. 7131. Support for research regarding diseases of wheat, triticale, and barley caused by fusarium graminearum or by tilletia indica.
Sec. 7132. Office of Pest Management Policy.
Sec. 7133. National Agricultural Research, Extension, Education, and Economics Advisory Board.
Sec. 7134. Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products.
Sec. 7135. Agricultural experiment stations research facilities.
Sec. 7136. Competitive, special, and facilities research grants national research initiative.
Sec. 7137. Federal agricultural research facilities authorization of appropriations.
Sec. 7138. Critical agricultural materials research.
Sec. 7139. Aquaculture.

Subtitle B—Modifications

Sec. 7201. Equity in Educational Land-Grant Status Act of 1994.
Sec. 7202. Carryover for experiment stations.
Sec. 7203. Authorization percentages for research and extension formula funds.
Sec. 7204. Carryover for eligible institutions.
Sec. 7205. Initiative for future agriculture and food systems.
Sec. 7206. Eligibility for integrated grants program.
Sec. 7207. Agricultural Research, Extension, and Education Reform Act of 1998.
Sec. 7208. Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 7209. National Agricultural Research, Extension, and Teaching Policy Act of 1977.
Sec. 7210. Biotechnology risk assessment research.
Sec. 7211. Competitive, special, and facilities research grants.
Sec. 7212. Matching funds requirement for research and extension activities of 1890 Institutions.
Sec. 7213. Matching requirements for research and extension formula funds for insular area land-grant institutions.
Sec. 7214. Definition of food and agricultural sciences.
Sec. 7215. Federal Extension Service.
Sec. 7216. Policy research centers.
Sec. 7217. Availability of competitive grant funds.
Sec. 7218. Organic agriculture research and extension initiative.
Sec. 7219. Senior scientific research service.
Sec. 7220. Termination of certain schedule a appointments.
Sec. 7221. Biosecurity planning and response programs.
Sec. 7222. Indirect costs for small business innovation research grants.
Sec. 7223. Carbon cycle research.

Subtitle C—Repeal of Certain Activities and Authorities

Sec. 7301. Food Safety Research Information Office and National Conference.
Sec. 7302. Reimbursement of expenses under Sheep Promotion, Research, and Information Act of 1994.
Sec. 7303. Market expansion research.
Sec. 7304. National Advisory Board on Agricultural Weather.
Sec. 7305. Agricultural information exchange with Ireland.
Sec. 7306. Pesticide resistance study.
Sec. 7307. Expansion of education study.
Sec. 7308. Task force on 10-year strategic plan for agricultural research facilities.

Subtitle D—New Authorities

Sec. 7401. Subtitle definitions.
Sec. 7402. Research equipment grants.
Sec. 7403. Joint requests for proposals.
Sec. 7404. Review of Agricultural Research Service.
Sec. 7405. Beginning farmer and rancher development program.
Sec. 7406. Sense of Congress regarding doubling of funding for agricultural research.
Sec. 7407. Organic production and market data initiatives.
Sec. 7408. International organic research collaboration.
Sec. 7409. Report on producers and handlers of organic agricultural products.
Sec. 7410. Report on genetically modified pest-protected plants.
Sec. 7411. Study of nutrient banking.
Sec. 7412. Grants for youth organizations.

Subtitle E—Miscellaneous

Sec. 7501. Resident instruction and distance education at institutions of higher education in United States insular areas.
Sec. 7502. Definitions.
Sec. 7503. Resident instruction and distance education grants program for insular area institutions of higher education.
Sec. 7504. Declaration of extraordinary emergency and resulting authorities.
Sec. 7505. Agricultural biotechnology research and development for developing countries.
Sec. 7506. Land acquisition authority, national peanut research laboratory, Dawson, Georgia.

TITLE VIII—FORESTRY

Subtitle A—Cooperative Forestry Assistance Act of 1978

Sec. 8001. Repeal of forestry incentives program and stewardship incentive program.
Sec. 8002. Establishment of forest land enhancement program.
Sec. 8003. Enhanced community fire protection.

Subtitle B—Amendments to Other Laws

Sec. 8101. Sustainable forestry outreach initiative; renewable resources extension activities.
Sec. 8102. Office of International Forestry.

Subtitle C—Miscellaneous Provisions

Sec. 8201. McIntire-Stennis cooperative forestry research program.

TITLE IX—ENERGY

Sec. 9001. Definitions.
Sec. 9002. Federal procurement of biobased products.
Sec. 9003. Biorefinery development grants.
Sec. 9004. Biodiesel fuel education program.
Sec. 9005. Energy audit and renewable energy development program.
Sec. 9006. Renewable energy systems and energy efficiency improvements.
Sec. 9007. Hydrogen and fuel cell technologies.
Sec. 9008. Biomass research and development.
Sec. 9009. Cooperative research and extension projects.
Sec. 9010. Continuation of bioenergy program.

TITLE X—MISCELLANEOUS

Subtitle A—Crop Insurance

Sec. 10001. Equal crop insurance treatment of potatoes and sweet potatoes.
Sec. 10002. Continuous coverage.
Sec. 10003. Quality loss adjustment procedures.
Sec. 10004. Adjusted gross revenue insurance pilot program.
Sec. 10005. Sense of Congress on expansion of crop insurance coverage.
Sec. 10006. Report on specialty crop insurance.

Subtitle B—Disaster Assistance

Sec. 10101. Reference to sea grass and sea oats as crops covered by noninsured crop disaster assistance program.
Sec. 10102. Emergency grants to assist low-income migrant and seasonal farmworkers.
Sec. 10103. Emergency loans for seed producers.
Sec. 10104. Assistance for livestock producers.
Sec. 10105. Market loss assistance for apple producers.
Sec. 10106. Market loss assistance for onion producers.
Sec. 10107. Commercial fisheries failure.
Sec. 10108. Study of feasibility of producer indemnification from Government-caused disasters.

Subtitle C—Tree Assistance Program

Sec. 10201. Definitions.
Sec. 10202. Eligibility.
Sec. 10203. Assistance.
Sec. 10204. Limitations on assistance.
Sec. 10205. Authorization of appropriations.

Subtitle D—Animal Welfare

Sec. 10301. Definition of animal under the Animal Welfare Act.
Sec. 10302. Prohibition on interstate movement of animals for animal fighting.
Sec. 10303. Penalties and foreign commerce provisions of the Animal Welfare Act.
Sec. 10304. Report on rats, mice, and birds.
Sec. 10305. Enforcement of Humane Methods of Slaughter Act of 1958.

Subtitle E—Animal Health Protection

Sec. 10401. Short title.
Sec. 10402. Findings.
Sec. 10403. Definitions.
Sec. 10404. Restriction on importation or entry.
Sec. 10405. Exportation.
Sec. 10406. Interstate movement.
Sec. 10407. Seizure, quarantine, and disposal.
Sec. 10408. Inspections, seizures, and warrants.
Sec. 10409. Detection, control, and eradication of diseases and pests.
Sec. 10410. Veterinary accreditation program.
Sec. 10411. Cooperation.
Sec. 10412. Reimbursable agreements.
Sec. 10413. Administration and claims.
Sec. 10414. Penalties.
Sec. 10415. Enforcement.
Sec. 10416. Regulations and orders.
Sec. 10417. Authorization of appropriations.
Sec. 10418. Repeals and conforming amendments.

Subtitle F—Livestock

Sec. 10501. Transportation of poultry and other animals.
Sec. 10502. Swine contractors.
Sec. 10503. Right to discuss terms of contract.
Sec. 10504. Veterinary training.
Sec. 10505. Pseudorabies eradication program.

Subtitle G—Specialty Crops

Sec. 10601. Marketing orders for caneberries.
Sec. 10602. Availability of section 32 funds.
Sec. 10603. Purchase of specialty crops.
Sec. 10604. Protection for purchasers of farm products.
Sec. 10605. Farmers' market promotion program.
Sec. 10606. National organic certification cost-share program.
Sec. 10607. Exemption of certified organic products from assessments.
Sec. 10608. Cranberry acreage reserve program.

Subtitle H—Administration

Sec. 10701. Initial rate of basic pay for employees of county committees.
Sec. 10702. Commodity Futures Trading Commission pay comparability.
Sec. 10703. Overtime and holiday pay.
Sec. 10704. Assistant Secretary of Agriculture for Civil Rights.
Sec. 10705. Operation of Graduate School of Department of Agriculture.
Sec. 10706. Implementation funding and information management.
Sec. 10707. Outreach and assistance for socially disadvantaged farmers and ranchers.
Sec. 10708. Transparency and accountability for socially disadvantaged farmers and ranchers; public disclosure requirements for county committee elections.

Subtitle I—General Provisions

Sec. 10801. Cotton classification services.
Sec. 10802. Program of public education regarding use of biotechnology in producing food for human consumption.
Sec. 10803. Chino Dairy Preserve Project.
Sec. 10804. Grazinglands Research Laboratory.
Sec. 10805. Food and Agricultural Policy Research Institute.
Sec. 10806. Market names for catfish and ginseng.
Sec. 10807. Food Safety Commission.
Sec. 10808. Pasteurization.
Sec. 10809. Rulemaking on labeling of irradiated food; certain petitions.
Sec. 10810. Penalties for violations of Plant Protection Act.
Sec. 10811. Preclearance quarantine inspections.
Sec. 10812. Connecticut River Atlantic Salmon Commission.
Sec. 10813. Pine Point School.
Sec. 10814. 7-month extension of chapter 12 of title 11 of the United States Code.
Sec. 10815. Practices involving nonambulatory livestock.
Sec. 10816. Country of origin labeling.

Subtitle J—Miscellaneous Studies and Reports

Sec. 10901. Report on specialty crop purchases.
Sec. 10902. Report on pouched and canned salmon.
Sec. 10903. Study on updating yields.
Sec. 10904. Report on effect of farm program payments.
Sec. 10905. Chiloquin Dam fish passage feasibility study.
Sec. 10906. Report on geographically disadvantaged farmers and ranchers.
Sec. 10907. Studies on agricultural research and technology.
Sec. 10908. Report on tobacco settlement agreement.
Sec. 10909. Report on sale and use of pesticides for agricultural uses.
Sec. 10910. Review of operation of agricultural and natural resource programs on tribal trust land.

TITLE I—COMMODITY PROGRAMS

SEC. 1001. DEFINITIONS.

In this title (other than subtitle C):

(1) AGRICULTURAL ACT OF 1949.—The term ''Agricultural Act of 1949'' means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301).

(2) BASE ACRES.—The term ''base acres'', with respect to a covered commodity on a farm, means the number of acres established under section 1101 with respect to the covered commodity on the election made by the owner of the farm under subsection (a) of such section.

(3) COUNTER-CYCLICAL PAYMENT.—The term ''counter-cyclical payment'' means a payment made to producers on a farm under section 1104.

(4) COVERED COMMODITY.—The term ''covered commodity'' means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, and other oilseeds.

(5) DIRECT PAYMENT.—The term ''direct payment'' means a payment made to producers on a farm under section 1103.

(6) EFFECTIVE PRICE.—The term ''effective price'', with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 1104 to determine whether counter-cyclical payments are required to be made for that crop year.

(7) EXTRA LONG STAPLE COTTON.—The term ''extra long staple cotton'' means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(8) LOAN COMMODITY.—The term 'loan commodity' means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, wool, mohair, honey, dry peas, lentils, and small chickpeas.

(9) OTHER OILSEED.—The term ''other oilseed'' means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, another oilseed.

(10) PAYMENT ACRES.—The term ''payment acres'' means 85 percent of the base acres of a covered commodity on a farm, as established under section 1101, on which direct payments and counter-cyclical payments are made.

(11) PAYMENT YIELD.—

(A) IN GENERAL.—The term ''payment yield'' means the yield established under section 1102 for a farm for a covered commodity.

(B) UPDATED PAYMENT YIELD.—The term ''updated payment yield'' means the payment yield elected by the owner of a farm under section 1102(e) to be used in calculating the counter-cyclical payments for the farm.

(12) PRODUCER.—The term ''producer'' means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(14) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) TARGET PRICE.—The term ''target price'' means the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) of a covered commodity used to determine the payment rate for counter-cyclical payments.

(16) UNITED STATES.—The term ''United States'', when used in a geographical sense, means all of the States.

Subtitle A—Direct Payments and Counter-Cyclical Payments

SEC. 1101. ESTABLISHMENT OF BASE ACRES AND PAYMENT ACRES FOR A FARM.

(a) ELECTION BY OWNER OF BASE ACRES CALCULATION METHOD.—

(1) ALTERNATIVE CALCULATION METHODS.—For the purpose of making direct payments and counter-cyclical payments with respect to a farm, the Secretary shall give an owner of the farm an opportunity to elect 1 of the following as the method by which the base acres of all covered commodities on the farm are to be determined:

(A) Subject to paragraphs (3) and (4), the 4-year average of the following:

(i) Acreage planted on the farm to covered commodities for harvest, grazing, haying, silage, or other similar purposes for the 1998 through 2001 crop years.

(ii) Any acreage on the farm that the producers were prevented from planting during the 1998 through 2001 crop years to covered commodities because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary.

(B) Subject to paragraph (3), the sum of the following:

(i) The contract acreage (as defined in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202)) used by the Secretary to calculate the fiscal year 2002 payment authorized under section 114 of such Act (7 U.S.C. 7214) for the covered commodities on the farm.

(ii) The 4-year average of eligible oilseed acreage on the farm for the 1998 through 2001 crop years, as determined by the Secretary under paragraph (2).

(2) ELIGIBLE OILSEED ACREAGE.—

(A) CALCULATION.—For purposes of paragraph (1)(B)(ii), the eligible acreage for each oilseed on a farm during each of the 1998 through 2001 crop years shall be determined in the manner provided in paragraph (1)(A), except that the total acreage for all oilseeds on the farm for a crop year may not exceed the difference between—

(i) the total acreage determined under paragraph (1)(A) for all covered commodities for that crop year; and

(ii) the total contract acreage determined under paragraph (1)(B)(i).

(B) EFFECT OF NEGATIVE NUMBER.—If the subtraction performed under subparagraph (A) results in a negative number, the eligible oilseed acreage on the farm for that crop year shall be zero for purposes of determining the 4-year average.

(C) OFFSET OF CONTRACT ACREAGE.—The owner of a farm may increase the eligible acreage for an oilseed on the farm by reducing the contract acreage determined under paragraph (1)(B)(i) for 1 or more covered commodities on an acre-for-acre basis, except that the total base acreage for each oilseed on the farm may not exceed the 4-year average of each oilseed determined under paragraph (1)(B)(ii).

(3) INCLUSION OF ALL 4 YEARS IN AVERAGE.—For the purpose of determining a 4-year acreage average under this subsection for a farm, the Secretary shall not exclude any crop year in which a covered commodity was not planted.

(4) TREATMENT OF MULTIPLE PLANTING OR PREVENTED PLANTING.—For the purpose of determining under paragraph (1)(A) the acreage on a farm that producers planted or were prevented from planting during the 1998 through 2001 crop years to covered commodities, if the acreage that was planted or prevented from being planted was devoted to another covered commodity in the same crop year (other than a covered commodity produced under an established practice of double cropping), the owner may elect the commodity to be used for that crop year in determining the 4-year average, but may not include both the initial commodity and the subsequent commodity.

(b) SINGLE ELECTION; TIME FOR ELECTION.—

(1) NOTICE OF ELECTION OPPORTUNITY.—As soon as practicable after the date of enactment of this Act, the Secretary shall provide notice to owners of farms regarding their opportunity to make the election described in subsection (a). The notice shall include the following:

(A) Notice that the opportunity of an owner to make the election is being provided only once.

(B) Information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

(2) ELECTION DEADLINE.—Within the time period and in the manner prescribed pursuant to paragraph (1), the owner of a farm shall submit to the Secretary notice of the election made by the owner under subsection (a).

(c) EFFECT OF FAILURE TO MAKE ELECTION.—If the owner of a farm fails to make the election under subsection (a) or fails to timely notify the Secretary of the election made, as required by subsection (b), the owner shall be deemed to have made the election described in subsection (a)(1)(B) to determine base acres for all covered commodities on the farm.

(d) APPLICATION OF ELECTION TO ALL COVERED COMMODITIES.—The election made under subparagraph (A) or (B) of subsection (a)(1), or deemed to be made under subsection (c), with respect to a farm shall apply to all of the covered commodities on the farm.

(e) TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever either of the following circumstances occurs:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

(2) SPECIAL PAYMENT RULES.—For the crop year in which a base acres adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(f) PAYMENT ACRES.—The payment acres for a covered commodity on a farm shall be equal to 85 percent of the base acres for the covered commodity.

(g) PREVENTION OF EXCESS BASE ACRES.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm under subtitle C so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for peanuts for the farm under subtitle C.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres or the base acres for peanuts for the farm under subtitle C against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1302(f) when applying the requirements of this subsection.

(h) PERMANENT REDUCTION IN BASE ACRES.—The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm. The reduction shall be permanent and made in the manner prescribed by the Secretary.

SEC. 1102. ESTABLISHMENT OF PAYMENT YIELD.

(a) ESTABLISHMENT AND PURPOSE.—For the purpose of making direct payments and counter-cyclical payments under this subtitle, the Secretary shall provide for the establishment of a payment yield for each farm for each covered commodity in accordance with this section.

(b) USE OF FARM PROGRAM PAYMENT YIELD.—Except as otherwise provided in this section, the payment yield for each of the 2002 through 2007 crops of a covered commodity for a farm shall be the farm program payment yield established for the 1995 crop of the covered commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465), as adjusted by the Secretary to account for any additional yield payments made with respect to that crop under section 505(b)(2) of that Act.

(c) FARMS WITHOUT FARM PROGRAM PAYMENT YIELD.—In the case of a farm for which a farm program payment yield is unavailable for a covered commodity (other than soybeans or other oilseeds), the Secretary shall establish an appropriate payment yield for the covered commodity on the farm taking into consideration the farm program payment yields applicable to the commodity under subsection (b) for similar farms, but before the yields for the similar farms are updated as provided in subsection (e).

(d) PAYMENT YIELDS FOR OILSEEDS.—

(1) DETERMINATION OF AVERAGE YIELD.—In the case of soybeans and each other oilseed, the Secretary shall determine the average yield per planted acre for the oilseed on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the oilseed was zero.

(2) ADJUSTMENT FOR PAYMENT YIELD.—The payment yield for a farm for an oilseed shall be equal to the product of the following:

(A) The average yield for the oilseed determined under paragraph (1).

(B) The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.

(3) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of an oilseed for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that oilseed, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average under paragraph (1).

(e) OPPORTUNITY TO PARTIALLY UPDATE YIELDS USED TO DETERMINE COUNTER-CYCLICAL PAYMENTS.—

(1) ELECTION TO UPDATE.—If the owner of a farm elects to use the base acres calculation method described in section 1101(a)(1)(A), the owner shall also have a 1-time opportunity to elect to use 1 of the methods described in paragraph (3) to partially update the payment yields that would otherwise be used in calculating any counter-cyclical payments for covered commodities on the farm.

(2) TIME FOR ELECTION.—The election under paragraph (1) shall be made at the same time and in the same manner as the Secretary prescribes for the election required under section 1101.

(3) METHODS OF UPDATING YIELDS.—If the owner of a farm elects to update yields under this subsection, the payment yield for a covered commodity on the farm, for the purpose of calculating counter-cyclical payments only, shall be equal to the yield determined using either of the following:

(A) The sum of the following:

(i) The payment yield applicable for direct payments for the covered commodity on the farm.

(ii) 70 percent of the difference between—

(I) the average yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero; and

(II) the payment yield applicable for direct payments for the covered commodity on the farm.

(B) 93.5 percent of the average of the yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero.

(4) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of the covered commodity for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that commodity, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average yield under paragraph (3).

(5) APPLICATION OF ELECTION AND METHOD TO ALL COVERED COMMODITIES.—The owner of a farm may not elect the method described in paragraph (3)(A) for 1 covered commodity on the farm and the method described in paragraph (3)(B) for other covered commodities on the farm.

SEC. 1103. AVAILABILITY OF DIRECT PAYMENTS.

(a) PAYMENT REQUIRED.—For each of the 2002 through 2007 crop years of each covered commodity, the Secretary shall make direct payments to producers on farms for which payment yields and base acres are established.

(b) PAYMENT RATE.—The payment rates used to make direct payments with respect to covered commodities for a crop year are as follows:

(1) Wheat, $0.52 per bushel.

(2) Corn, $0.28 per bushel.

(3) Grain sorghum, $0.35 per bushel.

(4) Barley, $0.24 per bushel.

(5) Oats, $0.024 per bushel.

(6) Upland cotton, $0.0667 per pound.

(7) Rice, $2.35 per hundredweight.

(8) Soybeans, $0.44 per bushel.

(9) Other oilseeds, $0.0080 per pound.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—The Secretary shall make direct payments—

(A) in the case of the 2002 crop year, as soon as practicable after the date of enactment of this Act; and

(B) in the case of each of the 2003 through 2007 crop years, not before October 1 of the calendar year in which the crop of the covered commodity is harvested.

(2) ADVANCE PAYMENTS.—At the option of the producers on a farm, up to 50 percent of the direct payment for a covered commodity for any of the 2003 through 2007 crop years shall be paid to the producers in advance. The producers shall select the month within which the advance payment for a crop year will be made. The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested through the month within which the direct payment would otherwise be made. The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.

(a) PAYMENT REQUIRED.—For each of the 2002 through 2007 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established

with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subtitle B.

(2) The payment rate in effect for the covered commodity under section 1103 for the purpose of making direct payments with respect to the covered commodity.

(c) TARGET PRICE.—

(1) 2002 AND 2003 CROP YEARS.—For purposes of the 2002 and 2003 crop years, the target prices for covered commodities shall be as follows:

(A) Wheat, $3.86 per bushel.

(B) Corn, $2.60 per bushel.

(C) Grain sorghum, $2.54 per bushel.

(D) Barley, $2.21 per bushel.

(E) Oats, $1.40 per bushel.

(F) Upland cotton, $0.7240 per pound.

(G) Rice, $10.50 per hundredweight.

(H) Soybeans, $5.80 per bushel.

(I) Other oilseeds, $0.0980 per pound.

(2) SUBSEQUENT CROP YEARS.—For purposes of each of the 2004 through 2007 crop years, the target prices for covered commodities shall be as follows:

(A) Wheat, $3.92 per bushel.

(B) Corn, $2.63 per bushel.

(C) Grain sorghum, $2.57 per bushel.

(D) Barley, $2.24 per bushel.

(E) Oats, $1.44 per bushel.

(F) Upland cotton, $0.7240 per pound.

(G) Rice, $10.50 per hundredweight.

(H) Soybeans, $5.80 per bushel.

(I) Other oilseeds, $0.1010 per pound.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

(1) the target price for the covered commodity; and

(2) the effective price determined under subsection (b) for the covered commodity.

(e) PAYMENT AMOUNT.—If counter-cyclical payments are required to be paid for any of the 2002 through 2007 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield or updated payment yield for the farm, depending on the election of the owner of the farm under section 1102.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—If the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, the Secretary shall make the counter-cyclical payments for the crop as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

(3) TIME FOR PARTIAL PAYMENTS.—

(A) 2002 THROUGH 2006 CROP YEARS.—When the Secretary makes partial payments available under paragraph (2) for a covered commodity for any of the 2002 through 2006 crop years—

(i) the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop of the covered commodity is harvested;

(ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and

(iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(B) 2007 CROP YEAR.—When the Secretary makes partial payments available for a covered commodity for the 2007 crop year—

(i) the first partial payment shall be made after completion of the first 6 months of the marketing year for the covered commodity; and

(ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) 2002 THROUGH 2006 CROP YEARS.—

(i) FIRST PARTIAL PAYMENT.—For each of the 2002 through 2006 crop years of a covered commodity, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment for a covered commodity for a crop year may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop of the covered commodity; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment for a covered commodity for a crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payments made to the producers under clauses (i) and (ii) for that crop year.

(B) 2007 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—For the 2007 crop year, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(ii) FINAL PAYMENT.—The final payment for the 2007 crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payment made to the producers under clause (i).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for the covered commodity for that crop year.

SEC. 1105. PRODUCER AGREEMENT REQUIRED AS CONDITION OF PROVISION OF DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1106;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under subtitle C for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in base acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

SEC. 1106. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on base acres on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of covered commodities with

agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on base acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

(d) SPECIAL RULE FOR 2002 CROP YEAR.—For the 2002 crop year only, if the calculation of base acres under section 1101(a) results in total base acres for a farm in excess of the contract acreage (as defined in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202)) for the farm used to calculate the fiscal year 2002 payment authorized under section 114 of such Act (7 U.S.C. 7214), paragraphs (1) and (2) of subsection (b) shall not limit the harvesting of an agricultural commodity specified in paragraph (3) of that subsection on the excess base acres, except that direct payments and counter-cyclical payments for the 2002 crop year shall be reduced by an acre for each acre of the excess base acres planted to such an agricultural commodity.

SEC. 1107. RELATION TO REMAINING PAYMENT AUTHORITY UNDER PRODUCTION FLEXIBILITY CONTRACTS.

(a) TERMINATION OF SUPERSEDED PAYMENT AUTHORITY.—Notwithstanding section 113(a)(7) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7213(a)(7)) or any other provision of law, the Secretary shall not make payments for fiscal year 2002 after the date of enactment of this Act under a production flexibility contract entered into under section 111 of that Act (7 U.S.C. 7211) unless requested by the producer that is a party to the contract.

(b) CONTRACT PAYMENTS MADE BEFORE ENACTMENT.—If a producer receives all or any portion of the payment authorized for fiscal year 2002 under a production flexibility contract, the Secretary shall reduce the amount of the direct payment otherwise due the producer for the 2002 crop year under section 1103 by the amount of the fiscal year 2002 payment received by the producer under the production flexibility contract.

SEC. 1108. PERIOD OF EFFECTIVENESS.

This subtitle shall be effective beginning with the 2002 crop year of each covered commodity through the 2007 crop year.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

SEC. 1201. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR LOAN COMMODITIES.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2002 through 2007 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.

(2) TERMS AND CONDITIONS.—The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 1202 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.

(c) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this subtitle, the Secretary shall make loans to producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the loan commodity owned by the producers on the farm commingled with loan commodities of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producers obtaining the loan agree to immediately redeem the loan collateral in accordance with section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).

(d) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(e) TERMINATION OF SUPERSEDED LOAN AUTHORITY.—Notwithstanding section 131 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231), nonrecourse marketing assistance loans shall not be made for the 2002 crop of loan commodities under subtitle C of title I of such Act.

SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.

(a) 2002 AND 2003 CROP YEARS.—For purposes of the 2002 and 2003 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.80 per bushel.

(2) In the case of corn, $1.98 per bushel.

(3) In the case of grain sorghum, $1.98 per bushel.

(4) In the case of barley, $1.88 per bushel.

(5) In the case of oats, $1.35 per bushel.

(6) In the case of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of rice, $6.50 per hundredweight.

(9) In the case of soybeans, $5.00 per bushel.

(10) In the case of other oilseeds, $0.0960 per pound.

(11) In the case of graded wool, $1.00 per pound.

(12) In the case of nongraded wool, $0.40 per pound.

(13) In the case of mohair, $4.20 per pound.

(14) In the case of honey, $0.60 per pound.

(15) In the case of dry peas, $6.33 per hundredweight.

(16) In the case of lentils, $11.94 per hundredweight.

(17) In the case of small chickpeas, $7.56 per hundredweight.

(b) 2004 THROUGH 2007 CROP YEARS.—For purposes of the 2004 through 2007 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.

(2) In the case of corn, $1.95 per bushel.

(3) In the case of grain sorghum, $1.95 per bushel.

(4) In the case of barley, $1.85 per bushel.

(5) In the case of oats, $1.33 per bushel.

(6) In the case of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of rice, $6.50 per hundredweight.

(9) In the case of soybeans, $5.00 per bushel.

(10) In the case of other oilseeds, $0.0930 per pound.

(11) In the case of graded wool, $1.00 per pound.

(12) In the case of nongraded wool, $0.40 per pound.

(13) In the case of mohair, $4.20 per pound.

(14) In the case of honey, $0.60 per pound.

(15) In the case of dry peas, $6.22 per hundredweight.

(16) In the case of lentils, $11.72 per hundredweight.

(17) In the case of small chickpeas, $7.43 per hundredweight.

SEC. 1203. TERM OF LOANS.

(a) TERM OF LOAN.—In the case of each loan commodity, a marketing assistance loan under section 1201 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

SEC. 1204. REPAYMENT OF LOANS.

(a) GENERAL RULE.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for a loan commodity (other than upland cotton, rice, and extra long staple cotton) at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity;

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and

(E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) REPAYMENT RATES FOR UPLAND COTTON AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 1201 for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 1207, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for upland cotton and rice, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for upland cotton and rice.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(1) IN GENERAL.—During the period beginning on the date of the enactment of this Act through July 31, 2008, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 1202, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United

States growth as quoted for Middling (M) 1 3/32-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the ''Northern Europe price'').

(2) FURTHER ADJUSTMENT.—Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

(f) GOOD FAITH EXCEPTION TO BENEFICIAL INTEREST REQUIREMENT.—For the 2001 crop year only, in the case of the producers on a farm that marketed or otherwise lost beneficial interest in a loan commodity for which a marketing assistance loan was made under section 131 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231) before repaying the loan, the Secretary shall permit the producers to repay the loan at the appropriate repayment rate that was in effect for the loan commodity under section 134 of that Act (7 U.S.C. 7234) on the date that the producers lost beneficial interest, as determined by the Secretary, if the Secretary determines the producers acted in good faith.

SEC. 1205. LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 1201 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

(2) UNSHORN PELTS, HAY, AND SILAGE.—Nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 1201. However, effective for the 2002 through 2007 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

(b) COMPUTATION.—A loan deficiency payment for a loan commodity or commodity referred to in subsection (a)(2) shall be computed by multiplying—

(1) the payment rate determined under subsection (c) for the commodity; by

(2) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a marketing assistance loan under section 1201.

(c) PAYMENT RATE.—

(1) IN GENERAL.—In the case of a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(2) UNSHORN PELTS.—In the case of unshorn pelts, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for ungraded wool; exceeds

(B) the rate at which a marketing assistance loan for ungraded wool may be repaid under section 1204.

(3) HAY AND SILAGE.—In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity from which the hay or silage is derived; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

(e) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as of the date the producers request the payment.

(f) SPECIAL LOAN DEFICIENCY PAYMENT RULES.—

(1) FIRST-TIME LOAN COMMODITIES.—For the 2002 crop of wool, mohair, honey, dry peas, lentils and small chickpeas, in the case of producers of such a crop that would be eligible for a loan deficiency payment under this section except for the fact that the producers lost beneficial interest in the crop prior to the date of publication of the regulations implementing this section, the producers shall be eligible for a loan deficiency payment as of the date producers marketed or otherwise lost beneficial interest in the crop, as determined by the Secretary.

(2) 2001 CROP YEAR.—Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) is amended—

(A) in subsection (a)(2), by striking ''2000 crop year'' and inserting ''2000 and 2001 crop years''; and

(B) by adding at the end the following:

''(g) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—For the 2001 crop year, the Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity using the payment rate in effect under subsection (c) as of the earlier of the following:

''(1) The date on which the producers marketed or otherwise lost beneficial interest in the crop of the loan commodity, as determined by the Secretary.

''(2) The date the producers requested the payment.''.

SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

(a) ELIGIBLE PRODUCERS.—

(1) IN GENERAL.—Effective for the 2002 through 2007 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 1205 for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(2) GRAZING OF TRITICALE ACREAGE.—Effective for the 2002 through 2007 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

(b) PAYMENT AMOUNT.—

(1) IN GENERAL.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(1) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 1102(c).

(2) GRAZING OF TRITICALE ACREAGE.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect for wheat, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of triticale; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to wheat on the farm or, in the case of a farm without a payment yield for wheat, an appropriate yield established by the Secretary in a manner consistent with section 1102(c).

(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 1205.

(2) AVAILABILITY.—The Secretary shall establish an availability period for the payments authorized by this section. In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subtitle.

(d) PROHIBITION ON CROP INSURANCE INDEMNITY OR NONINSURED CROP ASSISTANCE.—A 2002 through 2007 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

(a) COTTON USER MARKETING CERTIFICATES.—

(1) ISSUANCE.—During the period beginning on the date of the enactment of this Act through July 31, 2008, the Secretary shall issue marketing certificates or cash payments, at the option of the recipient, to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 134 percent of the loan rate for upland cotton established under section 1202.

(2) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the fourth week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) ADMINISTRATION OF MARKETING CERTIFICATES.—

(A) REDEMPTION, MARKETING, OR EXCHANGE.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) DESIGNATION OF COMMODITIES AND PRODUCTS.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates

(C) TRANSFERS.—Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(4) DELAYED APPLICATION OF THRESHOLD.—Through July 31, 2006, the Secretary shall make the calculations under paragraphs (1)(A) and (2) without regard to the 1.25 cent threshold provided under those paragraphs.

(b) SPECIAL IMPORT QUOTA.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall carry out an import quota program during the period beginning on the date of the enactment of this Act through July 31, 2008, as provided in this subsection.

(B) PROGRAM REQUIREMENTS.—Except as provided in subparagraph (C), whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under subsection (a), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(C) TIGHT DOMESTIC SUPPLY.—During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, for the value of any certificates issued under subsection (a).

(D) SEASON-ENDING UNITED STATES STOCKS-TO-USE RATIO.—For the purposes of making estimates under subparagraph (C), the Secretary shall, on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

(E) DELAYED APPLICATION OF THRESHOLD.—Through July 31, 2006, the Secretary shall make the calculation under subparagraph (B) without regard to the 1.25 cent threshold provided under that subparagraph.

(2) QUANTITY.—The quota shall be equal to one week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent three months for which data are available.

(3) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

(5) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) DEFINITION.—In this subsection, the term ''special import quota'' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(7) LIMITATION.—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 5 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(c) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term ''supply'' means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term ''demand'' means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term ''limited global import quota'' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.

(a) COMPETITIVENESS PROGRAM.—Notwithstanding any other provision of law, during the period beginning on the date of the enactment of this Act through July 31, 2008, the Secretary shall carry out a program—

(1) to maintain and expand the domestic use of extra long staple cotton produced in the United States;

(2) to increase exports of extra long staple cotton produced in the United States; and

(3) to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) PAYMENTS UNDER PROGRAM; TRIGGER.—Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) ELIGIBLE RECIPIENTS.—The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States that enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) PAYMENT AMOUNT.—Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

(e) FORM OF PAYMENT.—Payments under this section shall be made through the issuance of cash or marketing certificates, at the option of eligible recipients of the payments.

SEC. 1209. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.

(a) HIGH MOISTURE FEED GRAINS.—

(1) RECOURSE LOANS AVAILABLE.—For each of the 2002 through 2007 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield used to make counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) HIGH MOISTURE STATE DEFINED.—In this subsection, the term ''high moisture state'' means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 1201.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—For each of the 2002 through 2007 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

(d) TERMINATION OF SUPERSEDED LOAN AUTHORITY.—Notwithstanding section 137 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7237), recourse loans shall not be made for the 2002 crop of corn, grain sorghum, and seed cotton under such section.

Subtitle C—Peanuts

SEC. 1301. DEFINITIONS.

In this subtitle:

(1) BASE ACRES FOR PEANUTS.—The term ''base acres for peanuts'' means the number of acres assigned to a farm by historic peanut producers pursuant to section 1302(b).

(2) COUNTER-CYCLICAL PAYMENT.—The term ''counter-cyclical payment'' means a payment made under section 1304.

(3) EFFECTIVE PRICE.—The term ''effective price'' means the price calculated by the Secretary under section 1304 for peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

(4) DIRECT PAYMENT.—The term ''direct payment'' means a payment made under section 1303.

(5) HISTORIC PEANUT PRODUCER.—The term ''historic peanut producer'' means a producer on a farm in the United States that produced or was prevented from planting peanuts during any or all of the 1998 through 2001 crop years.

(6) PAYMENT ACRES.—The term ''payment acres'' means—

(A) for the 2002 crop of peanuts, 85 percent of the average acreage determined under section 1302(a)(2) for an historic peanut producer; and

(B) for the 2003 through 2007 crops of peanuts, 85 percent of the base acres for peanuts assigned to a farm under section 1302(b).

(7) PAYMENT YIELD.—The term ''payment yield'' means the yield assigned to a farm by historic peanut producers pursuant to section 1302(b).

(8) PRODUCER.—The term ''producer'' means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop on a farm and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subtitle.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(10) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(11) TARGET PRICE.—The term ''target price'' means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

(12) UNITED STATES.—The term ''United States'', when used in a geographical sense, means all of the States.

SEC. 1302. ESTABLISHMENT OF PAYMENT YIELD AND BASE ACRES FOR PEANUTS FOR A FARM.

(a) AVERAGE YIELD AND ACREAGE AVERAGE FOR HISTORIC PEANUT PRODUCERS.—

(1) DETERMINATION OF AVERAGE YIELD.—

(A) IN GENERAL.—The Secretary shall determine, for each historic peanut producer, the average yield for peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years, excluding any crop year in which the producer did not plant or was prevented from planting peanuts.

(B) ASSIGNED YIELDS.—For the purposes of determining the 4-year average yield for an historic peanut producer under this paragraph, the historic peanut producer may elect to substitute for a farm, for not more than 3 of the 1998 through 2001 crop years in which the producer planted peanuts on the farm, the average yield for peanuts produced in the county in which the farm is located for the 1990 through 1997 crop years.

(2) DETERMINATION OF ACREAGE AVERAGE.—

(A) IN GENERAL.—The Secretary shall determine, for each historic peanut producer, the 4-year average of the following:

(i) Acreage planted to peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years.

(ii) Any acreage on each farm that the historic peanut producer was prevented from planting to peanuts during the 1998 through 2001 crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historic peanut producer, as determined by the Secretary.

(B) INCLUSION OF ALL 4 YEARS IN AVERAGE.—For the purposes of determining the 4-year acreage average for an historic peanut producer under this paragraph, the Secretary shall not exclude any crop year in which the producer did not plant peanuts.

(C) PROPORTIONAL SHARES.—If more than 1 historic peanut producer shared in the risk of producing the crop on a farm, the historic peanut producers shall receive their proportional share of the number of acres planted (or prevented from being planted) to peanuts for harvest on the farm based on the sharing arrangement that was in effect among the producers for the crop.

(3) TIME FOR DETERMINATIONS.—The Secretary shall make the determinations required by this subsection as soon as practicable after the date of enactment of this Act.

(4) SPECIAL CONSIDERATIONS.—In making the determinations required by this subsection, the Secretary shall take into account changes in the number, identity, or interest of producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm—

(A) when an historic peanut producer is no longer living;

(B) when an entity composed of historic peanut producers has been dissolved; or

(C) in other appropriate situations, as determined by the Secretary.

(b) ASSIGNMENT OF AVERAGE YIELDS AND AVERAGE ACREAGE TO FARMS.—

(1) ASSIGNMENT BY HISTORIC PEANUT PRODUCERS.—The Secretary shall give each historic peanut producer an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for each farm of the historic peanut producer to cropland on that farm or another farm in the same State or a contiguous State.

(2) LIMITATION ON ACREAGE ASSIGNMENT.—Notwithstanding paragraph (1), the average acreage determined under subsection (a)(2) for a farm may not be assigned to a farm in a contiguous State unless—

(A) the historic peanut producer making the assignment produced peanuts in that State during at least 1 of the 1998 through 2001 crop years; or

(B) as of March 31, 2003, the historic peanut producer is a producer on a farm in that State.

(3) NOTICE OF ASSIGNMENT OPPORTUNITY.—The Secretary shall provide notice to historic peanut producers regarding their opportunity to assign average peanut yields and average acreages to farms under paragraph (1). The notice shall include the following:

(A) Notice that the opportunity to make the assignments is being provided only once.

(B) A description of the limitation in paragraph (2) on their ability to make the assignments.

(C) Information regarding the manner in which the assignments must be made and the time periods and manner in which notice of the assignments must be submitted to the Secretary.

(4) ASSIGNMENT DEADLINES.—Not later than March 31, 2003, an historic peanut producer shall submit to the Secretary notice of the assignments made by the producer under this subsection. If an historic peanut producer fails to submit the notice by that date, the notice shall be submitted in such other manner as the Secretary may prescribe.

(c) PAYMENT YIELD.—The average of all of the yields assigned by historic peanut producers under subsection (b) to a farm shall be considered to be the payment yield for that farm for the purpose of making direct payments and counter-cyclical payments under this subtitle.

(d) BASE ACRES FOR PEANUTS.—Subject to subsection (e), the total number of acres assigned by historic peanut producers under subsection (b) to a farm shall be considered to be the farm's base acres for peanuts for the purpose of making direct payments and counter-cyclical payments under this subtitle.

(e) TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base

acres for peanuts for a farm whenever either of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

(2) SPECIAL PAYMENT RULES.—For the crop year in which a base acres for peanuts adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(f) PREVENTION OF EXCESS BASE ACRES FOR PEANUTS.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for peanuts for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for peanuts for the farm or the base acres for 1 or more covered commodities under subtitle A for the farm so that the sum of the base acres for peanuts and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for the farm under subtitle A.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres for peanuts or the subtitle A base acres against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1101(g) when applying the requirements of this subsection.

(g) PERMANENT REDUCTION IN BASE ACRES FOR PEANUTS.—The owner of a farm may reduce, at any time, the base acres for peanuts assigned to the farm. The reduction shall be permanent and made in the manner prescribed by the Secretary.

SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEANUTS.

(a) PAYMENT REQUIRED.—

(1) 2002 CROP YEAR.—For the 2002 crop year, the Secretary shall make direct payments under this section to historic peanut producers.

(2) SUBSEQUENT CROP YEARS.—For each of the 2003 through 2007 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

(b) PAYMENT RATE.—The payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to $36 per ton.

(c) PAYMENT AMOUNT FOR 2002 CROP YEAR.—The amount of the direct payment to be paid to an historic peanut producer for the 2002 crop of peanuts shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres of the historic peanut producer.

(3) The average peanut yield determined under section 1302(a)(1) for the historic peanut producer.

(d) PAYMENT AMOUNT FOR SUBSEQUENT CROP YEARS.—The amount of the direct payment to be paid to the producers on a farm for the 2003 through 2007 crops of peanuts shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(e) TIME FOR PAYMENT.—

(1) IN GENERAL.—The Secretary shall make direct payments—

(A) in the case of the 2002 crop year, as soon as practicable after the date of enactment of this Act; and

(B) in the case of each of the 2003 through 2007 crop years, not later than September 30 of the calendar year in which the crop is harvested.

(2) ADVANCE PAYMENTS.—At the option of the producers on a farm, up to 50 percent of the direct payment for any of the 2003 through 2007 crop years shall be paid to the producers in advance. The producers shall select the month within which the advance payment for a crop year will be made. The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop is harvested through the month within which the direct payment would otherwise be made. The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

SEC. 1304. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.

(a) PAYMENT REQUIRED.—

(1) IN GENERAL.—During the 2002 through 2007 crop years for peanuts, the Secretary shall make counter-cyclical payments under this section with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

(2) 2002 CROP YEAR.—If counter-cyclical payments are required for the 2002 crop year, the Secretary shall make the payments to historic peanut producers.

(3) SUBSEQUENT CROP YEARS.—If counter-cyclical payments are required for any of the 2003 through 2007 crop years for peanuts, the Secretary shall make the payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price for peanuts received by producers during the 12-month marketing year for peanuts, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this subtitle.

(2) The payment rate in effect under section 1303 for the purpose of making direct payments.

(c) TARGET PRICE.—For purposes of subsection (a), the target price for peanuts shall be equal to $495 per ton.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments for a crop year shall be equal to the difference between—

(1) the target price; and

(2) the effective price determined under subsection (b).

(e) PAYMENT AMOUNT FOR 2002 CROP YEAR.—If counter-cyclical payments are required to be paid for the 2002 crop of peanuts, the amount of the counter-cyclical payment to be paid to an historic peanut producer for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres of the historic peanut producer.

(3) The average peanut yield determined under section 1302(a)(1) for the historic peanut producer.

(f) PAYMENT AMOUNT FOR SUBSEQUENT CROP YEARS.—If counter-cyclical payments are required to be paid for any of the 2003 through 2007 crops of peanuts, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(g) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—If the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for a crop year, the Secretary shall make the counter-cyclical payments as soon as practicable after the end of the 12-month marketing year for the crop.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—If, before the end of the 12-month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) the option to receive partial payments of the counter-cyclical payment projected to be made for that crop.

(3) TIME FOR PARTIAL PAYMENTS.—

(A) 2002 THROUGH 2006 CROP YEARS.—When the Secretary makes partial payments available under paragraph (2) for any of the 2002 through 2006 crop years—

(i) the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop is harvested;

(ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and

(iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

(B) 2007 CROP YEAR.—When the Secretary makes partial payments available for the 2007 crop year—

(i) the first partial payment shall be made after completion of the first 6 months of the marketing year for that crop; and

(ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) 2002 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—In the case of the 2002 crop year, the first partial payment under paragraph (3) to an historic peanut producer may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the 2002 crop year; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the historic peanut producer; and

(II) the amount of the partial payments made to the historic peanut producer under clauses (i) and (ii).

(B) 2003 THROUGH 2006 CROP YEARS.—

(i) FIRST PARTIAL PAYMENT.—For each of the 2003 through 2006 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment for a crop year may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop year; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment for a crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for that crop year; and

(II) the amount of the partial payments made to the producers under clauses (i) and (ii) for that crop year.

(C) 2007 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—For the 2007 crop year, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) FINAL PAYMENT.—The final payment for the 2007 crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for that crop year; and

(II) the amount of the partial payment made to the producers under clause (i).

(5) REPAYMENT.—The producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for that crop year.

SEC. 1305. PRODUCER AGREEMENT REQUIRED AS CONDITION ON PROVISION OF DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments under this subtitle with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1306;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for peanuts and any base acres for the farm under subtitle A, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to those acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—As a condition on the receipt of direct payments, counter-cyclical payments, marketing assistance loans, or loan deficiency payments under this subtitle, the Secretary shall require the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302 to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

SEC. 1306. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on the base acres for peanuts on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (2) shall be prohibited on base acres for peanuts unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres for peanuts.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on the base acres for peanuts, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

SEC. 1307. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2002 through 2007 crops of peanuts, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

(2) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this subsection for any quantity of peanuts produced on the farm.

(3) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this subsection, the Secretary shall make loans to producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the peanuts owned by the producers on the farm are commingled with other peanuts in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producers obtaining the loan agree to immediately redeem the loan collateral in accordance with section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).

(4) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the producers on a farm through—

(A) a designated marketing association or marketing cooperative of producers that is approved by the Secretary; or

(B) the Farm Service Agency.

(5) STORAGE OF LOAN PEANUTS.—As a condition on the Secretary's approval of an individual or entity to provide storage for peanuts for which a marketing assistance loan is made under this section, the individual or entity shall agree—

(A) to provide such storage on a nondiscriminatory basis; and

(B) to comply with such additional requirements as the Secretary considers appropriate to accomplish the purposes of this section and promote fairness in the administration of the benefits of this section.

(6) PAYMENT OF PEANUT STORAGE COSTS.—Effective for the 2002 through 2006 crops of peanuts, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall use the funds of the Commodity Credit Corporation to pay storage, handling, and other associated costs. This authority terminates beginning with the 2007 crop of peanuts.

(7) MARKETING.—A marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

(b) LOAN RATE.—The loan rate for a marketing assistance loan under for peanuts subsection (a) shall be equal to $355 per ton.

(c) TERM OF LOAN.—

(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

(d) REPAYMENT RATE.—

(1) IN GENERAL.—The Secretary shall permit producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

(A) the loan rate established for peanuts under subsection (b), plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(B) a rate that the Secretary determines will—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of peanuts by the Federal Government;

(iii) minimize the cost incurred by the Federal Government in storing peanuts; and

(iv) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) GOOD FAITH EXCEPTION TO BENEFICIAL INTEREST REQUIREMENT.—For the 2002 crop year only, in the case of the producers on a farm that marketed or otherwise lost beneficial interest in the peanuts for which a marketing assistance loan was made under this section before repaying the loan, the Secretary shall permit the producers to repay the loan at the applicable repayment rate that was in effect for peanuts under this subsection on the date that the producers lost beneficial interest, as determined by the Secretary, if the Secretary determines the producers acted in good faith.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for loan deficiency payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the payment rate determined under paragraph (3) for peanuts; by

(B) the quantity of the peanuts produced by the producers, excluding any quantity for which the producers obtain a marketing assistance loan under subsection (a).

(3) PAYMENT RATE.—For purposes of this subsection, the payment rate shall be the amount by which—

(A) the loan rate established under subsection (b); exceeds

(B) the rate at which a loan may be repaid under subsection (d).

(4) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—

(A) IN GENERAL.—The Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the date the producers request the payment.

(B) SPECIAL RULE FOR 2002 CROP YEAR.—For the 2002 crop year only, the Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the earlier of the following:

(i) The date on which the producers marketed or otherwise lost beneficial interest in the crop, as determined by the Secretary.

(ii) The date the producers request the payment.

(f) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF ADMINISTRATIVE EXPENSES.—The Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses under this subtitle only in a manner that is consistent with such activities in regard to other commodities.

SEC. 1308. MISCELLANEOUS PROVISIONS.

(a) MANDATORY INSPECTION.—All peanuts marketed in the United States shall be officially inspected and graded by Federal or Federal-State inspectors.

(b) TERMINATION OF PEANUT ADMINISTRATIVE COMMITTEE.—The Peanut Administrative Committee established under Marketing Agreement No. 146 issued pursuant to the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is terminated.

(c) PEANUT STANDARDS BOARD.—

(1) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a Peanut Standards Board for the purpose of advising the Secretary regarding the establishment of quality and handling standards for domestically produced and imported peanuts.

(2) MEMBERSHIP AND APPOINTMENT.—

(A) TOTAL MEMBERS.—The Board shall consist of 18 members, with representation equally divided between peanut producers and peanut industry representatives.

(B) APPOINTMENT PROCESS FOR PRODUCERS.—The Secretary shall appoint—

(i) 3 producers from the Southeast (Alabama, Georgia, and Florida) peanut producing region;

(ii) 3 producers from the Southwest (Texas, Oklahoma, and New Mexico) peanut producing region; and

(iii) 3 producers from the Virginia/Carolina (Virginia and North Carolina) peanut producing region.

(C) APPOINTMENT PROCESS FOR INDUSTRY REPRESENTATIVES.—The Secretary shall appoint 3 peanut industry representatives from each of the 3 peanut producing regions in the United States.

(3) TERMS.—

(A) IN GENERAL.—A member of the Board shall serve a 3-year term.

(B) INITIAL APPOINTMENT.—In making the initial appointments to the Board, the Secretary shall stagger the terms of the members so that—

(i) 1 producer member and peanut industry member from each peanut producing region serves a 1-year term;

(ii) 1 producer member and peanut industry member from each peanut producing region serves a 2-year term; and

(iii) 1 producer member and peanut industry member from each peanut producing region serves a 3-year term.

(4) CONSULTATION REQUIRED.—The Secretary shall consult with the Board in advance whenever the Secretary establishes or changes, or considers the establishment of or a change to, quality and handling standards for peanuts.

(5) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(d) PRIORITY.—The Secretary shall make identifying and combating the presence of all quality concerns related to peanuts a priority in the development of quality and handling standards for peanuts and in the inspection of domestically produced and imported peanuts. The Secretary shall consult with appropriate Federal and State agencies to provide adequate safeguards against all quality concerns related to peanuts.

(e) CONSISTENT STANDARDS.—Imported peanuts shall be subject to the same quality and handling standards as apply to domestically produced peanuts.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to other funds that are available to carry out this section, there is authorized to be appropriated such sums as are necessary to carry out this section.

(2) TREATMENT OF BOARD EXPENSES.—The expenses of the Peanut Standards Board shall not be counted toward any general limitation on the expenses of advisory committees, panels, commissions, and task forces of the Department of Agriculture, whether enacted before, on, or after the date of enactment of this Act, unless the limitation specifically refers to this paragraph and specifically includes the Peanut Standards Board within the general limitation.

(g) TRANSITION RULE.—

(1) TEMPORARY DESIGNATION OF PEANUT ADMINISTRATIVE COMMITTEE MEMBERS.—Notwithstanding the appointment process specified in subsection (c) for the Peanut Standards Board, during the transition period, the Secretary may designate persons serving as members of the Peanut Administrative Committee on the day before the date of enactment of this Act to serve as members of the Peanut Standards Board for the purpose of carrying out the duties of the Board described in this section.

(2) FUNDS.—The Secretary may transfer any funds available to carry out the activities of the Peanut Administrative Committee to the Peanut Standards Board to carry out the duties of the Board described in this section.

(3) TRANSITION PERIOD.—In paragraph (1), the term ''transition period'' means the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) the date the Secretary appoints the members of the Peanut Standards Board pursuant to subsection (c); or

(B) 180 days after the date of enactment of this Act.

(h) EFFECTIVE DATE.—This section shall take effect with the 2002 crop of peanuts.

SEC. 1309. TERMINATION OF MARKETING QUOTA PROGRAMS FOR PEANUTS AND COMPENSATION TO PEANUT QUOTA HOLDERS FOR LOSS OF QUOTA ASSET VALUE.

(a) REPEAL OF MARKETING QUOTA.—

(1) REPEAL.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357–1359a), relating to peanuts, is repealed.

(2) TREATMENT OF 2001 CROP.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357–1359a), as in effect on the day before the date of enactment of this Act, shall continue to apply with respect to the 2001 crop of peanuts notwithstanding the amendment made by paragraph (1). Section 1308(g)(2) shall also apply to the 2001 crop of peanuts.

(b) COMPENSATION CONTRACT REQUIRED.—

(1) IN GENERAL.—The Secretary shall offer to enter into a contract with each person that the Secretary determines is an eligible peanut quota holder under subsection (f) for the purpose of providing compensation for the lost value of the quota on account of the repeal of the marketing quota program for peanuts under subsection (a).

(2) PAYMENT PERIOD.—The Secretary shall make payments under the contracts during fiscal years 2002 through 2006.

(c) TIME FOR PAYMENT.—

(1) PAYMENT IN INSTALLMENTS.—The payments required under the contracts shall be provided in 5 equal installments not later than September 30 of each of fiscal years 2002 through 2006.

(2) SINGLE PAYMENT.—At the request of an eligible peanut quota holder entitled to payments under a contract, the Secretary shall provide the entire payment amount determined under subsection (d) with respect to the eligible peanut quota holder for the 5 fiscal years in a single lump sum during the fiscal year specified by the eligible peanut quota holder.

(d) PAYMENT AMOUNT.—The amount of the payment for a fiscal year to an eligible peanut quota holder under a contract shall be equal to the product obtained by multiplying—

(1) $0.11 per pound; by

(2) the number of pounds of quota with respect to which the person qualifies as a peanut quota holder under subsection (f).

(e) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to the payments made under the contracts. A person making an assignment of the payment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this subsection.

(f) ELIGIBLE PEANUT QUOTA HOLDER.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall consider a person to be an eligible peanut quota holder for the purposes of this section if the person, as of the date of enactment of this Act, owned a farm that, also as of that date, was eligible for a permanent peanut quota under section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)), irrespective of temporary leases, transfers of quotas for seed, or quotas for experimental purposes.

(2) EFFECT OF PURCHASE CONTRACT.—If there was a written contract for the purchase of all or a portion of a farm described in paragraph (1) as of the date of enactment of this Act and the parties to the sale are unable to agree to the disposition of eligibility for payments under this section, the Secretary, taking into account any incomplete permanent transfer of quota that has otherwise been agreed to, shall provide for the equitable division of the payments among the parties by adjusting the determination of who is the eligible peanut quota holder with respect to particular pounds of the quota.

(3) EFFECT OF AGREEMENT FOR PERMANENT QUOTA TRANSFER.—If the Secretary determines that there was in existence, as of the date of enactment of this Act, an agreement for the permanent transfer of quota, but that the transfer was not completed by that date, the Secretary shall consider the peanut quota holder to be the party to the agreement who, as of that date, was the owner of the farm to which the quota was to be transferred.

(4) PROTECTED BASES.—A person that owns a farm with a peanut poundage quota which is protected under a conservation reserve program contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) shall be considered to be an eligible quota holder with respect to the protected poundage.

(5) SECRETARIAL DISCRETION.—Notwithstanding the preceding paragraphs, the Secretary may declare a person to be the eligible peanut quota holder with respect to certain pounds of quota or otherwise for purposes of this section if the Secretary considers the declaration is needed to insure a fair and equitable administration of the payments provided for in this section, so long as the Secretary does not, in exercising this authority, effectively increase the total quota in excess of the quota that was available to all producers for the 2001 crop year for other than seed or experimental use.

(6) LIMITATION ON QUANTITY OF QUOTA HELD.—A person shall be considered an eligible peanut quota holder for purposes of this section only with respect to that number of permanent pounds that qualifies the person as a peanut quota holder under one of the preceding paragraphs. The determination of the peanut poundage amount for which the person qualifies shall be made based on the 2001 crop quota levels and shall take into account sales of the farm that occurred before the date of enactment of this Act and any permanent transfers of quota that took place before that date, consistent with the preceding paragraphs. The Secretary shall not take into account, or allow eligibility for, quotas for seed, granted as experimental quotas, or obtained by temporary lease or transfer.

(g) SUCCESSIONS IN PAYMENT ELIGIBILITY AND ATTACHMENT OF ELIGIBILITY TO PERSONS.—

(1) ELIGIBILITY ATTACHES TO PERSONS.—Once a person is eligible for payments under this section, as determined under subsection (f), the continued eligibility of the person for the payments does not run with a farm, but shall remain with the person for the term of this section irrespective of whether the person sells, or continues to have an interest in, the farm that had the quota that qualified the person as an eligible peanut quota holder under subsection (f) and irrespective of whether the person has a continuing interest in the production of peanuts.

(2) SUCCESSION.—If a person eligible for payments under this section dies, in the case of an individual, or ceases to exist, in the case of other persons, the payment eligibility of the person shall pass to the person's personal or organizational successor, as determined by the Secretary.

(h) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking ''peanuts,''.

(2) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(A) in the first sentence of subsection (a), by striking ''peanuts,''; and

(B) in the first sentence of subsection (b), by striking ''peanuts''.

(3) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(A) in the first sentence of subsection (a)—

(i) by striking ''peanuts,'' each place it appears;

(ii) by inserting ''and'' after ''from producers,''; and

(iii) by striking ''for producers, all'' and all that follows through the period at the end of the sentence and inserting ''for producers.''; and

(B) in subsection (b), by striking ''peanuts,''.

(4) EMINENT DOMAIN.—Section 378(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378(c)) is amended in the first sentence—

(A) by striking ''cotton,'' and inserting ''cotton and''; and

(B) by striking ''and peanuts,''.

SEC. 1310. REPEAL OF SUPERSEDED PRICE SUPPORT AUTHORITY AND EFFECT OF REPEAL.

(a) REPEAL OF PRICE SUPPORT AUTHORITY.—

(1) IN GENERAL.—Section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) is repealed.

(2) CONFORMING AMENDMENTS.—The Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended—

(A) in section 101(b) (7 U.S.C. 1441(b)), by striking ''and peanuts''; and

(B) in section 408(c) (7 U.S.C. 1428(c)), by striking ''peanuts,''.

*(3) TECHNICAL AMENDMENT.—The chapter heading of chapter 2 of subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. prec. 7271) is amended by striking ''**PEANUTS AND**''.*

(b) DISPOSAL.—Notwithstanding any other provision of law or previous declaration made by the Secretary, the Secretary shall ensure that the disposal of all peanuts for which a loan for the 2001 crop of peanuts was made under section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) before the date of enactment of this Act is carried out in a manner that prevents price disruptions in the domestic and international markets for peanuts.

(c) TREATMENT OF CROP INSURANCE POLICIES FOR 2002 CROP YEAR.—

(1) APPLICABILITY.—This subsection shall apply for the 2002 crop year only notwithstanding any other provision of law or crop insurance policy.

(2) PRICE ELECTION.—The nonquota price election for segregation I, II, and III peanuts shall be 17.75 cents per pound and shall be used for all aspects of the policy relating to the calculations of premium, liability, and indemnities.

(3) QUALITY ADJUSTMENT.—For the purposes of quality adjustment only, the average support price per pound of peanuts shall be a price equal to 17.75 cents per pound. Quality under the crop insurance policy for peanuts shall be adjusted under procedures issued by the Federal Crop Insurance Corporation.

Subtitle D—Sugar

SEC. 1401. SUGAR PROGRAM.

(a) EXTENSION AND MODIFICATION OF EXISTING SUGAR PROGRAM.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:

''SEC. 156. SUGAR PROGRAM.

''(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

''(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

''(c) LOAN RATE ADJUSTMENTS.—

''(1) IN GENERAL.—The Secretary may reduce the loan rate specified in subsection (a) for domestically grown sugarcane and subsection (b) for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

''(2) EXTENT OF REDUCTION.—The Secretary shall not reduce the loan rate under subsection (a) or (b) below a rate that provides an equal measure of support to that provided by other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

''(3) ANNOUNCEMENT OF REDUCTION.—The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

''(4) DEFINITIONS.—In this subsection:

''(A) AGREEMENT ON AGRICULTURE.—The term ''Agreement on Agriculture'' means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)), or any amendatory or successor agreement.

''(B) MAJOR SUGAR COUNTRIES.—The term ''major sugar growing, producing, and exporting countries'' means—

''(i) the countries of the European Union; and

''(ii) the 10 foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest quantity of sugar.

''(d) TERM OF LOANS.—

''(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

''(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

''(B) the end of the fiscal year in which the loan is made.

''(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

''(A) be made at the loan rate in effect at the time the second loan is made; and

''(B) mature in 9 months less the quantity of time that the first loan was in effect.

''(e) LOAN TYPE; PROCESSOR ASSURANCES.—

''(1) NONRECOURSE LOANS.—The Secretary shall carry out this section through the use of nonrecourse loans.

''(2) PROCESSOR ASSURANCES.—

''(A) IN GENERAL.—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

''(B) MINIMUM PAYMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

''(ii) LIMITATION.—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

''(iii) EFFECT OF DISASTER.—The Secretary may not bar a beet sugar processor from eligibility to obtain a loan under this section because of the failure of the processor to provide the appropriate minimum payment established under this subsection if the failure—

''(I) occurred during a crop year prior to the date of enactment of the Farm Security and Rural Investment Act of 2002; and

''(II) was related, at least in part, to the effects of a natural disaster, including damage from freeze.

''(3) ADMINISTRATION.—The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on the date of enactment of the Farm Security and Rural Investment Act of 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

''(f) LOANS FOR IN-PROCESS SUGAR.—

''(1) DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.—In this subsection, the term 'in-process sugars and syrups' does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

''(2) AVAILABILITY.—The Secretary shall make nonrecourse loans available to processors of a crop of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from the crop.

''(3) LOAN RATE.—The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, as determined by the Secretary on the basis of the source material for the in-process sugars and syrups.

''(4) FURTHER PROCESSING ON FORFEITURE.—

''(A) IN GENERAL.—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

''(B) TRANSFER TO CORPORATION.—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

''(C) PAYMENT TO PROCESSOR.—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

''(i) the difference between—

''(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

''(II) the loan rate the processor received under paragraph (3); by

''(ii) the quantity of sugar transferred to the Secretary.

''(5) LOAN CONVERSION.—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

''(6) TERM OF LOAN.—The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (d).

''(g) AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.—

''(1) IN GENERAL.—Subject to subsection (e)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

''(2) INVENTORY DISPOSITION.—

''(A) IN GENERAL.—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

''(B) ADDITIONAL AUTHORITY.—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.

''(h) INFORMATION REPORTING.—

''(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

''(2) DUTY OF PRODUCERS TO REPORT.—

''(A) PROPORTIONATE SHARE STATES.—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

''(B) OTHER STATES.—The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

''(3) DUTY OF IMPORTERS TO REPORT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

''(B) TARIFF-RATE QUOTAS.—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

''(4) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

''(5) MONTHLY REPORTS.—Taking into consideration the information received under this subsection, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

''(i) SUBSTITUTION OF REFINED SUGAR.—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.''.

''(j) EFFECTIVE PERIOD.—This section shall be effective only for the 1996 through 2007 crops of sugar beets and sugarcane.''.

(b) EFFECTIVE DATE OF ASSESSMENT TERMINATION.—Subsection (f) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(f)), as in effect immediately before the enactment of the Farm Security and Rural Investment Act of 2002, is deemed to have been repealed effective as of October 1, 2001.

(c) INTEREST RATE.—Section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Notwithstanding''; and

(2) by adding at the end the following:

''(b) SUGAR.—For purposes of this section, raw cane sugar, refined beet sugar, and in-process sugar eligible for a loan under section 156 shall not be considered an agricultural commodity.''.

SEC. 1402. STORAGE FACILITY LOANS.

(a) IN GENERAL.—Notwithstanding any other provision of law and as soon as practicable after the date of enactment of this Act, the Commodity Credit Corporation shall amend part 1436 of title 7, Code of Federal Regulations, to establish a sugar storage facility loan program to provide financing for processors of domestically-produced sugarcane and sugar beets to construct or upgrade storage and handling facilities for raw sugars and refined sugars.

(b) ELIGIBLE PROCESSORS.—A storage facility loan described in subsection (a) shall be made available to any processor of domestically produced sugarcane or sugar beets that (as determined by the Secretary)—

(1) has a satisfactory credit history;

(2) has a need for increased storage capacity, taking into account the effects of marketing allotments; and

(3) demonstrates an ability to repay the loan.

(c) TERM OF LOANS.—A storage facility loan described in subsection (a) shall—

(1) have a minimum term of 7 years; and

(2) be in such amounts and on such terms and conditions (including terms and conditions relating to downpayments, collateral, and eligible facilities) as are normal, customary, and appropriate for the size and commercial nature of the borrower.

SEC. 1403. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 359aa et seq.) is amended to read as follows:

''PART VII—FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR

''SEC. 359a. DEFINITIONS.

''In this part:

''(1) MAINLAND STATE.—The term 'mainland State' means a State other than an offshore State.

''(2) OFFSHORE STATE.—The term 'offshore State' means a sugarcane producing State located outside of the continental United States.

''(3) STATE.—Notwithstanding section 301, the term 'State' means—

''(A) a State;

''(B) the District of Columbia; and

''(C) the Commonwealth of Puerto Rico.

''(4) UNITED STATES.—The term 'United States', when used in a geographical sense, means all of the States.

''SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

''(a) SUGAR ESTIMATES.—

''(1) IN GENERAL.—Not later than August 1 before the beginning of each of the 2002 through 2007 crop years, the Secretary shall estimate—

''(A) the quantity of sugar that will be consumed in the United States during the crop year;

''(B) the quantity of sugar that would provide for reasonable carryover stocks;

''(C) the quantity of sugar that will be available from carry-in stocks for consumption in the United States during the crop year;

''(D) the quantity of sugar that will be available from the domestic processing of sugarcane and sugar beets; and

''(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether such articles are under a

tariff-rate quota or are in excess or outside of a tariff-rate quota.

''(2) EXCLUSION.—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

''(3) REESTIMATES.—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but no later than the beginning of each of the second through fourth quarters of the crop year.

''(b) SUGAR ALLOTMENTS.—

''(1) IN GENERAL.—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar beets and from domestically produced sugarcane at a level that the Secretary estimates will result in no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

''(2) PRODUCTS.—The Secretary may include sugar products, whose majority content is sucrose for human consumption, derived from sugarcane, sugar beets, molasses, or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

''(c) PROHIBITIONS.—

''(1) IN GENERAL.—During any crop year or portion thereof for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market a quantity of sugar in excess of the allocation established for such processor, except to enable another processor to fulfill an allocation established for such other processor or to facilitate the exportation of such sugar.

''(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.

''(3) DEFINITION OF MARKET.—For purposes of this part, the term 'market' shall mean to sell or otherwise dispose of in commerce in the United States (including the forfeiture of sugar under the loan program for sugar under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) and, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process).

"SEC. 359c. ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.

''(a) IN GENERAL.—The Secretary shall establish flexible marketing allotments for sugar for any crop year in which the allotments are required under section 359b(b) in accordance with this section.

''(b) OVERALL ALLOTMENT QUANTITY.—

''(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (in this part referred to as the 'overall allotment quantity') by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the crop year) for the crop year, as determined under section 359b(a)—

''(A) 1,532,000 short tons, raw value; and

''(B) carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory.

''(2) ADJUSTMENT.—The Secretary shall adjust the overall allotment quantity to avoid the forfeiture of sugar to the Commodity Credit Corporation.

''(c) MARKETING ALLOTMENT FOR SUGAR DERIVED FROM SUGAR BEETS AND SUGAR DERIVED FROM SUGARCANE.—The overall allotment quantity for the crop year shall be allotted between—

''(1) sugar derived from sugar beets by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 54.35 percent; and

''(2) sugar derived from sugarcane by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 45.65 percent.

''(d) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—

''(1) CANE SUGAR.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane.

''(2) BEET SUGAR.—Each marketing allotment for beet sugar established under this section may only be filled with sugar domestically processed from sugar beets.

''(e) STATE CANE SUGAR ALLOTMENTS.—

''(1) IN GENERAL.—The allotment for sugar derived from sugarcane shall be further allotted, among the States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner as provided in this subsection and section 359d(b)(1)(D).

''(2) OFFSHORE ALLOTMENT.—

''(A) COLLECTIVELY.—Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

''(B) INDIVIDUALLY.—The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

''(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

''(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

''(iii) past processings of sugar from sugarcane, based on the 3-year average of the 1998 through 2000 crop years.

''(3) MAINLAND ALLOTMENT.—The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

''(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

''(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

''(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.

''(f) FILLING CANE SUGAR ALLOTMENTS.—Except as provided in section 359e, a State cane sugar allotment established under subsection (e) for a crop year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

''(g) ADJUSTMENT OF MARKETING ALLOTMENTS.—

''(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(3), adjust upward or downward marketing allotments in a fair and equitable manner, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

''(2) ALLOCATION TO PROCESSORS.—In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 359d, and each proportionate share established with respect to the allotment under section 359f(c), shall be increased or decreased by the same percentage that the allotment is increased or decreased.

''(3) CARRY-OVER OF REDUCTIONS.—Whenever a marketing allotment for a crop year is required to be reduced during the crop year under this subsection, if, at the time of the reduction, the quantity of sugar marketed exceeds the processor's reduced allocation, the allocation of an allotment next established for the processor shall be reduced by the quantity of the excess sugar marketed.

''(h) SUSPENSION OF ALLOTMENTS.—Whenever the Secretary estimates or reestimates under section 359b(a), or has reason to believe, that imports of sugars, syrups or molasses for human consumption or to be used for the extraction of sugar for human consumption, whether under a tariff-rate quota or in excess or outside of a tariff-rate quota, will exceed 1,532,000 short tons (raw value equivalent) (excluding any imports attributable to reassignment under paragraph (1)(D) or (2)(C) of section 359e(b)), and that the imports would lead to a reduction of the overall allotment quantity, the Secretary shall suspend the marketing allotments established under this section until such time as the imports have been restricted, eliminated, or reduced to or below the level of 1,532,000 short tons (raw value equivalent).

"SEC. 359d. ALLOCATION OF MARKETING ALLOTMENTS.

''(a) ALLOCATION TO PROCESSORS.—Whenever marketing allotments are established for a crop year under section 359c, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

''(b) HEARING AND NOTICE.—

''(1) CANE SUGAR.—

''(A) IN GENERAL.—The Secretary shall make allocations for cane sugar after a hearing, if requested by the affected sugarcane processors and growers, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations under this paragraph. Each such allocation shall be subject to adjustment under section 359c(g).

''(B) MULTIPLE PROCESSOR STATES.—Except as provided in subparagraphs (C) and (D), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

''(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1996 through 2000 crops;

''(ii) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year; and

''(iii) past processings of sugar from sugarcane, based on the average of the 3 highest years of production during the 1996 through 2000 crop years.

''(C) TALISMAN PROCESSING FACILITY.—In the case of allotments under subparagraph (B) attributable to the operations of the Talisman processing facility before the date of enactment of this subparagraph, the Secretary shall allocate the allotment among processors in the State under subparagraph (A) in accordance with the agreements of March 25 and 26, 1999, between the affected processors and the Secretary of the Interior.

''(D) PROPORTIONATE SHARE STATES.—In the case of States subject to section 359f(c), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

''(i) past marketings of sugar, based on the average of the 2 highest years of production of

raw cane sugar from among the 1997 through 2001 crop years;

''(ii) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and

''(iii) past processings of sugar from sugarcane, based on the average of the 2 highest crop years of crop production during the 1997 through 2001 crop years.

''(E) NEW ENTRANTS.—

''(i) IN GENERAL.—Notwithstanding subparagraphs (B) and (D), the Secretary, on application of any processor that begins processing sugarcane on or after the date of enactment of this subparagraph, and after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, may provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located.

''(ii) PROPORTIONATE SHARE STATES.—In the case of proportionate share States, the Secretary shall establish proportionate shares in a quantity sufficient to produce the sugarcane required to satisfy the allocations.

''(iii) LIMITATIONS.—The allotment for a new processor under this subparagraph shall not exceed—

''(I) in the case of the first crop year of operation of a new processor, 50,000 short tons (raw value); and

''(II) in the case of each subsequent crop year of operation of the new processor, a quantity established by the Secretary in accordance with this subparagraph and the criteria described in subparagraph (B) or (D), as applicable.

''(iv) NEW ENTRANT STATES.—

''(I) IN GENERAL.—Notwithstanding subparagraphs (A) and (C) of section 359c(e)(3), to accommodate an allocation under clause (i) to a new processor located in a new entrant mainland State, the Secretary shall provide the new entrant mainland State with an allotment.

''(II) EFFECT ON OTHER ALLOTMENTS.—The allotment to any new entrant mainland State shall be subtracted, on a pro rata basis, from the allotments otherwise allotted to each mainland State under section 359c(e)(3).

''(v) ADVERSE EFFECTS.—Before providing an initial processor allocation or State allotment to a new entrant processor or a new entrant State under this subparagraph, the Secretary shall take into consideration any adverse effects that the provision of the allocation or allotment may have on existing cane processors and producers in mainland States.

''(vi) ABILITY TO MARKET.—Consistent with section 359c and this section, any processor allocation or State allotment made to a new entrant processor or to a new entrant State under this subparagraph shall be provided only after the applicant processor, or the applicable processors in the State, have demonstrated the ability to process, produce, and market (including the transfer or delivery of the raw cane sugar to a refinery for further processing or marketing) raw cane sugar for the crop year for which the allotment is applicable.

''(vii) PROHIBITION.—Not more than 1 processor allocation provided under this subparagraph may be applicable to any individual sugar processing facility.

''(F) TRANSFER OF OWNERSHIP.—Except as otherwise provided in section 359f(c)(8), if a sugarcane processor is sold or otherwise transferred to another owner or is closed as part of an affiliated corporate group processing consolidation, the Secretary shall transfer the allotment allocation for the processor to the purchaser, new owner, successor in interest, or any remaining processor of an affiliated entity, as applicable, of the processor.

''(2) BEET SUGAR.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph and sections 359c(g), 359e(b), and 359f(b), the Secretary shall make allocations for beet sugar among beet sugar processors for each crop year that allotments are in effect on the basis of the adjusted weighted average quantity of beet sugar produced by the processors for each of the 1998 through 2000 crop years, as determined under this paragraph.

''(B) QUANTITY.—The quantity of an allocation made for a beet sugar processor for a crop year under subparagraph (A) shall bear the same ratio to the quantity of allocations made for all beet sugar processors for the crop year as the adjusted weighted average quantity of beet sugar produced by the processor (as determined under subparagraphs (C) and (D)) bears to the total of the adjusted weighted average quantities of beet sugar produced by all processors (as so determined).

''(C) WEIGHTED AVERAGE QUANTITY.—Subject to subparagraph (D), the weighted quantity of beet sugar produced by a beet sugar processor during each of the 1998 through 2000 crop years shall be (as determined by the Secretary)—

''(i) in the case of the 1998 crop year, 25 percent of the quantity of beet sugar produced by the processor during the crop year;

''(ii) in the case of the 1999 crop year, 35 percent of the quantity of beet sugar produced by the processor during the crop year; and

''(iii) in the case of the 2000 crop year, 40 percent of the quantity of beet sugar produced by the processor (including any quantity of sugar received from the Commodity Credit Corporation) during the crop year.

''(D) ADJUSTMENTS.—

''(i) IN GENERAL.—The Secretary shall adjust the weighted average quantity of beet sugar produced by a beet sugar processor during the 1998 through 2000 crop years under subparagraph (C) if the Secretary determines that the processor—

''(I) during the 1996 through 2000 crop years, opened a sugar beet processing factory;

''(II) during the 1998 through 2000 crop years, closed a sugar beet processing factory;

''(III) during the 1998 through 2000 crop years, constructed a molasses desugarization facility; or

''(IV) during the 1998 through 2000 crop years, suffered substantial quality losses on sugar beets stored during any such crop year.

''(ii) QUANTITY.—The quantity of beet sugar produced by a beet sugar processor under subparagraph (C) shall be—

''(I) in the case of a processor that opened a sugar beet processing factory, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is opened by the processor;

''(II) in the case of a processor that closed a sugar beet processing factory, decreased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is closed by the processor;

''(III) in the case of a processor that constructed a molasses desugarization facility, increased by 0.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each molasses desugarization facility that is constructed by the processor; and

''(IV) in the case of a processor that suffered substantial quality losses on stored sugar beets, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph).

''(E) PERMANENT TERMINATION OF OPERATIONS OF A PROCESSOR.—If a processor of beet sugar has been dissolved, liquidated in a bankruptcy proceeding, or otherwise has permanently terminated operations (other than in conjunction with a sale or other disposition of the processor or the assets of the processor), the Secretary shall—

''(i) eliminate the allocation of the processor provided under this section; and

''(ii) distribute the allocation to other beet sugar processors on a pro rata basis.

''(F) SALE OF ALL ASSETS OF A PROCESSOR TO ANOTHER PROCESSOR.—If a processor of beet sugar (or all of the assets of the processor) is sold to another processor of beet sugar, the Secretary shall transfer the allocation of the seller to the buyer unless the allocation has been distributed to other sugar beet processors under subparagraph (E).

''(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

''(i) IN GENERAL.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold factory or factories to the total allocation of the seller.

''(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

''(I) during the remainder of the crop year during which the sale described in clause (i) occurs (referred to in this subparagraph as the 'initial crop year'); and

''(II) each subsequent crop year (referred in this subparagraph as a 'subsequent crop year'), subject to clause (iii).

''(iii) SUBSEQUENT CROP YEARS.—

''(I) IN GENERAL.—The assignment of the allocation under clause (i) shall apply during each subsequent crop year unless the acquired factory or factories continue in operation for less than the initial crop year and the first subsequent crop year.

''(II) REASSIGNMENT.—If the acquired factory or factories do not continue in operation for the complete initial crop year and the first subsequent crop year, the Secretary shall reassign the temporary allocation to other processors of beet sugar on a pro rata basis.

''(iv) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the transferred allocation to the buyer for the purchased factory or factories cannot be filled by the production of the purchased factory or factories for the initial crop year or a subsequent crop year, the remainder of the transferred allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

''(H) NEW ENTRANTS STARTING PRODUCTION OR REOPENING FACTORIES.—

''(i) IN GENERAL.—Except as provided by clause (ii), if an individual or entity that does not have an allocation of beet sugar under this part (referred to in this paragraph as a 'new entrant') starts processing sugar beets after the date of enactment of this subparagraph, or acquires and reopens a factory that produced beet sugar during previous crop years that (at the time of acquisition) has no allocation associated with the factory under this part, the Secretary shall—

''(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar; and

''(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the new allocation.

''(ii) EXCEPTION.—If a new entrant acquires and reopens a factory that previously produced beet sugar from sugar beets and from sugar beet molasses but the factory last processed sugar

beets during the 1997 crop year and the new entrant starts to process sugar beets at such factory after the date of enactment of this clause, the Secretary shall—

''(I) assign an allocation for beet sugar to the new entrant that is not less than the greater of 1.67 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years as determined under subsection (b)(2)(C), or 1,500,000 hundredweights; and

''(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the new allocation.

''(I) NEW ENTRANTS ACQUIRING ONGOING FACTORIES WITH PRODUCTION HISTORY.—If a new entrant acquires a factory that has production history during the period of the 1998 through 2000 crop years and that is producing beet sugar at the time the allocations are made from a processor that has an allocation of beet sugar, the Secretary shall transfer a portion of the allocation of the seller to the new entrant to reflect the historical contribution of the production of the sold factory to the total allocation of the seller.

"SEC. 359e. REASSIGNMENT OF DEFICITS.

''(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

''(b) REASSIGNMENT OF DEFICITS.—

''(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the crop year—

''(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

''(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors;

''(C) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

''(D) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

''(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

''(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

''(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

''(C) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

''(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a crop year shall be increased to reflect the reassignment.

"SEC. 359f. PROVISIONS APPLICABLE TO PRODUCERS.

''(a) PROCESSOR ASSURANCES.—

''(1) IN GENERAL.—If allotments for a crop year are allocated to processors under section 359d, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories.

''(2) ARBITRATION.—

''(A) IN GENERAL.—Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the allocation to the processor shall be resolved through arbitration by the Secretary on the request of either party.

''(B) PERIOD.—The arbitration shall, to the maximum extent practicable, be—

''(i) commenced not more than 45 days after the request; and

''(ii) completed not more than 60 days after the request.

''(b) SUGAR BEET PROCESSING FACILITY CLOSURES.—

''(1) IN GENERAL.—If a sugar beet processing facility is closed and the sugar beet growers that previously delivered beets to the facility elect to deliver their beets to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

''(2) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver their sugar beets, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

''(3) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

''(4) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

''(c) PROPORTIONATE SHARES OF CERTAIN ALLOTMENTS.—

''(1) IN GENERAL.—

''(A) STATES AFFECTED.—In any case in which a State allotment is established under section 359c(f) and there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

''(B) DETERMINATION.—The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.

''(2) ESTABLISHMENT OF PROPORTIONATE SHARES.—If the Secretary determines under paragraph (1) that the quantity of sugarcane produced by producers in the area covered by a State allotment for a crop year will be in excess of the quantity needed to enable processors to fill the allotment for the crop year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the crop year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (7) and section 359c(g).

''(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

''(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the 2 highest years from among the 1999, 2000, and 2001 crop years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

''(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

''(C) The Secretary shall convert the State allotment for the crop year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

''(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

''(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

''(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

''(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in the 2 highest of the 1999, 2000, and 2001 crop years.

''(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

''(5) VIOLATION.—

''(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the crop year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

''(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a crop year.

''(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of

the allocation of such processor for the crop year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

''(6) WAIVER.—Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

''(7) ADJUSTMENTS.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

''(8) PROCESSING FACILITY CLOSURES.—

''(A) IN GENERAL.—If a sugarcane processing facility subject to this subsection is closed and the sugarcane growers that delivered sugarcane to the facility prior to closure elect to deliver their sugarcane to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

''(B) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver the sugarcane, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

''(C) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

''(D) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

"SEC. 359g. SPECIAL RULES.

''(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

''(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f(c), the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 5 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

''(c) REVISIONS OF ALLOCATIONS AND PROPORTIONATE SHARES.—The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 359d, or any proportionate share established or adjusted for a farm under section 359f(c), on the same basis as the initial allocation or proportionate share was required to be established.

''(d) TRANSFERS OF MILL ALLOCATIONS.—

''(1) TRANSFER AUTHORIZED.—A producer in a proportionate share State, upon written consent from all crop-share owners (or the representative of the crop-share owners) of a farm, and from the processing company holding the applicable allocation for such shares, may deliver sugarcane to another processing company if the additional delivery, when combined with such other processing company's existing deliveries, does not exceed the processing capacity of the company.

''(2) ALLOCATION ADJUSTMENT.—Notwithstanding section 359d, the Secretary shall adjust the allocations of each of such processing companies affected by a transfer under paragraph (1) to reflect the change in deliveries, based on the product of—

''(A) the number of acres of proportionate shares being transferred; and

''(B) the State's per acre yield goal established under section 359f(c)(3).

"SEC. 359h. REGULATIONS; VIOLATIONS; PUBLICATION OF SECRETARY'S DETERMINATIONS; JURISDICTION OF THE COURTS; UNITED STATES ATTORNEYS.

''(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part.

''(b) VIOLATION.—Any person knowingly violating any regulation of the Secretary issued under subsection (a) shall be subject to a civil penalty of not more than $5,000 for each violation.

''(c) PUBLICATION IN FEDERAL REGISTER.—Each determination issued by the Secretary to establish, adjust, or suspend allotments under this part shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

''(d) JURISDICTION OF COURTS; UNITED STATES ATTORNEYS.—

''(1) JURISDICTION OF COURTS.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this part or any regulation issued thereunder.

''(2) UNITED STATES ATTORNEYS.—Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this part. The Secretary may elect not to refer to a United States attorney any violation of this part or regulation when the Secretary determines that the administration and enforcement of this part would be adequately served by written notice or warning to any person committing the violation.

''(e) NONEXCLUSIVITY OF REMEDIES.—The remedies and penalties provided for in this part shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

"SEC. 359i. APPEALS.

''(a) IN GENERAL.—An appeal may be taken to the Secretary from any decision under section 359d establishing allocations of marketing allotments, or under section 359f, by any person adversely affected by reason of any such decision.

''(b) PROCEDURE.—

''(1) NOTICE OF APPEAL.—Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

''(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

''(c) SPECIAL APPEAL PROCESS REGARDING BEET SUGAR ALLOCATIONS.—

''(1) APPEAL AUTHORIZED.—Beginning after the 2006 crop year, a processor that has an allocation of the beet sugar allotment under this part (referred to in this subsection as a 'petitioner') may file a notice of appeal with the Secretary regarding the petitioner's beet sugar allocation. Except as provided in paragraph (2), the Secretary shall consider the appeal if the notice alleges that any processor that has a beet sugar allocation has failed to fill at least 82.5 percent of its allocation of the beet sugar allotment with sugar produced by it or received from the Commodity Credit Corporation in 2 out of the 3 crop years preceding the crop year in which the appeal is filed. A processor that is alleged to have failed to fill at least 82.5 percent of its allocation shall be allowed to fully participate in the appeal.

''(2) EXCEPTIONS.—An appeal under paragraph (1) shall not be based on the failure of a processor to fill at least 82.5 percent of its allocation because of drought, flood, hail, or other weather disaster, as determined by the Secretary. The determination by the Secretary shall not require a formal disaster declaration.

''(3) RESPONSE TO APPEAL.—Upon the petitioner making an appeal to the Secretary, and upon a review by the Secretary of how processors have filled their allocations, the Secretary may—

''(A) assign an increased allocation for beet sugar to the petitioner that provides a fair and equitable distribution of the allocations for beet sugar, taking into account—

''(i) production history during the period beginning on April 4, 1996, and through the date of enactment of the Farm Security and Rural Investment Act of 2002;

''(ii) capital investment during that period;

''(iii) increases in United States sugar consumption; and

''(iv) the ability or inability of processors to fill the allocations they have received under this part; and

''(B) reduce, correspondingly, the allocation for beet sugar of each processor determined to have failed to fill at least 82.5 percent of its allocation of the beet sugar allotment as described in paragraph (1).

''(4) FILING DEADLINE.—For purposes of the filing deadline specified in subsection (b)(1), the 20-day period shall commence on the date on which the Secretary announces the allocations for the subsequent crop year or October 1, whichever is earlier.

"SEC. 359j. ADMINISTRATION.

''(a) USE OF CERTAIN AGENCIES.—In carrying out this part, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the departments and agencies of the United States Government.

''(b) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out this part.

"SEC. 359k. REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, on or after June 1 of each of the 2002 through 2007 calendar years, the United States Trade Representative, in consultation with the Secretary, shall determine the amount of the quota of cane sugar used by each qualified supplying country for that crop year, and may reallocate the unused quota for that crop year among qualified supplying countries.

''(b) QUALIFIED SUPPLYING COUNTRY DEFINED.—In this section, the term 'qualified supplying country' means one of the following foreign countries that is allowed to export cane sugar to the United States under an agreement or any other country with which the United States has an agreement relating to the importation of cane sugar:

Argentina
Australia
Barbados
Belize
Bolivia
Brazil
Colombia
Republic of the Congo
Costa Rica
Dominican Republic
Ecuador
El Salvador
Fiji
Gabon
Guatemala
Guyana
Haiti
Honduras
India
Cote D'Ivoire, formerly known as the Ivory Coast
Jamaica
Madagascar
Malawi
Mauritius
Mexico
Mozambique
Nicaragua
Panama
Papua New Guinea
Paraguay
Peru
Philippines
St. Kitts and Nevis
South Africa
Swaziland
Taiwan
Thailand
Trinidad-Tobago
Uruguay
Zimbabwe.''.

Subtitle E—Dairy

SEC. 1501. MILK PRICE SUPPORT PROGRAM.

(a) SUPPORT ACTIVITIES.—During the period beginning on June 1, 2002, and ending on December 31, 2007, the Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) RATE.—During the period specified in subsection (a), the price of milk shall be supported at a rate equal to $9.90 per hundredweight for milk containing 3.67 percent butterfat.

(c) PURCHASE PRICES.—

(1) UNIFORM PRICES.—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary.

(2) SUFFICIENT PRICES.—The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) SPECIAL RULE FOR BUTTER AND NONFAT DRY MILK PURCHASE PRICES.—

(1) ALLOCATION OF PURCHASE PRICES.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) TIMING OF PURCHASE PRICE ADJUSTMENTS.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

SEC. 1502. NATIONAL DAIRY MARKET LOSS PAYMENTS.

(a) DEFINITIONS.—In this section:

(1) CLASS I MILK.—The term ''Class I milk'' means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) ELIGIBLE PRODUCTION.—The term ''eligible production'' means milk produced by a producer in a participating State.

(3) FEDERAL MILK MARKETING ORDER.—The term ''Federal milk marketing order'' means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(4) PARTICIPATING STATE.—The term ''participating State'' means each State.

(5) PRODUCER.—The term ''producer'' means an individual or entity that directly or indirectly (as determined by the Secretary)—

(A) shares in the risk of producing milk; and

(B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

(b) PAYMENTS.—The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.

(c) AMOUNT.—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—

(1) the payment quantity for the producer during the applicable month established under subsection (d);

(2) the amount equal to—

(A) $16.94 per hundredweight; less

(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3) 45 percent.

(d) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

(2) LIMITATION.—The payment quantity for all producers on a single dairy operation during the months of the applicable fiscal year for which the producers receive payments under subsection (b) shall not exceed 2,400,000 pounds. For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–387; 114 Stat. 1549A–50).

(3) RECONSTITUTION.—The Secretary shall promulgate regulations to ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

(e) PAYMENTS.—A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

(f) SIGNUP.—The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 60 days after the date of enactment of this Act and ending on September 30, 2005.

(g) DURATION OF CONTRACT.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (h), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2005.

(2) VIOLATIONS.—If a producer violates the contract, the Secretary may—

(A) terminate the contract and allow the producer to retain any payments received under the contract; or

(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

(h) TRANSITION RULE.—In addition to any payment that is otherwise available under this section, if the producers on a dairy farm enter into a contract under this section, the Secretary shall make a payment in accordance with the formula specified in subsection (c) on the quantity of eligible production of the producer marketed during the period beginning on December 1, 2001, and ending on the last day of the month preceding the month the producers on the dairy farm entered into the contract.

SEC. 1503. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.

(a) DAIRY EXPORT INCENTIVE PROGRAM.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking ''2002'' and inserting ''2007''.

(b) DAIRY INDEMNITY PROGRAM.—Section 3 of Public Law 90–484 (7 U.S.C. 450l) is amended by striking ''1995'' and inserting ''2007''.

SEC. 1504. DAIRY PRODUCT MANDATORY REPORTING.

Section 272(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637a(1)) is amended—

(1) by striking ''means manufactured dairy products'' and inserting ''means—

''(A) manufactured dairy products'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(B) substantially identical products designated by the Secretary.''.

SEC. 1505. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) DEFINITIONS.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking ''and'' at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(m) the term 'imported dairy product' means any dairy product that is imported into the United States (as defined in subsection (l)), including dairy products imported into the United States in the form of—

''(1) milk, cream, and fresh and dried dairy products;

''(2) butter and butterfat mixtures;

''(3) cheese; and

''(4) casein and mixtures;

''(n) the term 'importer' means a person that imports an imported dairy product into the United States; and

''(o) the term 'Customs' means the United States Customs Service.''.

(b) REPRESENTATION OF IMPORTERS ON BOARD.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(1) by inserting ''NATIONAL DAIRY PROMOTION AND RESEARCH BOARD.—'' after ''(b)'';

(2) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively, and indenting the paragraphs appropriately;

(3) in paragraph (2) (as so designated), by striking ''Members'' and inserting ''Except as provided in paragraph (6), the members'';

(4) by inserting after paragraph (5) (as so designated) the following:

''(6) IMPORTERS.—

''(A) INITIAL REPRESENTATION.—In making initial appointments to the Board of importer representatives, the Secretary shall appoint 2 members who represent importers of dairy products and are subject to assessments under the order.

''(B) SUBSEQUENT REPRESENTATION.—At least once every 3 years after the initial appointment of importer representatives under subparagraph (A), the Secretary shall review the average volume of domestic production of dairy products compared to the average volume of imports of dairy products into the United States during the previous 3 years and, on the basis of that review, shall reapportion importer representation on the Board to reflect the proportional share of the United States market by domestic production and imported dairy products.

''(C) ADDITIONAL MEMBERS; NOMINATIONS.—The members appointed under this paragraph—

''(i) shall be in addition to the total number of members appointed under paragraph (2); and

''(ii) shall be appointed from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.''; and

(5) in paragraph (8) (as so designated), by striking ''is produced'' and inserting ''is produced as well as importers of dairy products''.

(c) BUDGETS.—Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended—

(1) by striking ''(e)'' and inserting:

''(e) BUDGETS.—

''(1) PREPARATION AND SUBMISSION.—'';

(2) by striking the last sentence; and

(3) by adding at the end the following:

''(2) FOREIGN MARKET EFFORTS.—The order shall authorize the Board to expend in the maintenance and expansion of foreign markets an amount not to exceed the amount collected from United States producers for a fiscal year. Of those funds, for each of the 2002 through 2007 fiscal years, the Board's budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced or manufactured in the United States.''.

(d) IMPORTER ASSESSMENT.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended—

(1) by inserting ''ASSESSMENTS.—'' after ''(g)'';

(2) by designating the first through fifth sentences as paragraphs (1) through (5), respectively, and indenting appropriately;

(3) in paragraph (3) (as so designated)—

(A) by inserting ''for milk produced in the United States and imported dairy products'' after ''The rate of assessment''; and

(B) by inserting before the period at the end the following: '', as determined by the Secretary''; and

(4) by adding at the end the following:

''(6) IMPORTERS.—

''(A) IN GENERAL.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

''(B) TIME FOR PAYMENT.—The assessment on imported dairy products shall be paid by the importer to Customs at the time the entry documents are filed with Customs. Customs shall remit the assessments to the Board. For purposes of this subparagraph, the term 'importer' includes persons who hold title to foreign-produced dairy products immediately upon release by Customs, as well as persons who act on behalf of others, as agents, brokers, or consignees, to secure the release of dairy products from Customs.

''(C) USE OF ASSESSMENTS ON IMPORTED DAIRY PRODUCTS.—Assessments collected on imported dairy products shall not be used for foreign market promotion.''.

(e) RECORDS.—Section 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(k)) is amended in the first sentence by striking ''person receiving'' and inserting ''importer of imported dairy products, each person receiving''.

(f) IMPORTER ELIGIBILITY TO VOTE IN REFERENDUM.—Section 116(b) of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4507(b)) is amended—

(1) in the first sentence—

(A) by inserting after ''of producers'' the following: ''and importers''; and

(B) by inserting after ''the producers'' the following: ''and importers''; and

(2) in the second sentence, by inserting after ''commercial use'' the following: ''and importers voting in the referendum (who have been engaged in the importation of dairy products during the same representative period, as determined by the Secretary)''.

(g) ORDER IMPLEMENTATION AND INTERNATIONAL TRADE OBLIGATIONS.—Section 112 of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4503) is amended by adding at the end the following:

''(d) ORDER IMPLEMENTATION AND INTERNATIONAL TRADE OBLIGATIONS.—The Secretary, in consultation with the United States Trade Representative, shall ensure that the order is implemented in a manner consistent with the international trade obligations of the Federal Government.''.

(h) CONFORMING AMENDMENTS TO REFLECT ADDITION OF IMPORTERS.—The Dairy Production Stabilization Act of 1983 is amended—

(1) in section 110(b) (7 U.S.C. 4501(b))—

(A) in the first sentence—

(i) by inserting after ''commercial use'' the following: ''and on imported dairy products''; and

(ii) by striking ''products produced in the United States.'' and inserting ''products.''; and

(B) in the second sentence, by inserting after ''produce milk'' the following: ''or the right of any person to import dairy products''; and

(2) in section 111(d) (7 U.S.C. 4502(d)), by striking ''produced in the United States''.

SEC. 1506. FLUID MILK PROMOTION.

(a) DEFINITION OF FLUID MILK PRODUCT.—Section 1999C of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402) is amended by striking paragraph (3) and inserting the following:

''(3) FLUID MILK PRODUCT.—The term 'fluid milk product' has the meaning given the term in—

''(A) section 1000.15 of title 7, Code of Federal Regulations, subject to such amendments as may be made by the Secretary; or

''(B) any successor regulation.''.

(b) DEFINITION OF FLUID MILK PROCESSOR.—Section 1999C(4) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(4)) is amended by striking ''500,000 pounds of fluid milk products in consumer-type packages per month'' and inserting ''3,000,000 pounds of fluid milk products in consumer-type packages per month (excluding products delivered directly to the place of residence of a consumer)''.

(c) ELIMINATION OF ORDER TERMINATION DATE.—Section 1999O of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 1507. STUDY OF NATIONAL DAIRY POLICY.

(a) STUDY REQUIRED.—The Secretary of Agriculture shall conduct a comprehensive economic evaluation of the potential direct and indirect effects of the various elements of the national dairy policy, including an examination of the effect of the national dairy policy on—

(1) farm price stability, farm profitability and viability, and local rural economies in the United States;

(2) child, senior, and low-income nutrition programs, including impacts on schools and institutions participating in the programs, on program recipients, and other factors; and

(3) the wholesale and retail cost of fluid milk, dairy farms, and milk utilization.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary 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 describing the results of the study required by this section.

(c) NATIONAL DAIRY POLICY DEFINED.—In this section, the term ''national dairy policy'' means the dairy policy of the United States as evidenced by the following policies and programs:

(1) Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937.

(2) Interstate dairy compacts (including proposed compacts described in H.R. 1827 and S. 1157, as introduced in the 107th Congress).

(3) Over-order premiums and State pricing programs.

(4) Direct payments to milk producers.

(5) Federal milk price support program established under section 1401.

(6) Export programs regarding milk and dairy products, such as the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14).

SEC. 1508. STUDIES OF EFFECTS OF CHANGES IN APPROACH TO NATIONAL DAIRY POLICY AND FLUID MILK IDENTITY STANDARDS.

(a) FEDERAL DAIRY POLICY CHANGES.—The Secretary of Agriculture shall conduct a study of the effects of—

(1) terminating all Federal programs relating to price support and supply management for milk; and

(2) granting the consent of Congress to cooperative efforts by States to manage milk prices and supply.

(b) FLUID MILK IDENTITY STANDARDS.—The Secretary shall conduct a study of the effects of including in the standard of identity for fluid milk a required minimum protein content that is commensurate with the average nonfat solids content of bovine milk produced in the United States.

(c) REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary 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 describing the results of the studies required by this section.

Subtitle F—Administration

SEC. 1601. ADMINISTRATION GENERALLY.

(a) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title.

(2) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(A) chapter 35 of title 44, United States Code (commonly know as the ''Paperwork Reduction Act'');

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) the notice and comment provisions of section 553 of title 5, United States Code.

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(d) TREATMENT OF ADVANCE PAYMENT OPTION.—The protection that was afforded producers that had an option to elect to accelerate the receipt of any payment under a production flexibility contract payable under the Federal Agriculture Improvement and Reform Act of 1996, as provided by section 525 of Public 106–170 (113 Stat. 1928; 7 U.S.C. 7212 note), shall also apply to the option to receive—

(1) the advance payment of direct payments and counter-cyclical payments under subtitle A and subtitle C; and

(2) the single payment of compensation for eligible peanut quota holders under section 1310.

(e) ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.—

(1) REQUIRED DETERMINATION; ADJUSTMENT.—If the Secretary determines that expenditures under subtitles A through E that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)), as in effect on the date of enactment of this Act, will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

(2) CONGRESSIONAL NOTIFICATION.—Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the determination made under that paragraph and the extent of the adjustment to be made.

SEC. 1602. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2002 through 2007 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act through December 31, 2007:

(1) Parts II through V of subtitle B of title III (7 U.S.C. 1326–1351).

(2) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(3) Subtitle D of title III (7 U.S.C. 1379a–1379j).

(4) Title IV (7 U.S.C. 1401–1407).

(b) AGRICULTURAL ACT OF 1949.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 2002 through 2007 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act and through December 31, 2007:

(1) Section 101 (7 U.S.C. 1441).

(2) Section 103(a) (7 U.S.C. 1444(a)).

(3) Section 105 (7 U.S.C. 1444b).

(4) Section 107 (7 U.S.C. 1445a).

(5) Section 110 (7 U.S.C. 1445e).

(6) Section 112 (7 U.S.C. 1445g).

(7) Section 115 (7 U.S.C. 1445k).

(8) Section 201 (7 U.S.C. 1446).

(9) Title III (7 U.S.C. 1447–1449).

(10) Title IV (7 U.S.C. 1421–1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(11) Title V (7 U.S.C. 1461–1469).

(12) Title VI (7 U.S.C. 1471–1471j).

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled ''A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended'', approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2002 through 2007.

(d) CONFORMING AMENDMENT.—Section 171(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(a)(1)) is amended by striking ''2002'' the first place appears and inserting ''2001''.

SEC. 1603. PAYMENT LIMITATIONS.

(a) LIMITATION ON AMOUNTS RECEIVED.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking the section heading, ''SEC. 1001.'', and all that follows through the end of paragraph (4) and inserting the following:

''SEC. 1001. PAYMENT LIMITATIONS.

''(a) DEFINITIONS.—In this section:

''(1) COVERED COMMODITY.—The term 'covered commodity' has the meaning given that term in section 1001 of the Farm Security and Rural Investment Act of 2002.

''(2) LOAN COMMODITY.—The term 'loan commodity' has the meaning given that term in section 1001 of the Farm Security and Rural Investment Act of 2002, except that the term does not include wool, mohair, or honey.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(b) LIMITATION ON DIRECT PAYMENTS.—

''(1) COVERED COMMODITIES.—The total amount of direct payments made to a person during any crop year under subtitle A of title I of the Farm Security and Rural Investment Act of 2002 for 1 or more covered commodities may not exceed $40,000.

''(2) PEANUTS.—The total amount of direct payments made to a person during any crop year under subtitle C of title I of the Farm Security and Rural Investment Act of 2002 may not exceed $40,000.

''(c) LIMITATION ON COUNTER-CYCLICAL PAYMENTS.—

''(1) COVERED COMMODITIES.—The total amount of counter-cyclical payments made to a person during any crop year under subtitle A of title I of the Farm Security and Rural Investment Act of 2002 for 1 or more covered commodities may not exceed $65,000.

''(2) PEANUTS.—The total amount of counter-cyclical payments made to a person during any crop year under subtitle C of title I of the Farm Security and Rural Investment Act of 2002 may not exceed $65,000.

''(d) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—

''(1) LOAN COMMODITIES.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed $75,000:

''(A) Any gain realized by a producer from repaying a marketing assistance loan for 1 or more loan commodities under subtitle B of title I of the Farm Security and Rural Investment Act of 2002 at a lower level than the original loan rate established for the loan commodity under that subtitle.

''(B) Any loan deficiency payments received for 1 or more loan commodities under that subtitle.

''(2) OTHER COMMODITIES.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed $75,000:

''(A) Any gain realized by a producer from repaying a marketing assistance loan for peanuts, wool, mohair, or honey under subtitle B or C of title I of the Farm Security and Rural Investment Act of 2002 at a lower level than the original loan rate established for the commodity under those subtitles.

''(B) Any loan deficiency payments received for peanuts, wool, mohair, and honey under those subtitles.''.

(b) CLERICAL AND CONFORMING AMENDMENTS TO SECTION 1001.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in paragraph (5)—

(A) by striking ''(5)'' and inserting ''(e) DEFINITION OF PERSON.—''

(B) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively;

(C) in paragraph (1), as so redesignated—

(i) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(ii) by striking the second sentence; and

(D) in paragraph (2), as so redesignated—

(i) by redesignating clause (i) as subparagraph (A) and, in such subparagraph (as so redesignated)—

(I) by striking ''subparagraph (A), subject to clause (ii)'' and inserting ''paragraph (1), subject to subparagraph (B)''; and

(II) by redesignating subclauses (I), (II), and (III), as clauses (i), (ii), and (iii), respectively;

(ii) by redesignating clause (ii) as subparagraph (B) and, in such subparagraph (as so redesignated), by redesignating subclauses (I), (II), and (III), as clauses (i), (ii), and (iii), respectively; and

(iii) by redesignating clause (iii) as subparagraph (C) and, in such subparagraph (as so redesignated)—

(I) by striking ''as described in paragraphs (1) and (2)'' and inserting ''as described in subsections (b), (c), and (d)''; and

(II) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(2) in paragraph (6), by striking ''(6)'' and inserting ''(f) PUBLIC SCHOOLS.—''; and

(3) in paragraph (7), by striking ''(7)'' and inserting ''(g) TIME LIMITS; RELIANCE.—''.

(c) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—

(A) in subsections (a)(1) and (b)(2)(B), by striking ''section 1001(5)(B)(i)(II)'' and inserting ''section 1001(e)(2)(A)(ii)''; and

(B) in subsections (a)(1) and (b)(1), by striking ''section 1001(5)(B)(i)'' and inserting ''section 1001(e)(2)(A)''; and

(2) Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended by striking ''as described in paragraphs (1) and (2)'' and inserting ''as described in subsections (b), (c), and (d)''.

(3) Section 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308–3(a)) is amended by inserting ''title I of the Farm Security and Rural Investment Act of 2002,'' after ''made available under''.

(d) TRANSITION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 2001 crop of any covered commodity.

SEC. 1604. ADJUSTED GROSS INCOME LIMITATION.

The Food Security Act of 1985 is amended—

(1) by redesignating section 1001D (7 U.S.C. 1308–4) and section 1001E (7 U.S.C. 1308–5) as sections 1001E and 1001F, respectively; and

(2) by inserting after section 1001C (7 U.S.C. 1308–3) the following:

''SEC. 1001D. ADJUSTED GROSS INCOME LIMITATION.

''(a) DEFINITION OF AVERAGE ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—In this section, the term 'average adjusted gross income', with respect to an individual or entity (for purposes of this section, as defined in section 1001(e)(2)(A)(ii)), means the 3-year average of the adjusted gross income or comparable measure of the individual or entity over the 3 preceding tax years, as determined by the Secretary.

''(2) SPECIAL RULES FOR CERTAIN INDIVIDUALS AND ENTITIES.—In the case of an entity that is not required to file a Federal income tax return or an individual or entity that did not have taxable income in 1 or more of the tax years used to determine the average under paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income of the individual or entity for purposes of this section.

''(b) LIMITATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in paragraph (2) during a crop year if the average adjusted gross income of the individual or entity exceeds $2,500,000, unless not less than 75 percent of the average adjusted gross income of the individual or entity is derived from farming, ranching, or forestry operations, as determined by the Secretary.

''(2) COVERED BENEFITS.—Paragraph (1) applies with respect to the following:

''(A) A direct payment or counter-cyclical payment under subtitle A or C of title I of the Farm Security and Rural Investment Act of 2002.

''(B) A marketing loan gain or payment described in section 1001(d) of this Act.

''(C) A payment under any program under title XII of this Act or title II of the Farm Security and Rural Investment Act of 2002.

''(c) CERTIFICATION.—To comply with the limitation under subsection (b), an individual or entity shall provide to the Secretary—

''(1) 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 individual or entity does not exceed the limitation specified in that subsection; or

''(2) information and documentation regarding the adjusted gross income of the individual or entity through other procedures established by the Secretary.

''(d) COMMENSURATE REDUCTION.—In the case of a benefit described in subsection (b)(2) made in a crop year to an entity, general partnership, or joint venture, the amount of the benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each individual who has an average adjusted gross income in excess of the limitation specified in subsection (b) for the average of the 3 preceding crop years.

''(e) EFFECTIVE PERIOD.—This section shall apply only during the 2003 through 2007 crop years.''.

SEC. 1605. COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Commission on the Application of Payment Limitations for Agriculture'' (referred to in this section as the ''Commission'').

(b) DUTIES.—The Commission shall conduct a study on the potential impacts of further payment limitations on the receipt of direct payments, counter-cyclical payments, and marketing loan gains and loan deficiency payments on—

(1) farm income;

(2) land values;

(3) rural communities;

(4) agribusiness infrastructure;

(5) planting decisions of producers affected; and

(6) supply and prices of covered commodities, loan commodities, specialty crops (including fruits and vegetables), and other agricultural commodities.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 10 members as follows:

(A) 3 members appointed by the Secretary.

(B) 3 members appointed by the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(C) 3 members appointed by the Committee on Agriculture of the House of Representatives.

(D) The Chief Economist of the Department of Agriculture.

(2) FEDERAL GOVERNMENT EMPLOYMENT.—The membership of the Commission may include 1 or more employees of the Department of Agriculture or other Federal agencies.

(3) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(4) TERM; VACANCIES.—

(A) TERM.—A member shall be appointed for the life of the Commission.

(B) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(5) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(e) CHAIRPERSON.—The Secretary shall appoint 1 of the members of the Commission to serve as Chairperson of the Commission.

(f) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study required by subsection (b), including such recommendations as the Commission considers appropriate.

(g) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(h) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section. On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(i) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(j) ASSISTANCE FROM SECRETARY.—The Secretary may provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

(k) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(3) TRAVEL EXPENSES.—A member of the Commission 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 Commission.

(l) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission or any proceeding of the Commission.

SEC. 1606. ADJUSTMENTS OF LOANS.

Section 162(b) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7282(b)) is amended by striking ''this title'' and inserting ''this title and title I of the Farm Security and Rural Investment Act of 2002''.

SEC. 1607. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.

Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking ''this title'' each places it appears and inserting ''this title and title I of the Farm Security and Rural Investment Act of 2002''.

SEC. 1608. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.

Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended—

(1) in subsection (a), by striking ''subtitle C'' and inserting ''subtitle C of this title and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002''; and

(2) in subsection (c)(1), by striking ''subtitle C'' and inserting ''subtitle C of this title and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002''.

SEC. 1609. COMMODITY CREDIT CORPORATION INVENTORY.

Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended in the last sentence by inserting before the period at the end the following: ''(including, at the option of the Corporation, the use of private sector entities)''.

SEC. 1610. RESERVE STOCK LEVEL.

Section 301(b)(14)(C) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(14)(C)) is amended—

(1) in clause (i), by striking ''100,000,000'' and inserting ''60,000,000''; and

(2) in clause (ii), by striking ''15 percent'' and inserting ''10 percent''.

SEC. 1611. FARM RECONSTITUTIONS.

(a) IN GENERAL.—Section 316(a)(1)(A)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(ii)) is amended by adding at the end the following: ''Notwithstanding any other provision of law, for the 2002 crop only, the Secretary shall allow special farm reconstitutions, in lieu of lease and transfer of allotments and quotas, under this section, in accordance with such conditions as are established by the Secretary.''.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study on the effects on the limitation on producers to move quota to a farm other than the farm to which the quota was initially assigned under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.).

(2) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary 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 study.

SEC. 1612. ASSIGNMENT OF PAYMENTS.

The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to payments made under the authority of this Act. The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.

SEC. 1613. EQUITABLE RELIEF FROM INELIGIBILITY FOR LOANS, PAYMENTS, OR OTHER BENEFITS.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' means any agricultural commodity, food, feed, fiber, or livestock that is subject to a covered program.

(2) COVERED PROGRAM.—

(A) IN GENERAL.—The term ''covered program'' means—

(i) a program administered by the Secretary under which price or income support, or production or market loss assistance, is provided to producers of agricultural commodities; and

(ii) a conservation program administered by the Secretary.

(B) EXCLUSIONS.—The term ''covered program'' does not include—

(i) an agricultural credit program carried out under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.); or

(ii) the crop insurance program carried out under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) PARTICIPANT.—The term ''participant'' means a participant in a covered program.

(4) STATE CONSERVATIONIST.—The term ''State Conservationist'' means the State Conservationist with respect to a program administered by the Natural Resources Conservation Service.

(5) STATE DIRECTOR.—The term ''State Director'' means the State Executive Director of the Farm Service Agency with respect to a program administered by the Farm Service Agency.

(b) EQUITABLE RELIEF.—The Secretary may provide relief to any participant that is determined to be not in compliance with the requirements of a covered program, and therefore ineligible for a loan, payment, or other benefit under the covered program, if the participant—

(1) acting in good faith, relied on the action or advice of the Secretary (including any authorized representative of the Secretary) to the detriment of the participant; or

(2) failed to comply fully with the requirements of the covered program, but made a good faith effort to comply with the requirements.

(c) FORMS OF RELIEF.—The Secretary may authorize a participant in a covered program to—

(1) retain loans, payments, or other benefits received under the covered program;

(2) continue to receive loans, payments, and other benefits under the covered program;

(3) continue to participate, in whole or in part, under any contract executed under the covered program;

(4) in the case of a conservation program, reenroll all or part of the land covered by the program; and

(5) receive such other equitable relief as the Secretary determines to be appropriate.

(d) REMEDIAL ACTION.—As a condition of receiving relief under this section, the Secretary may require the participant to take actions designed to remedy any failure to comply with the covered program.

(e) EQUITABLE RELIEF BY STATE DIRECTORS AND STATE CONSERVATIONISTS.—

(1) IN GENERAL.—A State Director, in the case of programs administered by the State Director, and the State Conservationist, in the case of programs administered by the State Conservationist, may grant relief to a participant in accordance with subsections (b) through (d) if—

(A) the amount of loans, payments, and benefits for which relief will be provided to the participant under this subsection is less than $20,000;

(B) the total amount of loans, payments, and benefits for which relief has been previously provided to the participant under this subsection is not more than $5,000; and

(C) the total amount of loans, payments, and benefits for which relief is provided to similarly situated participants under this subsection is not more than $1,000,000, as determined by the Secretary.

(2) CONSULTATION, APPROVAL, AND REVERSAL.—The decision by a State Director or State Conservationist to grant relief under this subsection—

(A) shall not require prior approval by the Administrator of the Farm Service Agency, the Chief of the Natural Resources Conservation Service, or any other officer or employee of the Agency or Service;

(B) shall be made only after consultation with, and the approval of, the Office of General Counsel of the Department of Agriculture; and

(C) is subject to reversal only by the Secretary (who may not delegate the reversal authority).

(3) NONAPPLICABILITY.—The authority of a State Director or State Conservationist under this subsection does not apply to the administration of—

(A) payment limitations under—

(i) sections 1001 through 1001F of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.); or

(ii) a conservation program administered by the Secretary.

(B) highly erodible land and wetland conservation requirements under subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

(4) OTHER AUTHORITY.—The authority provided to a State Director and State Conservationist under this subsection is in addition to any other applicable authority and does not limit other authority provided by law or the Secretary.

(f) JUDICIAL REVIEW.—A discretionary decision by the Secretary, the State Director, or the State Conservationist under this section shall be final, and shall not be subject to review under chapter 7 of title 5, United States Code.

(g) REPORTS.—Not later than February 1 of each year, the Secretary 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 that describes for the previous calendar year—

(1) the number of requests for equitable relief under subsections (b) and (e) and the disposition of the requests; and

(2) the number of requests for equitable relief under section 278(d) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6998(d)) and the disposition of the requests.

(h) RELATIONSHIP TO OTHER LAW.—The authority provided in this section is in addition to any other authority provided in this or any other Act.

(i) FINALITY RULE.—Section 281(a) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7001(a)) is amended—

(1) by striking ''Consolidated Farm Service Agency'' each place it appears and inserting ''Farm Service Agency'';

(2) in paragraph (1)—

(A) by striking ''This subsection'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection''; and

(B) by adding at the end the following:

''(B) NONAPPLICABILITY.—This subsection does not apply to—

''(i) a function performed under section 376 of the Consolidated Farm and Rural Development Act; or

''(ii) a function performed under a conservation program administered by the Natural Resources Conservation Service.''; and

(3) in paragraph (2), by inserting '', before the end of the 90-day period,'' after ''unless the decision''.

(j) CONFORMING AMENDMENTS.—

(1) Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is repealed.

(2) Section 278(d) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6998(d)) is amended in the first sentence by striking ''section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a)'' and inserting ''section 1613 of the Farm Security and Rural Investment Act of 2002''.

(3) Section 1230A of the Food Security Act of 1985 (16 U.S.C. 3830a) is repealed.

SEC. 1614. TRACKING OF BENEFITS.

As soon as practicable after the date of enactment of this Act, the Secretary shall establish procedures to track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.

SEC. 1615. ESTIMATES OF NET FARM INCOME.

In each issuance of projections of net farm income, the Secretary shall include (as determined by the Secretary)—

(1) an estimate of the net farm income earned by commercial producers in the United States; and

(2) an estimate of the net farm income attributable to commercial producers of each of the following:

(A) Livestock.

(B) Loan commodities.

(C) Agricultural commodities other than loan commodities.

SEC. 1616. AVAILABILITY OF INCENTIVE PAYMENTS FOR CERTAIN PRODUCERS.

(a) INCENTIVE PAYMENTS REQUIRED.—Subject to subsection (b), the Secretary shall make available a total of $20,000,000 of funds of the Commodity Credit Corporation during the 2003 through 2005 crop years to provide incentive payments to producers of hard white wheat.

(b) CONDITIONS ON IMPLEMENTATION.—The Secretary shall implement subsection (a)—

(1) only with regard to production that meets minimum quality criteria; and

(2) on not more than 2,000,000 acres or the equivalent volume of production.

(c) DEMAND FOR WHEAT.—To be eligible to obtain an incentive payment under subsection (a), a producer shall demonstrate to the satisfaction of the Secretary that buyers and end-users are available for the wheat to be covered by the incentive payment.

SEC. 1617. RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER AUTHORITIES.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Agriculture may use such funds of the Commodity Credit Corporation as are necessary to provide market loss assistance and other emergency assistance under a provision of law specified in subsection (c) to persons that, as determined by the Secretary)—

(1) were eligible to receive the assistance under the provision of law; but

(2) did not receive the assistance before October 1, 2001.

(b) LIMITATION.—The amount of assistance provided under a provision of law specified in subsection (c) and this section to a person shall not exceed the amount of assistance the person would have been eligible to receive under the provision had the claim of the producer under the provision been timely resolved.

(c) COVERED MARKET LOSS ASSISTANCE AUTHORITIES.—The following provisions of law are covered by this section:

(1) Sections 1, 2, 3, 4, and 5 of Public Law 107–25 (115 Stat. 201).

(2) Sections 805, 806, and 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–387; 114 Stat. 1549).

(3) Sections 201, 202, 204(a), 204(d), 257, and 259 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note).

(4) Sections 802, 803(a), 804, and 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (Public Law 106–78; 113 Stat. 1135).

(5) The livestock indemnity program under the heading ''COMMODITY CREDIT CORPORATION FUND'' in chapter 1 of title I of the 1999 Emergency Supplemental Appropriations Act (Public 106–31; 113 Stat. 59).

(6) Section 1111(a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277; 112 Stat. 2681–44).

SEC. 1618. PRODUCER RETENTION OF ERRONEOUSLY PAID LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding any other provision of law, the Secretary and the Commodity Credit Corporation shall not require producers in Erie County, Pennsylvania, to repay loan deficiency payments and marketing loan gains erroneously paid or determined to have been earned by the Commodity Credit Corporation for certain 1998 and 1999 crops under subtitle C of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.). In the case of a producer who has already made the repayment on or before the date of the enactment of this Act, the Commodity Credit Corporation shall reimburse the producer for the full amount of the repayment.

TITLE II—CONSERVATION

Subtitle A—Conservation Security

SEC. 2001. CONSERVATION SECURITY PROGRAM.

(a) IN GENERAL.—Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by inserting after chapter 1 the following:

"CHAPTER 2—CONSERVATION SECURITY AND FARMLAND PROTECTION

"Subchapter A—Conservation Security Program

"SEC. 1238. DEFINITIONS.

''In this subchapter:

''(1) BASE PAYMENT.—The term 'base payment' means an amount that is—

''(A) determined in accordance with the rate described in section 1238C(b)(1)(A); and

''(B) paid to a producer under a conservation security contract in accordance with clause (i) of subparagraph (C), (D), or (E) of section 1238C(b)(1), as appropriate.

''(2) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term under section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

''(3) CONSERVATION PRACTICE.—The term 'conservation practice' means a conservation farming practice described in section 1238A(d)(4) that—

''(A) requires planning, implementation, management, and maintenance; and

''(B) promotes 1 or more of the purposes described in section 1238A(a).

''(4) CONSERVATION SECURITY CONTRACT.—The term 'conservation security contract' means a contract described in section 1238A(e).

''(5) CONSERVATION SECURITY PLAN.—The term 'conservation security plan' means a plan described in section 1238A(c).

''(6) CONSERVATION SECURITY PROGRAM.—The term 'conservation security program' means the program established under section 1238A(a).

''(7) ENHANCED PAYMENT.—The term 'enhanced payment' means the amount paid to a producer under a conservation security contract that is equal to the amount described in section 1238C(b)(1)(C)(iii).

''(8) NONDEGRADATION STANDARD.—The term 'nondegradation standard' means the level of measures required to adequately protect, and prevent degradation of, 1 or more natural resources, as determined by the Secretary in accordance with the quality criteria described in handbooks of the Natural Resources Conservation Service.

''(9) PRODUCER.—

''(A) IN GENERAL.—The term 'producer' means an owner, operator, landlord, tenant, or sharecropper that—

''(i) shares in the risk of producing any crop or livestock; and

''(ii) is entitled to share in the crop or livestock available for marketing from a farm (or would have shared had the crop or livestock been produced).

''(B) HYBRID SEED GROWERS.—In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

''(10) RESOURCE-CONSERVING CROP ROTATION.—The term 'resource-conserving crop rotation' means a crop rotation that—

''(A) includes at least 1 resource-conserving crop (as defined by the Secretary);

''(B) reduces erosion;

''(C) improves soil fertility and tilth;

''(D) interrupts pest cycles; and

''(E) in applicable areas, reduces depletion of soil moisture (or otherwise reduces the need for irrigation).

''(11) RESOURCE MANAGEMENT SYSTEM.—The term 'resource management system' means a system of conservation practices and management relating to land or water use that is designed to prevent resource degradation and permit sustained use of land, water, and other natural resources, as defined in accordance with the technical guide of the Natural Resources Conservation Service.

''(12) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Natural Resources Conservation Service.

''(13) TIER I CONSERVATION SECURITY CONTRACT.—The term 'Tier I conservation security contract' means a contract described in section 1238A(d)(5)(A).

''(14) TIER II CONSERVATION SECURITY CONTRACT.—The term 'Tier II conservation security contract' means a contract described in section 1238A(d)(5)(B).

''(15) TIER III CONSERVATION SECURITY CONTRACT.—The term 'Tier III conservation security contract' means a contract described in section 1238A(d)(5)(C).

"SEC. 1238A. CONSERVATION SECURITY PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish and, for each of fiscal years 2003 through 2007, carry out a conservation security program to assist producers of agricultural operations in promoting, as is applicable with respect to land to be enrolled in the program, conservation and improvement of the quality of soil, water, air, energy, plant and animal life, and any other conservation purposes, as determined by the Secretary.

''(b) ELIGIBILITY.—

''(1) ELIGIBLE PRODUCERS.—To be eligible to participate in the conservation security program (other than to receive technical assistance under section 1238C(g) for the development of conservation security contracts), a producer shall—

''(A) develop and submit to the Secretary, and obtain the approval of the Secretary of, a conservation security plan that meets the requirements of subsection (c)(1); and

''(B) enter into a conservation security contract with the Secretary to carry out the conservation security plan.

''(2) ELIGIBLE LAND.—Except as provided in paragraph (3), private agricultural land (including cropland, grassland, prairie land, improved pasture land, and rangeland), land under the jurisdiction of an Indian tribe (as defined by the Secretary), and forested land that is an incidental part of an agricultural operation shall be eligible for enrollment in the conservation security program.

''(3) EXCLUSIONS.—

''(A) CONSERVATION RESERVE PROGRAM.—Land enrolled in the conservation reserve program under subchapter B of chapter 1 shall not be eligible for enrollment in the conservation security program.

''(B) WETLANDS RESERVE PROGRAM.—Land enrolled in the wetlands reserve program established under subchapter C of chapter 1 shall not be eligible for enrollment in the conservation security program.

''(C) GRASSLAND RESERVE PROGRAM.—Land enrolled in the grassland reserve program established under subchapter C of chapter 2 shall not be eligible for enrollment in the conservation security program.

''(D) CONVERSION TO CROPLAND.—Land that is used for crop production after the date of enactment of this subchapter that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date (except for land enrolled in the conservation reserve program under subchapter B of chapter 1) or that has been maintained using long-term crop rotation practices, as determined by the Secretary, shall not be the basis for any payment under the conservation security program.

''(4) ECONOMIC USES.—The Secretary shall permit a producer to implement, with respect to all eligible land covered by a conservation security plan, economic uses that—

''(A) maintain the agricultural nature of the land; and

''(B) are consistent with the natural resource and conservation objectives of the conservation security program.

''(c) CONSERVATION SECURITY PLANS.—

''(1) IN GENERAL.—A conservation security plan shall—

''(A) identify the designated land and resources to be conserved under the conservation security plan;

''(B) describe the tier of conservation security contract, and the particular conservation practices to be implemented, maintained, or improved, in accordance with subsection (d) on the land covered by the conservation security contract for the specified term; and

''(C) contain a schedule for the implementation, maintenance, or improvement of the conservation practices described in the conservation security plan during the term of the conservation security contract.

''(2) RESOURCE PLANNING.—The Secretary may assist producers that enter into conservation security contracts in developing a comprehensive, long-term strategy for improving and maintaining all natural resources of the agricultural operation of the producer.

''(d) CONSERVATION CONTRACTS AND PRACTICES.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF TIERS.—The Secretary shall establish, and offer to eligible producers, 3 tiers of conservation contracts under which a payment under this subchapter may be received.

''(B) ELIGIBLE CONSERVATION PRACTICES.—

''(i) IN GENERAL.—The Secretary shall make eligible for payment under a conservation security contract land management, vegetative, and structural practices.

''(ii) DETERMINATION.—In determining the eligibility of a practice described in clause (i), the Secretary shall require, to the maximum extent practicable, that the lowest cost alternatives be used to fulfill the purposes of the conservation security plan, as determined by the Secretary.

''(2) ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.—With respect to land enrolled in the conservation security program, the Secretary may approve a conservation security plan that includes—

''(A) on-farm conservation research and demonstration activities; and

''(B) pilot testing of new technologies or innovative conservation practices.

''(3) USE OF HANDBOOK AND GUIDES; STATE AND LOCAL CONSERVATION CONCERNS.—

''(A) USE OF HANDBOOK AND GUIDES.—In determining eligible conservation practices and the criteria for implementing or maintaining the conservation practices under the conservation security program, the Secretary shall use the National Handbook of Conservation Practices of the Natural Resources Conservation Service.

''(B) STATE AND LOCAL CONSERVATION PRIORITIES.—The conservation priorities of a State or locality in which an agricultural operation is situated shall be determined by the State Conservationist, in consultation with—

''(i) the State technical committee established under subtitle G; and

''(ii) local agricultural producers and conservation working groups.

''(4) CONSERVATION PRACTICES.—Conservation practices that may be implemented by a producer under a conservation security contract (as appropriate for the agricultural operation of a producer) include—

''(A) nutrient management;

''(B) integrated pest management;

''(C) water conservation (including through irrigation) and water quality management;

''(D) grazing, pasture, and rangeland management;

''(E) soil conservation, quality, and residue management;

''(F) invasive species management;

''(G) fish and wildlife habitat conservation, restoration, and management;

''(H) air quality management;

''(I) energy conservation measures;

''(J) biological resource conservation and regeneration;

''(K) contour farming;

''(L) strip cropping;

''(M) cover cropping;

''(N) controlled rotational grazing;

''(O) resource-conserving crop rotation;

''(P) conversion of portions of cropland from a soil-depleting use to a soil-conserving use, including production of cover crops;

''(Q) partial field conservation practices;

''(R) native grassland and prairie protection and restoration; and

''(S) any other conservation practices that the Secretary determines to be appropriate and comparable to other conservation practices described in this paragraph.

''(5) TIERS.—Subject to paragraph (6), to carry out this subsection, the Secretary shall establish the following 3 tiers of conservation contracts:

''(A) TIER I CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier I conservation security contract shall—

''(i) be for a period of 5 years; and

''(ii) include conservation practices appropriate for the agricultural operation, that, at a minimum (as determined by the Secretary)—

''(I) address at least 1 significant resource of concern for the enrolled portion of the agricultural operation at a level that meets the appropriate nondegradation standard; and

''(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

''(B) TIER II CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier II conservation security contract shall—

''(i) be for a period of not less than 5 nor more than 10 years, as determined by the producer;

''(ii) include conservation practices appropriate for the agricultural operation, that, at a minimum—

''(I) address at least 1 significant resource of concern for the entire agricultural operation, as determined by the Secretary, at a level that meets the appropriate nondegradation standard; and

''(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

''(C) TIER III CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier III conservation security contract shall—

''(i) be for a period of not less than 5 nor more than 10 years, as determined by the producer; and

''(ii) include conservation practices appropriate for the agricultural operation that, at a minimum—

''(I) apply a resource management system that meets the appropriate nondegradation standard for all resources of concern of the entire agricultural operation, as determined by the Secretary; and

''(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

''(6) MINIMUM REQUIREMENTS.—The minimum requirements for each tier of conservation contracts implemented under paragraph (5) shall be determined and approved by the Secretary.

''(e) CONSERVATION SECURITY CONTRACTS.—

''(1) IN GENERAL.—On approval of a conservation security plan of a producer, the Secretary shall enter into a conservation security contract with the producer to enroll the land covered by the conservation security plan in the conservation security program.

''(2) MODIFICATION.—

''(A) OPTIONAL MODIFICATIONS.—A producer may apply to the Secretary for a modification of the conservation security contract of the producer that is consistent with the purposes of the conservation security program.

''(B) OTHER MODIFICATIONS.—

''(i) IN GENERAL.—The Secretary may, in writing, require a producer to modify a conservation security contract before the expiration of the conservation security contract if the Secretary determines that a change made to the type, size, management, or other aspect of the agricultural operation of the producer would, without the modification of the contract, significantly interfere with achieving the purposes of the conservation security program.

''(ii) PARTICIPATION IN OTHER PROGRAMS.—If appropriate payment reductions and other adjustments (as determined by the Secretary) are made to the conservation security contract of a producer, the producer may—

''(I) simultaneously participate in—

''(aa) the conservation security program;

''(bb) the conservation reserve program under subchapter B of chapter 1; and

''(cc) the wetlands reserve program under subchapter C of chapter 1; and

''(II) may remove land enrolled in the conservation security program for enrollment in a program described in item (bb) or (cc) of subclause (I).

''(3) TERMINATION.—

''(A) OPTIONAL TERMINATION.—A producer may terminate a conservation security contract and retain payments received under the conservation security contract, if—

''(i) the producer is in full compliance with the terms and conditions (including any maintenance requirements) of the conservation security contract as of the date of the termination; and

''(ii) the Secretary determines that termination of the contract would not defeat the purposes of the conservation security plan of the producer.

''(B) OTHER TERMINATION.—A producer that is required to modify a conservation security contract under paragraph (2)(B)(i) may, in lieu of modifying the contract—

''(i) terminate the conservation security contract; and

''(ii) retain payments received under the conservation security contract, if the producer has fully complied with the terms and conditions of the conservation security contract before termination of the contract, as determined by the Secretary.

''(4) RENEWAL.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), at the option of a producer, the conservation security contract of the producer may be renewed for an additional period of not less than 5 nor more than 10 years.

''(B) TIER I RENEWALS.—In the case of a Tier I conservation security contract of a producer, the producer may renew the contract only if the producer agrees—

''(i) to apply additional conservation practices that meet the nondegradation standard on land already enrolled in the conservation security program; or

''(ii) to adopt new conservation practices with respect to another portion of the agricultural operation that address resource concerns and meet the nondegradation standard under the terms of the Tier I conservation security contract.

''(f) NONCOMPLIANCE DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF PRODUCERS.—The Secretary shall include in the conservation security contract a provision, and may permit modification of a conservation security contract under subsection (e)(1), to ensure that a producer shall not be considered in violation of a conservation security contract for failure to comply with the conservation security contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary.

''SEC. 1238B. DUTIES OF PRODUCERS.

''Under a conservation security contract, a producer shall agree, during the term of the conservation security contract—

''(1) to implement the applicable conservation security plan approved by the Secretary;

''(2) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation security plan;

''(3) not to engage in any activity that would interfere with the purposes of the conservation security program; and

''(4) on the violation of a term or condition of the conservation security contract—

''(A) if the Secretary determines that the violation warrants termination of the conservation security contract—

''(i) to forfeit all rights to receive payments under the conservation security contract; and

''(ii) to refund to the Secretary all or a portion of the payments received by the producer under the conservation security contract, including any advance payments and interest on the payments, as determined by the Secretary; or

''(B) if the Secretary determines that the violation does not warrant termination of the conservation security contract, to refund to the Secretary, or accept adjustments to, the payments provided to the producer, as the Secretary determines to be appropriate.

''SEC. 1238C. DUTIES OF THE SECRETARY.

''(a) TIMING OF PAYMENTS.—The Secretary shall make payments under a conservation security contract as soon as practicable after October 1 of each fiscal year.

''(b) ANNUAL PAYMENTS.—

''(1) CRITERIA FOR DETERMINING AMOUNT OF PAYMENTS.—

''(A) BASE PAYMENT.—A base payment under this paragraph shall be (as determined by the Secretary)—

''(i) the average national per-acre rental rate for a specific land use during the 2001 crop year; or

''(ii) another appropriate rate for the 2001 crop year that ensures regional equity.

''(B) PAYMENTS.—A payment for a conservation practice under this paragraph shall be determined in accordance with subparagraphs (C) through (E).

''(C) TIER I CONSERVATION SECURITY CONTRACTS.—The payment for a Tier I conservation security contract shall consist of the total of the following amounts:

''(i) An amount equal to 5 percent of the applicable base payment for land covered by the contract.

''(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county costs of practices for the 2001 crop year that are included in the conservation security contract, as determined by the Secretary, including the costs of—

''(I) the adoption of new management, vegetative, and land-based structural practices;

''(II) the maintenance of existing land management and vegetative practices; and

''(III) the maintenance of existing land-based structural practices that are approved by the Secretary but not already covered by a Federal or State maintenance requirement.

''(iii) An enhanced payment that is determined by the Secretary in a manner that ensures equity across regions of the United States, if the producer—

''(I) implements or maintains multiple conservation practices that exceed minimum requirements for the applicable tier of participation (including practices that involve a change in land use, such as resource-conserving crop rotation, managed rotational grazing, or conservation buffer practices);

''(II) addresses local conservation priorities in addition to resources of concern for the agricultural operation;

''(III) participates in an on-farm conservation research, demonstration, or pilot project;

''(IV) participates in a watershed or regional resource conservation plan that involves at least 75 percent of producers in a targeted area; or

''(V) carries out assessment and evaluation activities relating to practices included in a conservation security plan.

''(D) TIER II CONSERVATION SECURITY CONTRACTS.—The payment for a Tier II conservation security contract shall consist of the total of the following amounts:

''(i) An amount equal to 10 percent of the applicable base payment for land covered by the conservation security contract.

''(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

''(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

''(E) TIER III CONSERVATION SECURITY CONTRACTS.—The payment for a Tier III conservation security contract shall consist of the total of the following amounts:

''(i) An amount equal to 15 percent of the base payment for land covered by the conservation security contract.

''(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

''(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

''(2) LIMITATION ON PAYMENTS.—

''(A) IN GENERAL.—Subject to paragraphs (1) and (3), the Secretary shall make an annual payment, directly or indirectly, to an individual or entity covered by a conservation security contract in an amount not to exceed—

''(i) in the case of a Tier I conservation security contract, $20,000;

''(ii) in the case of a Tier II conservation security contract, $35,000; or

''(iii) in the case of a Tier III conservation security contract, $45,000.

''(B) LIMITATION ON BASE PAYMENTS.—In applying the payment limitation under each of clauses (i), (ii), and (iii) of subparagraph (A), an individual or entity may not receive, directly or indirectly, payments described in clause (i) of paragraph (1)(C), (1)(D), or (1)(E), as appropriate, in an amount that exceeds—

''(i) in the case of Tier I contracts, 25 percent of the applicable payment limitation; or

''(ii) in the case of Tier II contracts and Tier III contracts, 30 percent of the applicable payment limitation.

''(C) OTHER USDA PAYMENTS.—A producer shall not receive payments under the conservation security program and any other conservation program administered by the Secretary for the same practices on the same land.

''(D) COMMENSURATE SHARE.—To be eligible to receive a payment under this subchapter, an individual or entity shall make contributions (including contributions of land, labor, management, equipment, or capital) to the operation of the farm that are at least commensurate with the share of the proceeds of the operation of the individual or entity.

''(3) EQUIPMENT OR FACILITIES.—A payment to a producer under this subchapter shall not be provided for—

''(A) construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

''(B) the purchase or maintenance of equipment or a non-land based structure that is not integral to a land-based practice, as determined by the Secretary.

''(c) MINIMUM PRACTICE REQUIREMENT.—In determining a payment under subsection (b) for a producer that receives a payment under another program administered by the Secretary that is contingent on complying with requirements under subtitle B or C (relating to the use of highly erodible land or wetland), a payment under this subchapter on land subject to those requirements shall be for practices only to the extent that the practices exceed minimum requirements for the producer under those subtitles, as determined by the Secretary.

''(d) REGULATIONS.—The Secretary shall promulgate regulations that—

''(1) provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing payments, on a fair and equitable basis; and

''(2) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (b).

''(e) TRANSFER OR CHANGE OF INTEREST IN LAND SUBJECT TO CONSERVATION SECURITY CONTRACT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the transfer, or change in the interest, of a producer in land subject to a conservation security contract shall result in the termination of the conservation security contract.

''(2) TRANSFER OF DUTIES AND RIGHTS.—Paragraph (1) shall not apply if, not later than 60 days after the date of the transfer or change in the interest in land, the transferee of the land provides written notice to the Secretary that all duties and rights under the conservation security contract have been transferred to, and assumed by, the transferee.

''(f) ENROLLMENT PROCEDURE.—In entering into conservation security contracts with producers under this subchapter, the Secretary shall not use competitive bidding or any similar procedure.

''(g) TECHNICAL ASSISTANCE.—For each of fiscal years 2003 through 2007, the Secretary shall provide technical assistance to producers for the development and implementation of conservation security contracts, in an amount not to exceed 15 percent of amounts expended for the fiscal year.''.

(b) REGULATIONS.—Not later than 270 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations implementing the amendment made by subsection (a).

SEC. 2002. CONSERVATION COMPLIANCE.

(a) HIGHLY ERODIBLE LAND.—Section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) by striking the section heading and all that follows through ''Except as provided in'' and inserting the following:

''SEC. 1211. PROGRAM INELIGIBILITY.

''(a) IN GENERAL.—Except as provided in''; and

(2) by adding at the end the following:

''(b) HIGHLY ERODIBLE LAND.—The Secretary shall have, and shall not delegate to any private person or entity, authority to determine whether a person has complied with this subtitle.''.

(b) WETLAND.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended by adding at the end the following:

''(e) WETLAND.—The Secretary shall have, and shall not delegate to any private person or entity, authority to determine whether a person has complied with this subtitle.''.

SEC. 2003. PARTNERSHIPS AND COOPERATION.

Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is amended by adding at the end the following:

''(f) PARTNERSHIPS AND COOPERATION.—

''(1) IN GENERAL.—In carrying out any program under subtitle D, the Secretary may use resources provided under that subtitle to enter into stewardship agreements with State and local agencies, Indian tribes, and nongovernmental organizations and to designate special projects, as recommended by the State Conservationist, after consultation with the State technical committee, to enhance technical and financial assistance provided to owners, operators, and producers to address natural resource issues related to agricultural production.

''(2) CRITERIA FOR SPECIAL PROJECTS.—The purposes of special projects carried out under this subsection shall be to encourage—

''(A) producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural operations;

''(B) the sharing of information and technical and financial resources among producers;

''(C) cumulative conservation benefits in geographic areas; and

''(D) the development and demonstration of innovative conservation methods.

''(3) INCENTIVES.—To realize the purposes of the special projects under paragraph (1), the Secretary may provide special incentives to owners, operators, and producers participating in the special projects to encourage partnerships and enrollments of optimal conservation value.

''(4) FLEXIBILITY.—

''(A) IN GENERAL.—The Secretary may enter into stewardship agreements with States (including State agencies and units of local government), Indian tribes, and nongovernmental organizations that have a history of working with agricultural producers to allow greater flexibility to adjust the application of eligibility criteria, approved practices, innovative conservation practices, and other elements of the programs under this title to better reflect unique local circumstances and purposes in a manner that is consistent with—

''(i) conservation enhancement and long-term productivity of the natural resource base; and

''(ii) the purposes and requirements of this title.

''(B) PLAN.—Each party to a stewardship agreement under subparagraph (A) shall submit to the Secretary, for approval by the Secretary, a special project area plan for each program to be carried out by the party that includes—

''(i) a description of the requested resources and adjustments to program implementation (including a description of how those adjustments will accelerate the achievement of conservation benefits);

''(ii) an analysis of the contribution those adjustments will make to the effectiveness of programs in achieving the purposes of the special project;

''(iii) a timetable for reevaluating the need for or performance of the proposed adjustments;

''(iv) a description of non-Federal programs and resources that will contribute to achieving the purposes of the special project; and

''(v) a plan for the evaluation of progress toward the purposes of the special project.

''(5) FUNDING.—

''(A) IN GENERAL.—In addition to resources from programs under subtitle D, subject to subparagraph (B), the Secretary shall use not more than 5 percent of the funds made available for each fiscal year under section 1241(a) to carry out activities that are authorized under conservation programs under subtitle D.

''(B) UNUSED FUNDING.—Any funds made available for a fiscal year under subparagraph (A) that are not obligated by April 1 of the fiscal year may be used to carry out other activities under conservation programs under subtitle D during the fiscal year in which the funding becomes available.''.

SEC. 2004. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

(a) IN GENERAL.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended by adding at the end the following:

"SEC. 1244. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

''(a) BEGINNING FARMERS AND RANCHERS AND INDIAN TRIBES.—In carrying out any conservation program administered by the Secretary, the Secretary may provide to beginning farmers and ranchers and Indian tribes (as those terms are defined in section 1238) and limited resource agricultural producers incentives to participate in the conservation program to—

''(1) foster new farming and ranching opportunities; and

''(2) enhance environmental stewardship over the long term.

''(b) PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.—

''(1) INFORMATION RECEIVED FOR TECHNICAL AND FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—In accordance with section 552(b)(3) of title 5, United States Code, except as provided in subparagraph (C) and paragraph (2), information described in subparagraph (B)—

''(i) shall not be considered to be public information; and

''(ii) shall not be released to any person or Federal, State, local agency or Indian tribe (as defined by the Secretary) outside the Department of Agriculture.

''(B) INFORMATION.—The information referred to in subparagraph (A) is information—

''(i) provided to the Secretary or a contractor of the Secretary (including information provided under subtitle D) for the purpose of providing technical or financial assistance to an owner, operator, or producer with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency; and

''(ii) that is proprietary (within the meaning of section 552(b)(4) of title 5, United States Code) to the agricultural operation or land that is a part of an agricultural operation of the owner, operator, or producer.

''(C) EXCEPTION.—Nothing in this section affects the availability of payment information (including payment amounts and the names and addresses of recipients of payments) under section 552 of title 5, United States Code.

''(2) EXCEPTIONS.—

''(A) RELEASE AND DISCLOSURE FOR ENFORCEMENT.—The Secretary may release or disclose to the Attorney General information covered by paragraph (1) to the extent necessary to enforce the natural resources conservation programs referred to in paragraph (1)(B)(i).

''(B) DISCLOSURE TO COOPERATING PERSONS AND AGENCIES.—

''(i) IN GENERAL.—The Secretary may release or disclose information covered by paragraph (1) to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in providing technical and financial assistance described in paragraph (1)(B)(i) or collecting information from data gathering sites.

''(ii) USE OF INFORMATION.—The person or Federal, State, local, or tribal agency that receives information described in clause (i) may release the information only for the purpose of assisting the Secretary—

''(I) in providing the requested technical or financial assistance; or

''(II) in collecting information from data gathering sites.

''(C) STATISTICAL AND AGGREGATE INFORMATION.—Information covered by paragraph (1) may be disclosed to the public if the information has been transformed into a statistical or aggregate form without naming any—

''(i) individual owner, operator, or producer; or

''(ii) specific data gathering site.

''(D) CONSENT OF OWNER, OPERATOR, OR PRODUCER.—

''(i) IN GENERAL.—An owner, operator, or producer may consent to the disclosure of information described in paragraph (1).

''(ii) CONDITION OF OTHER PROGRAMS.—The participation of the owner, operator, or producer in, and the receipt of any benefit by the owner, operator, or producer under, this title or any other program administered by the Secretary may not be conditioned on the owner, operator, or producer providing consent under this paragraph.

''(3) VIOLATIONS; PENALTIES.—Section 1770(c) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this subsection.

''(4) DATA COLLECTION, DISCLOSURE, AND REVIEW.—Nothing in this subsection—

''(A) affects any procedure for data collection or disclosure through the National Resources Inventory; or

''(B) limits the authority of Congress or the General Accounting Office to review information collected or disclosed under this subsection.''.

(b) NATIONAL RESOURCES INVENTORY.—Section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''or'' at the end;

(B) in paragraph (2), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(3) in the case of information collected under the authority described in subsection (d)(12), disclose the information to any person or any Federal, State, local, or tribal agency outside the Department of Agriculture, unless the information has been converted into a statistical or aggregate form that does not allow the identification of the person that supplied particular information.''; and

(2) in subsection (d)—

(A) in paragraph (9), by striking ''or'' at the end;

(B) in paragraph (11), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(12) section 302 of the Rural Development Act of 1972 (7 U.S.C. 1010a) regarding the authority to collect data for the National Resources Inventory.''.

SEC. 2005. REFORM AND ASSESSMENT OF CONSERVATION PROGRAMS.

(a) IN GENERAL.—The Secretary of Agriculture shall develop a plan to coordinate land retirement and agricultural working land conservation programs that are administered by the Secretary to achieve the goals of—

(1) eliminating redundancy;

(2) streamlining program delivery; and

(3) improving services provided to agricultural producers (including the reevaluation of the provision of technical assistance).

(b) REPORT.—Not later than December 31, 2005, 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 that describes—

(1) the plan developed under subsection (a); and

(2) the means by which the Secretary intends to achieve the goals described in subsection (a).

SEC. 2006. CONFORMING AMENDMENTS.

(a) Chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by striking the chapter heading and inserting the following:

"CHAPTER 1—COMPREHENSIVE CONSERVATION ENHANCEMENT PROGRAM''.

(b) Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended—

(1) in the section heading, by striking ''**ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM**'' and inserting ''**COMPREHENSIVE CONSERVATION ENHANCEMENT PROGRAM**'';

(2) in subsection (a)(1), by striking ''an environmental conservation acreage reserve program'' and inserting ''a comprehensive conservation enhancement program'';

(3) by striking subsection (c); and

(4) by striking ''ECARP'' each place it appears and inserting ''CCEP''.

(c) Section 1230A of the Food Security Act of 1985 (16 U.S.C. 3830a) is repealed.

(d) Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is amended by striking the section heading and inserting the following:

"SEC. 1243. ADMINISTRATION OF CCEP.".

Subtitle B—Conservation Reserve

SEC. 2101. CONSERVATION RESERVE PROGRAM.

(a) IN GENERAL.—Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) is amended to read as follows:

"Subchapter B—Conservation Reserve

"SEC. 1231. CONSERVATION RESERVE.

''(a) IN GENERAL.—Through the 2007 calendar year, the Secretary shall formulate and carry out a conservation reserve program under which land is enrolled through the use of contracts to assist owners and operators of land specified in subsection (b) to conserve and improve the soil, water, and wildlife resources of such land.

''(b) ELIGIBLE LAND.—The Secretary may include in the program established under this subchapter—

''(1) highly erodible cropland that—

''(A)(i) if permitted to remain untreated could substantially reduce the agricultural production capability for future generations; or

''(ii) cannot be farmed in accordance with a plan that complies with the requirements of subtitle B; and

''(B) the Secretary determines had a cropping history or was considered to be planted for 4 of the 6 years preceding the date of enactment of the Farm Security and Rural Investment Act of 2002 (except for land enrolled in the conservation reserve program as of that date).

''(2) marginal pasture land converted to wetland or established as wildlife habitat prior to November 28, 1990;

''(3) marginal pasture land to be devoted to appropriate vegetation, including trees, in or near riparian areas, or devoted to similar water quality purposes (including marginal pastureland converted to wetland or established as wildlife habitat);

''(4) cropland that is otherwise ineligible if the Secretary determines that—

''(A) if permitted to remain in agricultural production, the land would—

''(i) contribute to the degradation of soil, water, or air quality; or

''(ii) pose an on-site or off-site environmental threat to soil, water, or air quality;

''(B) the land is a—

''(i) newly-created, permanent grass sod waterway; or

''(ii) a contour grass sod strip established and maintained as part of an approved conservation plan;

''(C) the land will be devoted to newly established living snow fences, permanent wildlife habitat, windbreaks, shelterbelts, or filterstrips devoted to trees or shrubs; or

''(D) the land poses an off-farm environmental threat, or a threat of continued degradation of productivity due to soil salinity, if permitted to remain in production; and

''(E) enrollment of the land would facilitate a net savings in groundwater or surface water resources of the agricultural operation of the producer;

''(5) the portion of land in a field not enrolled in the conservation reserve in a case in which more than 50 percent of the land in the field is enrolled as a buffer, if—

''(A) the land is enrolled as part of the buffer; and

''(B) the remainder of the field is—

''(i) infeasible to farm; and

''(ii) enrolled at regular rental rates.

''(c) PLANTING STATUS OF CERTAIN LAND.—For purposes of determining the eligibility of land to be placed in the conservation reserve established under this subchapter, land shall be considered to be planted to an agricultural commodity during a crop year if—

''(1) during the crop year, the land was devoted to a conserving use; or

''(2)(A) during the crop year or during any of the 2 years preceding the crop year, the land was enrolled in the water bank program; and

''(B) the contract of the owner or operator of the cropland expired or will expire in calendar year 2000, 2001, or 2002.

''(d) MAXIMUM ENROLLMENT.—The Secretary may maintain up to 39,200,000 acres in the conservation reserve at any 1 time during the 2002 through 2007 calendar years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 3831 note; Public Law 101–624)).

''(e) DURATION OF CONTRACT.—

''(1) IN GENERAL.—For the purpose of carrying out this subchapter, the Secretary shall enter into contracts of not less than 10, nor more than 15, years.

''(2) CERTAIN LAND.—

''(A) IN GENERAL.—In the case of land devoted to hardwood trees, shelterbelts, windbreaks, or wildlife corridors under a contract entered into under this subchapter after October 1, 1990, and land devoted to such uses under contracts modified under section 1235A, the owner or operator of the land may, within the limitations prescribed under this section, specify the duration of the contract.

''(B) HARDWOOD TREES.—In the case of land that is devoted to hardwood trees under a contract entered into under this subchapter prior to October 1, 1990, the Secretary may extend the contract for a term of not to exceed 5 years, as agreed to by the owner or operator of such land and the Secretary.

''(3) 1-YEAR EXTENSION.—In the case of a contract described in paragraph (1) the term of which expires during calendar year 2002, an owner or operator of land enrolled under the contract may extend the contract for 1 additional year.

''(f) CONSERVATION PRIORITY AREAS.—

''(1) DESIGNATION.—On application by the appropriate State agency, the Secretary shall designate watershed areas of the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia), the Great Lakes Region, the Long Island Sound Region, and other areas of special environmental sensitivity as conservation priority areas.

''(2) ELIGIBLE WATERSHEDS.—Watersheds eligible for designation under this subsection shall include areas with actual and significant adverse water quality or habitat impacts related to agricultural production activities.

''(3) EXPIRATION.—Conservation priority area designation under this subsection shall expire after 5 years, subject to redesignation, except that the Secretary may withdraw a watershed's designation—

''(A) on application by the appropriate State agency; or

''(B) in the case of an area covered by this subsection, if the Secretary finds that the area no longer contains actual and significant adverse water quality or habitat impacts related to agricultural production activities.

''(4) DUTY OF SECRETARY.—In carrying out this subsection, the Secretary shall attempt to maximize water quality and habitat benefits in the watersheds described in paragraph (1) by promoting a significant level of enrollment of land within the watersheds in the program under this subchapter by whatever means the Secretary determines are appropriate and consistent with the purposes of this subchapter.

''(g) MULTI-YEAR GRASSES AND LEGUMES.—For purposes of this subchapter, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.

''(h) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

''(1) PROGRAM.—

''(A) IN GENERAL.—During the 2002 through 2007 calendar years, the Secretary shall carry out a program in each State under which the Secretary shall include eligible acreage described in paragraph (2) in the program established under this subchapter.

''(B) PARTICIPATION AMONG STATES.-The Secretary shall ensure, to the maximum extent practicable, that owners and operators in each State have an equitable opportunity to participate in the pilot program established under this subsection.

''(2) ELIGIBLE ACREAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (D), an owner or operator may enroll in the conservation reserve under this subsection—

''(i) a wetland (including a converted wetland described in section 1222(b)(1)(A)) that was cropped during at least 3 of the immediately preceding 10 crop years; and

''(ii) buffer acreage that—

''(I) is contiguous to the wetland described in clause (i);

''(II) is used to protect the wetland; and

''(III) is of such width as the Secretary determines is necessary to protect the wetland, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds the wetland.

''(B) EXCLUSIONS.—An owner or operator may not enroll in the conservation reserve under this subsection—

''(i) any wetland, or land on a floodplain, that is, or is adjacent to, a perennial riverine system wetland identified on the final national wetland inventory map of the Secretary of the Interior; or

''(ii) in the case of an area that is not covered by the final national inventory map, any wetland, or land on a floodplain, that is adjacent to a perennial stream identified on a 1-24,000 scale map of the United States Geological Survey.

''(C) PROGRAM LIMITATIONS.—

''(i) IN GENERAL.—The Secretary may enroll in the conservation reserve under this subsection not more than—

''(I) 100,000 acres in any 1 State referred to in paragraph (1); and

''(II) not more than a total of 1,000,000 acres.

''(ii) RELATIONSHIP TO PROGRAM MAXIMUM.—Subject to clause (iii), for the purposes of subsection (d), any acreage enrolled in the conservation reserve under this subsection shall be considered acres maintained in the conservation reserve.

''(iii) RELATIONSHIP TO OTHER ENROLLED ACREAGE.—Acreage enrolled under this subsection shall not affect for any fiscal year the quantity of—

''(I) acreage enrolled to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109); or

''(II) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).

''(iv) REVIEW; POTENTIAL INCREASE IN ENROLLMENT ACREAGE.—Not later than 3 years after the date of enactment of this clause, the Secretary shall—

''(I) conduct a review of the program under this subsection with respect to each State that has enrolled land in the program; and

''(II) notwithstanding clause (i)(I), increase the number of acres that may be enrolled by a State under clause (i)(I) to not more than 150,000 acres, as determined by the Secretary.

''(D) OWNER OR OPERATOR LIMITATIONS.—

''(i) WETLAND.—

''(I) IN GENERAL.—The maximum size of any wetland described in subparagraph (A)(i) of an owner or operator enrolled in the conservation reserve under this subsection shall be 10 contiguous acres, of which not more than 5 acres shall be eligible for payment.

''(II) COVERAGE.—All acres described in subclause (I) (including acres that are ineligible for payment) shall be covered by the conservation contract.

''(ii) BUFFER ACREAGE.—The maximum size of any buffer acreage described in subparagraph (A)(ii) of an owner or operator enrolled in the conservation reserve under this subsection shall be the greater of—

''(I) 3 times the size of any wetland described in subparagraph (A)(i) to which the buffer acreage is contiguous; or

''(II) 150 feet on either side of the wetland.

''(iii) TRACTS.—The maximum size of any eligible acreage described in subparagraph (A) in a tract (as determined by the Secretary) of an owner or operator enrolled in the conservation reserve under this subsection shall be 40 acres.

''(3) DUTIES OF OWNERS AND OPERATORS.—Under a contract entered into under this subsection, during the term of the contract, an owner or operator of a farm or ranch shall agree—

''(A) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;

''(B) to establish vegetative cover (which may include emerging vegetation in water) on the eligible acreage, as determined by the Secretary; and

''(C) to carry out other duties described in section 1232.

''(4) DUTIES OF THE SECRETARY.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in return for a contract entered into by an owner or operator under this subsection, the Secretary shall make payments and provide assistance to the owner or operator in accordance with sections 1233 and 1234.

''(B) CONTINUOUS SIGNUP.—The Secretary shall use continuous signup under section 1234(c)(2)(B) to determine the acceptability of contract offers and the amount of rental payments under this subsection.

''(C) INCENTIVES.—The amounts payable to owners and operators in the form of rental payments under contracts entered into under this subsection shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 1234.

''(i) ELIGIBILITY FOR CONSIDERATION.—On the expiration of a contract entered into under this subchapter, the land subject to the contract shall be eligible to be considered for reenrollment in the conservation reserve.

''(j) BALANCE OF NATURAL RESOURCE PURPOSES.—In determining the acceptability of contract offers under this subchapter, the Secretary shall ensure, to the maximum extent practicable, an equitable balance among the conservation purposes of soil erosion, water quality, and wildlife habitat.

"SEC. 1232. DUTIES OF OWNERS AND OPERATORS.

''(a) IN GENERAL.—Under the terms of a contract entered into under this subchapter, during the term of the contract, an owner or operator of a farm or ranch shall agree—

''(1) to implement a plan approved by the local conservation district (or in an area not located within a conservation district, a plan approved by the Secretary) for converting eligible land normally devoted to the production of an agricultural commodity on the farm or ranch to a less intensive use (as defined by the Secretary), such as pasture, permanent grass, legumes, forbs, shrubs, or trees, substantially in accordance with a schedule outlined in the plan;

''(2) to place highly erodible cropland subject to the contract in the conservation reserve established under this subchapter;

''(3) not to use the land for agricultural purposes, except as permitted by the Secretary;

''(4) to establish approved vegetative cover (which may include emerging vegetation in water), water cover for the enhancement of wildlife, or, where practicable, maintain existing cover on the land, except that—

''(A) the water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes; and

''(B) the Secretary shall not terminate the contract for failure to establish approved vegetative or water cover on the land if—

''(i) the failure to plant the cover was due to excessive rainfall or flooding;

''(ii) the land subject to the contract that could practicably be planted to the cover is planted to the cover; and

''(iii) the land on which the owner or operator was unable to plant the cover is planted to the cover after the wet conditions that prevented the planting subsides;

''(5) on a violation of a term or condition of the contract at any time the owner or operator has control of the land—

''(A) to forfeit all rights to receive rental payments and cost sharing payments under the contract and to refund to the Secretary any rental payments and cost sharing payments received by the owner or operator under the contract, together with interest on the payments as determined by the Secretary, if the Secretary, after considering the recommendations of the soil conservation district and the Natural Resources Conservation Service, determines that the violation is of such nature as to warrant termination of the contract; or

''(B) to refund to the Secretary, or accept adjustments to, the rental payments and cost sharing payments provided to the owner or operator, as the Secretary considers appropriate, if the Secretary determines that the violation does not warrant termination of the contract;

''(6) on the transfer of the right and interest of the owner or operator in land subject to the contract—

''(A) to forfeit all rights to rental payments and cost sharing payments under the contract; and

''(B) to refund to the United States all rental payments and cost sharing payments received by the owner or operator, or accept such payment adjustments or make such refunds as the Secretary considers appropriate and consistent with the objectives of this subchapter;

unless the transferee of the land agrees with the Secretary to assume all obligations of the contract, except that no refund of rental payments and cost sharing payments shall be required if the land is purchased by or for the United States Fish and Wildlife Service, or the transferee and the Secretary agree to modifications to the contract, in a case in which the modifications are consistent with the objectives of the program, as determined by the Secretary;

''(7) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—

''(A) managed harvesting and grazing (including the managed harvesting of biomass), except that in permitting managed harvesting and grazing, the Secretary—

''(i) shall, in coordination with the State technical committee—

''(I) develop appropriate vegetation management requirements; and

''(II) identify periods during which harvesting and grazing under this paragraph may be conducted;

''(ii) may permit harvesting and grazing or other commercial use of the forage on the land that is subject to the contract in response to a drought or other emergency; and

''(iii) shall, in the case of routine managed harvesting or grazing or harvesting or grazing conducted in response to a drought or other emergency, reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the activity; and

''(B) the installation of wind turbines, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

''(i) the location, size, and other physical characteristics of the land;

''(ii) the extent to which the land contains wildlife and wildlife habitat; and

''(iii) the purposes of the conservation reserve program under this subchapter;

''(8) not to conduct any planting of trees on land that is subject to the contract unless the contract specifies that the harvesting and commercial sale of trees such as Christmas trees are prohibited, nor otherwise make commercial use of trees on land that is subject to the contract unless it is expressly permitted in the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that no contract shall prohibit activities consistent with customary forestry practice, such as pruning, thinning, or stand improvement of trees, on land converted to forestry use;

''(9) not to adopt any practice specified by the Secretary in the contract as a practice that would tend to defeat the purposes of this subchapter; and

''(10) to comply with such additional provisions as the Secretary determines are desirable and are included in the contract to carry out this subchapter or to facilitate the practical administration of this subchapter.

''(b) CONSERVATION PLANS.—The plan referred to in subsection (a)(1)—

''(1) shall set forth—

''(A) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

''(B) the commercial use, if any, to be permitted on the land during the term; and

''(2) may provide for the permanent retirement of any existing cropland base and allotment history for the land.

''(c) FORECLOSURE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an owner or operator who is a party to a contract entered into under this subchapter may not be required to make repayments to the Secretary of amounts received under the contract if the land that is subject to the contract has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment.

''(2) RESUMPTION OF CONTROL.—

''(A) IN GENERAL.—This subsection shall not void the responsibilities of an owner or operator under the contract if the owner or operator resumes control over the land that is subject to the contract within the period specified in the contract.

''(B) CONTRACT.—On the resumption of the control over the land by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

''SEC. 1233. DUTIES OF THE SECRETARY.

''In return for a contract entered into by an owner or operator under section 1232, the Secretary shall—

''(1) share the cost of carrying out the conservation measures and practices set forth in the contract for which the Secretary determines that cost sharing is appropriate and in the public interest; and

''(2) for a period of years not in excess of the term of the contract, pay an annual rental payment in an amount necessary to compensate for—

''(A) the conversion of highly erodible cropland normally devoted to the production of an agricultural commodity on a farm or ranch to a less intensive use; and

''(B) the retirement of any cropland base and allotment history that the owner or operator agrees to retire permanently.

''SEC. 1234. PAYMENTS.

''(a) TIMING.—The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this subchapter—

''(1) with respect to any cost-sharing payment obligation incurred by the Secretary, as soon as practicable after the obligation is incurred; and

''(2) with respect to any annual rental payment obligation incurred by the Secretary—

''(A) as soon as practicable after October 1 of each calendar year; or

''(B) at the option of the Secretary, at any time prior to such date during the year that the obligation is incurred.

''(b) FEDERAL PERCENTAGE OF COST SHARING PAYMENTS.—

''(1) IN GENERAL.—In making cost sharing payments to an owner or operator under a contract entered into under this subchapter, the Secretary shall pay 50 percent of the cost of establishing water quality and conservation measures and practices required under each contract for which the Secretary determines that cost sharing is appropriate and in the public interest.

''(2) LIMITATION.—The Secretary shall not make any payment to an owner or operator under this subchapter to the extent that the total amount of cost sharing payments provided to the owner or operator from all sources would exceed 100 percent of the total cost of establishing measures and practices described in paragraph (1).

''(3) HARDWOOD TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.—

''(A) APPLICABILITY.—This paragraph applies to—

''(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subchapter after November 28, 1990; and

''(ii) land converted to such production under section 1235A.

''(B) PAYMENTS.—In making cost share payments to an owner or operator of land described in subparagraph (A), the Secretary shall pay 50 percent of the reasonable and necessary costs, as determined by the Secretary, incurred by the owner or operator for maintaining trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator), during not less than the 2-year, and not more than the 4-year, period beginning on the date of the planting of the trees or shrubs, as determined appropriate by the Secretary.

''(4) HARDWOOD TREE PLANTING.—The Secretary may permit owners or operators that contract to devote at least 10 acres of land to the production of hardwood trees under this subchapter to extend the planting of the trees over a 3-year period if at least ⅓ of the trees are planted in each of the first 2 years.

''(5) OTHER FEDERAL COST SHARE ASSISTANCE.—An owner or operator shall not be eligible to receive or retain cost share assistance under this subsection if the owner or operator receives any other Federal cost share assistance with respect to the land under any other provision of law.

''(c) ANNUAL RENTAL PAYMENTS.—

''(1) IN GENERAL.—In determining the amount of annual rental payments to be paid to owners and operators for converting highly erodible cropland normally devoted to the production of

an agricultural commodity to less intensive use, the Secretary may consider, among other things, the amount necessary to encourage owners or operators of highly erodible cropland to participate in the program established by this subchapter.

''(2) METHOD OF DETERMINATION.—The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subchapter may be determined through—

''(A) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

''(B) such other means as the Secretary determines are appropriate.

''(3) ACCEPTANCE OF CONTRACT OFFERS.—In determining the acceptability of contract offers, the Secretary may—

''(A) take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, wildlife habitat, or provide other environmental benefits; and

''(B) establish different criteria in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.

''(4) HARDWOOD TREE ACREAGE.—In the case of acreage enrolled in the conservation reserve established under this subchapter that is to be devoted to hardwood trees, the Secretary may consider bids for contracts under this subsection on a continuous basis.

''(d) CASH OR IN-KIND PAYMENTS.—

''(1) IN GENERAL.—Except as otherwise provided in this section, payments under this subchapter—

''(A) shall be made in cash or in commodities in such amount and on such time schedule as is agreed on and specified in the contract; and

''(B) may be made in advance of determination of performance.

''(2) METHOD OF PROVIDING IN-KIND PAYMENTS.—If the payment to an owner or operator is made with in-kind commodities, the payment shall be made by the Commodity Credit Corporation—

''(A) by delivery of the commodity involved to the owner or operator at a warehouse or other similar facility located in the county in which the highly erodible cropland is located or at such other location as is agreed to by the Secretary and the owner or operator;

''(B) by the transfer of negotiable warehouse receipts; or

''(C) by such other method, including the sale of the commodity in commercial markets, as is determined by the Secretary to be appropriate to enable the owner or operator to receive efficient and expeditious possession of the commodity.

''(3) CASH PAYMENTS.—

''(A) COMMODITY CREDIT CORPORATION STOCKS.—If stocks of a commodity acquired by the Commodity Credit Corporation are not readily available to make full payment in kind to the owner or operator, the Secretary may substitute full or partial payment in cash for payment in kind.

''(B) SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.—Payments to an owner or operator under a special conservation reserve enhancement program described in subsection (f)(4) shall be in the form of cash only.

''(e) PAYMENTS ON DEATH, DISABILITY, OR SUCCESSION.—If an owner or operator that is entitled to a payment under a contract entered into under this subchapter dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person that renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

''(f) PAYMENT LIMITATION FOR RENTAL PAYMENTS.—

''(1) IN GENERAL.—The total amount of rental payments, including rental payments made in the form of in-kind commodities, made to a person under this subchapter for any fiscal year may not exceed $50,000.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall promulgate regulations—

''(i) defining the term 'person' as used in this subsection; and

''(ii) providing such terms and conditions as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established by this subsection.

''(B) CORPORATIONS AND STOCKHOLDERS.—The regulations promulgated by the Secretary on December 18, 1970, under section 101 of the Agricultural Act of 1970 (7 U.S.C. 1307), shall be used to determine whether corporations and their stockholders may be considered as separate persons under this subsection.

''(3) OTHER PAYMENTS.—Rental payments received by an owner or operator shall be in addition to, and not affect, the total amount of payments that the owner or operator is otherwise eligible to receive under the Farm Security and Rural Investment Act of 2002.

''(4) SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.—

''(A) IN GENERAL.—The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C. 1308 note; Public Law 100–203), shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special conservation reserve enhancement program carried out by that entity that has been approved by the Secretary.

''(B) AGREEMENTS.—The Secretary may enter into such agreements for payments to States (including political subdivisions and agencies of States) that the Secretary determines will advance the purposes of this subchapter.

''(g) OTHER STATE OR LOCAL ASSISTANCE.—In addition to any payment under this subchapter, an owner or operator may receive cost share assistance, rental payments, or tax benefits from a State or subdivision thereof for enrolling land in the conservation reserve program.

"SEC. 1235. CONTRACTS.

''(a) OWNERSHIP OR OPERATION REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no contract shall be entered into under this subchapter concerning land with respect to which the ownership has changed in the 1-year period preceding the first year of the contract period unless—

''(A) the new ownership was acquired by will or succession as a result of the death of the previous owner;

''(B) the new ownership was acquired before January 1, 1985;

''(C) the Secretary determines that the land was acquired under circumstances that give adequate assurance that the land was not acquired for the purpose of placing the land in the program established by this subchapter; or

''(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.

''(2) EXCEPTIONS.—Paragraph (1) shall not—

''(A) prohibit the continuation of an agreement by a new owner after an agreement has been entered into under this subchapter; or

''(B) require a person to own the land as a condition of eligibility for entering into the contract if the person—

''(i) has operated the land to be covered by a contract under this section for at least 1 year preceding the date of the contract or since January 1, 1985, whichever is later; and

''(ii) controls the land for the contract period.

''(b) SALES OR TRANSFERS.—If, during the term of a contract entered into under this subchapter, an owner or operator of land subject to the contract sells or otherwise transfers the ownership or right of occupancy of the land, the new owner or operator of the land may—

''(1) continue the contract under the same terms or conditions;

''(2) enter into a new contract in accordance with this subchapter; or

''(3) elect not to participate in the program established by this subchapter.

''(c) MODIFICATIONS.—

''(1) IN GENERAL.—The Secretary may modify a contract entered into with an owner or operator under this subchapter if—

''(A) the owner or operator agrees to the modification; and

''(B) the Secretary determines that the modification is desirable—

''(i) to carry out this subchapter;

''(ii) to facilitate the practical administration of this subchapter; or

''(iii) to achieve such other goals as the Secretary determines are appropriate, consistent with this subchapter.

''(2) PRODUCTION OF AGRICULTURAL COMMODITIES.—The Secretary may modify or waive a term or condition of a contract entered into under this subchapter in order to permit all or part of the land subject to such contract to be devoted to the production of an agricultural commodity during a crop year, subject to such conditions as the Secretary determines are appropriate.

''(d) TERMINATION.—

''(1) IN GENERAL.—The Secretary may terminate a contract entered into with an owner or operator under this subchapter if—

''(A) the owner or operator agrees to the termination; and

''(B) the Secretary determines that the termination would be in the public interest.

''(2) NOTICE TO CONGRESSIONAL COMMITTEES.—At least 90 days before taking any action to terminate under paragraph (1) all conservation reserve contracts entered into under this subchapter, the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate written notice of the action.

''(e) EARLY TERMINATION BY OWNER OR OPERATOR.—

''(1) EARLY TERMINATION.—

''(A) IN GENERAL.—The Secretary shall allow a participant that entered into a contract under this subchapter before January 1, 1995, to terminate the contract at any time if the contract has been in effect for at least 5 years.

''(B) LIABILITY FOR CONTRACT VIOLATION.—The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination.

''(C) NOTICE TO SECRETARY.—The participant shall provide the Secretary with reasonable notice of the desire of the participant to terminate the contract.

''(2) CERTAIN LAND EXCEPTED.—The following land shall not be subject to an early termination of contract under this subsection:

''(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

''(B) Land with an erodibility index of more than 15.

''(C) Other land of high environmental value (including wetland), as determined by the Secretary.

''(3) EFFECTIVE DATE.—The contract termination shall become effective 60 days after the date on which the owner or operator submits the notice required under paragraph (1)(C).

''(4) PRORATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

''(5) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator that requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

''(6) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar land in the area, except that the requirements may not be more onerous than the requirements imposed on other land.

''SEC. 1235A. CONVERSION OF LAND SUBJECT TO CONTRACT TO OTHER CONSERVING USES.

''(a) CONVERSION TO TREES.—

''(1) IN GENERAL.—The Secretary shall permit an owner or operator that has entered into a contract under this subchapter that is in effect on November 28, 1990, to convert areas of highly erodible cropland that are subject to the contract, and that are devoted to vegetative cover, from that use to hardwood trees, windbreaks, shelterbelts, or wildlife corridors.

''(2) TERMS.—

''(A) EXTENSION OF CONTRACT.—With respect to a contract that is modified under this section that provides for the planting of hardwood trees, windbreaks, shelterbelts, or wildlife corridors, if the original term of the contract was less than 15 years, the owner or operator may extend the contract to a term of not to exceed 15 years.

''(B) COST SHARE ASSISTANCE.—The Secretary shall pay 50 percent of the cost of establishing conservation measures and practices authorized under this subsection for which the Secretary determines the cost sharing is appropriate and in the public interest.

''(b) CONVERSION TO WETLAND.—The Secretary shall permit an owner or operator that has entered into a contract under this subchapter that is in effect on November 28, 1990, to restore areas of highly erodible cropland that are devoted to vegetative cover under the contract to wetland if—

''(1) the areas are prior converted wetland;

''(2) the owner or operator of the areas enters into an agreement to provide the Secretary with a long-term or permanent easement under subchapter C covering the areas;

''(3) there is a high probability that the prior converted area can be successfully restored to wetland status; and

''(4) the restoration of the areas otherwise meets the requirements of subchapter C.

''(c) LIMITATION.—The Secretary shall not incur, through a conversion under this section, any additional expense on the acres, including the expense involved in the original establishment of the vegetative cover, that would result in cost share for costs under this section in excess of the costs that would have been subject to cost share for the new practice had that practice been the original practice.

''(d) CONDITION OF CONTRACT.—An owner or operator shall as a condition of entering into a contract under subsection (a) participate in the Forest Stewardship Program established under section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a).''.

(b) STUDY ON ECONOMIC EFFECTS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, 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 that describes the economic and social effects on rural communities resulting from the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(2) COMPONENTS.—The study under paragraph (1) shall include analyses of—

(A) the impact that enrollments in the conservation reserve program have on rural businesses, civic organizations, and community services (such as schools, public safety, and infrastructure), particularly in communities with a large percentage of whole farm enrollments;

(B) the effect that those enrollments have on rural population and beginning farmers (including a description of any connection between the rate of enrollment and the incidence of absentee ownership);

(C)(i) the manner in which differential per acre payment rates potentially impact the types of land (by productivity) enrolled;

(ii) changes to the per acre payment rates that may affect that impact; and

(iii) the manner in which differential per acre payment rates could facilitate retention of productive agricultural land in agriculture; and

(D) the effect of enrollment on opportunities for recreational activities (including hunting and fishing).

Subtitle C—Wetlands Reserve Program

SEC. 2201. REAUTHORIZATION.

Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 2202. ENROLLMENT.

Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) ENROLLMENT CONDITIONS.—

''(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 2,275,000 acres, of which, to the maximum extent practicable, the Secretary shall enroll 250,000 acres in each calendar year.

''(2) METHODS OF ENROLLMENT.—The Secretary shall enroll acreage into the wetlands reserve program through the use of permanent easements, 30-year easements, restoration cost share agreements, or any combination of those options.''; and

(2) by striking subsection (g).

SEC. 2203. EASEMENTS AND AGREEMENTS.

Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended by striking subsection (h).

SEC. 2204. CHANGES IN OWNERSHIP; AGREEMENT MODIFICATION; TERMINATION.

Section 1237E(a) of the Food Security Act of 1985 (16 U.S.C. 3837e(a)) is amended by striking paragraph (2) and inserting the following:

''(2)(A) the ownership change occurred because of foreclosure on the land; and

''(B) immediately before the foreclosure, the owner of the land exercises a right of redemption from the mortgage holder in accordance with State law; or''.

Subtitle D—Environmental Quality Incentives

SEC. 2301. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) is amended to read as follows:

''SEC. 1240. PURPOSES.

''The purposes of the environmental quality incentives program established by this chapter are to promote agricultural production and environmental quality as compatible goals, and to optimize environmental benefits, by—

''(1) assisting producers in complying with local, State, and national regulatory requirements concerning—

''(A) soil, water, and air quality;

''(B) wildlife habitat; and

''(C) surface and ground water conservation;

''(2) avoiding, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, tribal, and local agencies;

''(3) providing flexible assistance to producers to install and maintain conservation practices that enhance soil, water, related natural resources (including grazing land and wetland), and wildlife while sustaining production of food and fiber;

''(4) assisting producers to make beneficial, cost effective changes to cropping systems, grazing management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural land; and

''(5) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals.

''SEC. 1240A. DEFINITIONS.

''In this chapter:

''(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning provided under section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999(a)).

''(2) ELIGIBLE LAND.—

''(A) IN GENERAL.—The term 'eligible land' means land on which agricultural commodities or livestock are produced.

''(B) INCLUSIONS.—The term 'eligible land' includes—

''(i) cropland;

''(ii) grassland;

''(iii) rangeland;

''(iv) pasture land;

''(v) private, nonindustrial forest land; and

''(vi) other agricultural land that the Secretary determines poses a serious threat to soil, air, water, or related resources.

''(3) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, air quality management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect from degradation, in the most cost-effective manner, water, soil, or related resources.

''(4) LIVESTOCK.—The term 'livestock' means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and other such animals as are determined by the Secretary.

''(5) PRACTICE.—The term 'practice' means 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices.

''(6) STRUCTURAL PRACTICE.—The term 'structural practice' means—

''(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, constructed wetland, or other structural practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation; and

''(B) the capping of abandoned wells on eligible land.

''SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During each of the 2002 through 2007 fiscal years, the Secretary shall provide cost-share payments and incentive payments to producers that enter into contracts with the Secretary under the program.

''(2) ELIGIBLE PRACTICES.—With respect to practices implemented under this chapter—

''(A) a producer that implements a structural practice in accordance with this chapter shall be eligible to receive cost-share payments; and

''(B) a producer that implements a land management practice, or develops a comprehensive

nutrient management plan, in accordance with this chapter shall be eligible to receive incentive payments.

''(b) PRACTICES AND TERM.—

''(1) PRACTICES.—A contract under this chapter may apply to 1 or more structural practices, land management practices, and comprehensive nutrient management practices.

''(2) TERM.—A contract under this chapter shall have a term that—

''(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is 1 year after the date on which all practices under the contract have been implemented; but

''(B) not to exceed 10 years.

''(c) BIDDING DOWN.—If the Secretary determines that the environmental values of 2 or more applications for cost-share payments or incentive payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program established under the program.

''(d) COST-SHARE PAYMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the cost-share payments provided to a producer proposing to implement 1 or more practices under the program shall be not more than 75 percent of the cost of the practice, as determined by the Secretary.

''(2) EXCEPTIONS.—

''(A) LIMITED RESOURCE AND BEGINNING FARMERS.—The Secretary may increase the amount provided to a producer under paragraph (1) to not more than 90 percent if the producer is a limited resource or beginning farmer or rancher, as determined by the Secretary.

''(B) COST-SHARE ASSISTANCE FROM OTHER SOURCES.—Except as provided in paragraph (3), any cost-share payments received by a producer from a State or private organization or person for the implementation of 1 or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under paragraph (1).

''(3) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for practices on eligible land under the program if the producer receives cost-share payments or other benefits for the same practice on the same land under chapter 1 and the program.

''(e) INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more land management practices.

''(2) SPECIAL RULE.—In determining the amount and rate of incentive payments, the Secretary may accord great significance to a practice that promotes residue, nutrient, pest, invasive species, or air quality management.

''(f) MODIFICATION OR TERMINATION OF CONTRACTS.—

''(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

''(A) the producer agrees to the modification or termination; and

''(B) the Secretary determines that the modification or termination is in the public interest.

''(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

''(g) ALLOCATION OF FUNDING.—For each of fiscal years 2002 through 2007, 60 percent of the funds made available for cost-share payments and incentive payments under this chapter shall be targeted at practices relating to livestock production.

"SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

''In evaluating applications for cost-share payments and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

''(1) encourage the use by producers of cost-effective conservation practices; and

''(2) address national conservation priorities.

"SEC. 1240D. DUTIES OF PRODUCERS.

''To receive technical assistance, cost-share payments, or incentive payments under the program, a producer shall agree—

''(1) to implement an environmental quality incentives program plan (including a comprehensive nutrient management plan, if applicable) that describes conservation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary;

''(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of the program;

''(3) on the violation of a term or condition of the contract at anytime the producer has control of the land—

''(A) if the Secretary determines that the violation warrants termination of the contract—

''(i) to forfeit all rights to receive payments under the contract; and

''(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the contract, including any interest on the payments, as determined by the Secretary; or

''(B) if the Secretary determines that the violation does not warrant termination of the contract, to refund to the Secretary, or accept adjustments to, the payments provided to the owner or operator, as the Secretary determines to be appropriate;

''(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under the program, as determined by the Secretary;

''(5) to supply information as required by the Secretary to determine compliance with the program plan and requirements of the program; and

''(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the program plan.

"SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

''(a) IN GENERAL.—To be eligible to receive cost-share payments or incentive payments under the program, a producer shall submit to the Secretary for approval a plan of operations that—

''(1) specifies practices covered under the program;

''(2) includes such terms and conditions as the Secretary considers necessary to carry out the program, including a description of the purposes to be met by the implementation of the plan; and

''(3) in the case of a confined livestock feeding operation, provides for development and implementation of a comprehensive nutrient management plan, if applicable.

''(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the program under this chapter and comparable conservation programs.

"SEC. 1240F. DUTIES OF THE SECRETARY.

''To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of a program plan by—

''(1) providing cost-share payments or incentive payments for developing and implementing 1 or more practices, as appropriate; and

''(2) providing the producer with information and training to aid in implementation of the plan.

"SEC. 1240G. LIMITATION ON PAYMENTS.

''An individual or entity may not receive, directly or indirectly, cost-share or incentive payments under this chapter that, in the aggregate, exceed $450,000 for all contracts entered into under this chapter by the individual or entity during the period of fiscal years 2002 through 2007, regardless of the number of contracts entered into under this chapter by the individual or entity.

"SEC. 1240H. CONSERVATION INNOVATION GRANTS.

''(a) IN GENERAL.—The Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging Federal investment in environmental enhancement and protection, in conjunction with agricultural production, through the program.

''(b) USE.—The Secretary may provide grants under this section to governmental and nongovernmental organizations and persons, on a competitive basis, to carry out projects that—

''(1) involve producers that are eligible for payments or technical assistance under the program;

''(2) implement projects, such as—

''(A) market systems for pollution reduction; and

''(B) innovative conservation practices, including the storing of carbon in the soil; and

''(3) leverage funds made available to carry out the program under this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production.

''(c) COST SHARE.—The amount of a grant made under this section to carry out a project shall not exceed 50 percent of the cost of the project.

"SEC. 1240I. GROUND AND SURFACE WATER CONSERVATION.

''(a) ESTABLISHMENT.—In carrying out the program under this chapter, subject to subsection (b), the Secretary shall promote ground and surface water conservation by providing cost-share payments, incentive payments, and loans to producers to carry out eligible water conservation activities with respect to the agricultural operations of producers, to—

''(1) improve irrigation systems;

''(2) enhance irrigation efficiencies;

''(3) convert to—

''(A) the production of less water-intensive agricultural commodities; or

''(B) dryland farming;

''(4) improve the storage of water through measures such as water banking and groundwater recharge;

''(5) mitigate the effects of drought; or

''(6) institute other measures that improve groundwater and surface water conservation, as determined by the Secretary, in the agricultural operations of producers.

''(b) NET SAVINGS.—The Secretary may provide assistance to a producer under this section only if the Secretary determines that the assistance will facilitate a conservation measure that results in a net savings in groundwater or surface water resources in the agricultural operation of the producer.

''(c) FUNDING.—Of the funds of the Commodity Credit Corporation, in addition to amounts made available under section 1241(a)(6) to carry out this chapter, the Secretary shall use—

''(1) to carry out this section—

''(A) $25,000,000 for fiscal year 2002;

''(B) $45,000,000 for fiscal year 2003; and

''(C) $60,000,000 for each of fiscal years 2004 through 2007; and

''(2) $50,000,000 to carry out water conservation activities in Klamath Basin, California and Oregon, to be made available as soon as practicable after the date of enactment of this section.''.

Subtitle E—Grassland Reserve

SEC. 2401. GRASSLAND RESERVE PROGRAM.

Chapter 2 of the Food Security Act of 1985 (as amended by section 2001) is amended by adding at the end the following:

"Subchapter C—Grassland Reserve Program

"SEC. 1238N. GRASSLAND RESERVE PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish a grassland reserve program (referred to in this subchapter as the 'program') to assist owners in restoring and conserving eligible land described in subsection (c).

''(b) ENROLLMENT CONDITIONS.—

''(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the program shall not exceed 2,000,000 acres of restored or improved grassland, rangeland, and pastureland.

''(2) METHODS OF ENROLLMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall enroll in the program from a willing owner not less than 40 contiguous acres of land through the use of—

''(i) a 10-year, 15-year, or 20-year rental agreement;

''(ii)(I) a 30-year rental agreement or permanent or 30-year easement; or

''(II) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under State law.

''(B) WAIVER.—The Secretary may enroll in the program such parcels of land that are less than 40 acres as the Secretary determines are appropriate to achieve the purposes of the program.

''(3) LIMITATION ON USE OF EASEMENTS AND RENTAL AGREEMENTS.—Of the total amount of funds expended under the program to acquire easements and rental agreements described in paragraph (2)(A)—

''(A) not more than 40 percent shall be used for rental agreements described in paragraph (2)(A)(i); and

''(B) not more than 60 percent shall be used for easements and rental agreements described in paragraph (2)(A)(ii).

''(c) ELIGIBLE LAND.—Land shall be eligible to be enrolled in the program if the Secretary determines that the land is private land that is—

''(1) grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland); or

''(2) land that—

''(A) is located in an area that has been historically dominated by grassland, forbs, or shrubland; and

''(B) has potential to serve as habitat for animal or plant populations of significant ecological value if the land is—

''(i) retained in the current use of the land; or

''(ii) restored to a natural condition; or

''(3) land that is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of an agreement or easement.

"SEC. 1238O. REQUIREMENTS RELATING TO EASEMENTS AND AGREEMENTS.

''(a) REQUIREMENTS OF LANDOWNER.—

''(1) IN GENERAL.—To be eligible to enroll land in the program through the grant of an easement, the owner of the land shall enter into an agreement with the Secretary—

''(A) to grant an easement that applies to the land to the Secretary;

''(B) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

''(C) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

''(D) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement; and

''(E) to comply with the terms of the easement and restoration agreement.

''(2) AGREEMENTS.—To be eligible to enroll land in the program under an agreement, the owner or operator of the land shall agree—

''(A) to comply with the terms of the agreement (including any related restoration agreements); and

''(B) to the suspension of any existing cropland base and allotment history for the land under a program administered by the Secretary.

''(b) TERMS OF EASEMENT OR RENTAL AGREEMENT.—An easement or rental agreement under subsection (a) shall—

''(1) permit—

''(A) common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species common to that locality;

''(B) subject to appropriate restrictions during the nesting season for birds in the local area that are in significant decline or are conserved in accordance with Federal or State law, as determined by the Natural Resources Conservation Service State conservationist, haying, mowing, or harvesting for seed production; and

''(C) fire rehabilitation and construction of fire breaks and fences (including placement of the posts necessary for fences);

''(2) prohibit—

''(A) the production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that requires breaking the soil surface; and

''(B) except as permitted under this subsection or subsection (d), the conduct of any other activity that would disturb the surface of the land covered by the easement or rental agreement; and

''(3) include such additional provisions as the Secretary determines are appropriate to carry out or facilitate the administration of this subchapter.

''(c) EVALUATION AND RANKING OF EASEMENT AND RENTAL AGREEMENT APPLICATIONS.—

''(1) IN GENERAL.—The Secretary shall establish criteria to evaluate and rank applications for easements and rental agreements under this subchapter.

''(2) CONSIDERATIONS.—In establishing the criteria, the Secretary shall emphasize support for—

''(A) grazing operations;

''(B) plant and animal biodiversity; and

''(C) grassland, land that contains forbs, and shrubland under the greatest threat of conversion.

''(d) RESTORATION AGREEMENTS.—

''(1) IN GENERAL.—The Secretary shall prescribe the terms of a restoration agreement by which grassland, land that contains forbs, or shrubland that is subject to an easement or rental agreement entered into under the program shall be restored.

''(2) REQUIREMENTS.—The restoration agreement shall describe the respective duties of the owner and the Secretary (including the Federal share of restoration payments and technical assistance).

''(e) VIOLATIONS.—On a violation of the terms or conditions of an easement, rental agreement, or restoration agreement entered into under this section—

''(1) the easement or rental agreement shall remain in force; and

''(2) the Secretary may require the owner to refund all or part of any payments received by the owner under this subchapter, with interest on the payments as determined appropriate by the Secretary.

"SEC. 1238P. DUTIES OF SECRETARY.

''(a) IN GENERAL.—In return for the granting of an easement, or the execution of a rental agreement, by an owner under this subchapter, the Secretary shall, in accordance with this section—

''(1) make easement or rental agreement payments to the owner in accordance with subsection (b); and

''(2) make payments to the owner for the Federal share of the cost of restoration in accordance with subsection (c).

''(b) PAYMENTS.—

''(1) EASEMENT PAYMENTS.—

''(A) AMOUNT.—In return for the granting of an easement by an owner under this subchapter, the Secretary shall make easement payments to the owner in an amount equal to—

''(i) in the case of a permanent easement, the fair market value of the land less the grazing value of the land encumbered by the easement; and

''(ii) in the case of a 30-year easement or an easement for the maximum duration allowed under applicable State law, 30 percent of the fair market value of the land less the grazing value of the land for the period during which the land is encumbered by the easement.

''(B) SCHEDULE.—Easement payments may be provided in not less than 1 payment nor more than 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

''(2) RENTAL AGREEMENT PAYMENTS.—In return for entering into a rental agreement by an owner under this subchapter, the Secretary shall make annual payments to the owner during the term of the rental agreement in an amount that is not more than 75 percent of the grazing value of the land covered by the contract.

''(c) FEDERAL SHARE OF RESTORATION.—The Secretary shall make payments to an owner under this section of not more than—

''(1) in the case of grassland, land that contains forbs, or shrubland that has never been cultivated, 90 percent of the costs of carrying out measures and practices necessary to restore functions and values of that land; or

''(2) in the case of restored grassland, land that contains forbs, or shrubland, 75 percent of those costs.

''(d) PAYMENTS TO OTHERS.—If an owner that is entitled to a payment under this subchapter dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

"SEC. 1238Q. DELEGATION TO PRIVATE ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary may permit a private conservation or land trust organization (referred to in this section as a 'private organization') or a State agency to hold and enforce an easement under this subchapter, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

''(1) the Secretary determines that granting the permission will promote protection of grassland, land that contains forbs, and shrubland;

''(2) the owner authorizes the private organization or State agency to hold and enforce the easement; and

''(3) the private organization or State agency agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the private organization or State agency.

''(b) APPLICATION.—A private organization or State agency that seeks to hold and enforce an easement under this subchapter shall apply to the Secretary for approval.

''(c) APPROVAL BY SECRETARY.—The Secretary may approve a private organization to hold and enforce an easement under this subchapter if (as determined by the Secretary) the private organization—

''(1)(A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code; or

''(B) is described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code;

''(2) has the relevant experience necessary to administer grassland and shrubland easements;

''(3) has a charter that describes the commitment of the private organization to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

''(4) has the resources necessary to effectuate the purposes of the charter.

''(d) REASSIGNMENT.—

''(1) IN GENERAL.—If a private organization holding an easement on land under this subchapter terminates, not later than 30 days after termination of the private organization, the owner of the land shall reassign the easement to—

''(A) a new private organization that is approved by the Secretary; or

''(B) the Secretary.

''(2) NOTIFICATION OF SECRETARY.—

''(A) IN GENERAL.—If the easement is reassigned to a new private organization, not later than 60 days after the date of reassignment, the owner and the new organization shall notify the Secretary in writing that a reassignment for termination has been made.

''(B) FAILURE TO NOTIFY.—If the owner and the new organization fail to notify the Secretary of the reassignment in accordance with subparagraph (A), the easement shall revert to the control of the Secretary.''.

Subtitle F—Other Conservation Programs

SEC. 2501. AGRICULTURAL MANAGEMENT ASSISTANCE.

Section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524) is amended by striking subsection (b) and inserting the following:

''(b) AGRICULTURAL MANAGEMENT ASSISTANCE.—

''(1) AUTHORITY.—The Secretary shall provide financial assistance to producers in the States of Connecticut, Delaware, Maryland, Massachusetts, Maine, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming.

''(2) USES.—A producer may use financial assistance provided under this subsection to—

''(A) construct or improve—

''(i) watershed management structures; or

''(ii) irrigation structures;

''(B) plant trees to form windbreaks or to improve water quality;

''(C) mitigate financial risk through production or marketing diversification or resource conservation practices, including—

''(i) soil erosion control;

''(ii) integrated pest management;

''(iii) organic farming; or

''(iv) to develop and implement a plan to create marketing opportunities for the producer, including through value-added processing;

''(D) enter into futures, hedging, or options contracts in a manner designed to help reduce production, price, or revenue risk;

''(E) enter into agricultural trade options as a hedging transaction to reduce production, price, or revenue risk; or

''(F) conduct any other activity relating to an activity described in subparagraphs (A) through (E), as determined by the Secretary.

''(3) PAYMENT LIMITATION.—The total amount of payments made to a person (as defined in section 1001(5) of the Food Security Act (7 U.S.C. 1308(5))) under this subsection for any year may not exceed $50,000.

''(4) COMMODITY CREDIT CORPORATION.—

''(A) IN GENERAL.—The Secretary shall carry out this subsection through the Commodity Credit Corporation.

''(B) FUNDING.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Commodity Credit Corporation shall make available to carry out this subsection not less than $10,000,000 for each fiscal year.

''(ii) EXCEPTION.—For each of fiscal years 2003 through 2007, the Commodity Credit Corporation shall make available to carry out this subsection $20,000,000.''.

SEC. 2502. GRAZING, WILDLIFE HABITAT INCENTIVE, SOURCE WATER PROTECTION, AND GREAT LAKES BASIN PROGRAMS.

(a) IN GENERAL.—Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended to read as follows:

''CHAPTER 5—OTHER CONSERVATION PROGRAMS

''SEC. 1240M. CONSERVATION OF PRIVATE GRAZING LAND.

''(a) PURPOSE.—It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

''(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

''(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

''(3) conserving and improving wildlife habitat on private grazing land;

''(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

''(5) protecting and improving water quality;

''(6) improving the dependability and consistency of water supplies;

''(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

''(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

''(b) DEFINITIONS.—In this section:

''(1) DEPARTMENT.—The term 'Department' means the Department of Agriculture.

''(2) PRIVATE GRAZING LAND.—The term 'private grazing land' means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(c) PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.—

''(1) ASSISTANCE TO GRAZING LANDOWNERS AND OTHERS.—Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

''(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

''(B) implementing grazing land management technologies;

''(C) managing resources on private grazing land, including—

''(i) planning, managing, and treating private grazing land resources;

''(ii) ensuring the long-term sustainability of private grazing land resources;

''(iii) harvesting, processing, and marketing private grazing land resources; and

''(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

''(D) protecting and improving the quality and quantity of water yields from private grazing land;

''(E) maintaining and improving wildlife and fish habitat on private grazing land;

''(F) enhancing recreational opportunities on private grazing land;

''(G) maintaining and improving the aesthetic character of private grazing land;

''(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises; and

''(I) encouraging the use of sustainable grazing systems, such as year-round, rotational, or managed grazing.

''(2) PROGRAM ELEMENTS.—

''(A) FUNDING.—If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

''(B) TECHNICAL ASSISTANCE AND EDUCATION.—Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

''(d) GRAZING TECHNICAL ASSISTANCE SELF-HELP.—

''(1) FINDINGS.—Congress finds that—

''(A) there is a severe lack of technical assistance for farmers and ranchers that graze livestock;

''(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, current levels of technical support; and

''(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

''(2) ESTABLISHMENT OF GRAZING DEMONSTRATION.—In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts at the recommendation of the grazing land conservation initiative steering committee.

''(3) PROCEDURE.—

''(A) PROPOSAL.—Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

''(B) FUNDING.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

''(C) APPROVAL.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

''(i) is reasonable;

''(ii) will promote sound grazing practices; and

''(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 4 of the Beef Research and Information Act (7 U.S.C. 2903) in effect on April 4, 1996.

''(D) AREA INCLUDED.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of an application by farmers or ranchers.

''(E) AUTHORIZATION.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

''(F) ACTIVITIES.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $60,000,000 for each of fiscal years 2002 through 2007.

''SEC. 1240N. WILDLIFE HABITAT INCENTIVE PROGRAM.

''(a) IN GENERAL.—The Secretary, in consultation with the State technical committees established under section 1261, shall establish within the Natural Resources Conservation Service a program to be known as the wildlife habitat incentive program (referred to in this section as the 'program').

''(b) COST-SHARE PAYMENTS.—

''(1) IN GENERAL.—Under the program, the Secretary shall make cost-share payments to landowners to develop—

''(A) upland wildlife habitat;

''(B) wetland wildlife habitat;

''(C) habitat for threatened and endangered species;

''(D) fish habitat; and

''(E) other types of wildlife habitat approved by the Secretary.

''(2) INCREASED COST SHARE FOR LONG-TERM AGREEMENTS.—

''(A) IN GENERAL.—In a case in which the Secretary enters into an agreement or contract to protect and restore plant and animal habitat that has a term of at least 15 years, the Secretary may provide cost-share payments in addition to amounts provided under paragraph (1).

''(B) FUNDING LIMITATION.—The Secretary may use, for a fiscal year, not more than 15 percent of funds made available under section 1241(a)(7) for the fiscal year to carry out contracts and agreements described in subparagraph (A).

''(c) REGIONAL EQUITY.—In carrying out this section, the Secretary shall, to the maximum extent practicable, ensure that regional issues of concern relating to wildlife habitat are addressed in an appropriate manner.

"SEC. 1240O. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a national grassroots water protection program to more effectively use onsite technical assistance capabilities of each State rural water association that, as of the date of enactment of this section, operates a wellhead or groundwater protection program in the State.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2007.

"SEC. 1240P. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.

''(a) IN GENERAL.—The Secretary, in consultation with the Great Lakes Commission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army, may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the 'program').

''(b) ASSISTANCE.—In carrying out the program, the Secretary may—

''(1) provide project demonstration grants, provide technical assistance, and carry out information and education programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

''(2) provide a priority for projects and activities that directly reduce soil erosion or improve sediment control.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2007.''.

(b) CONFORMING AMENDMENT.—Sections 386 and 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 2005b, 3836a) are repealed.

SEC. 2503. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—Chapter 2 of the Food Security Act of 1985 (as amended by section 2001) is amended by adding at the end the following:

"Subchapter B—Farmland Protection Program

"SEC. 1238H. DEFINITIONS.

''In this subchapter:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

''(B) any organization that—

''(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

''(ii) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

''(iii) is described in section 509(a)(2) of that Code; or

''(iv) is described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code.

''(2) ELIGIBLE LAND.—

''(A) IN GENERAL.—The term 'eligible land' means land on a farm or ranch that—

''(i)(I) has prime, unique, or other productive soil; or

''(II) contains historical or archaeological resources; and

''(ii) is subject to a pending offer for purchase from an eligible entity.

''(B) INCLUSIONS.—The term 'eligible land' includes, on a farm or ranch—

''(i) cropland;

''(ii) rangeland;

''(iii) grassland;

''(iv) pasture land; and

''(v) forest land that is an incidental part of an agricultural operation, as determined by the Secretary.

''(3) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(4) PROGRAM.—The term 'program' means the farmland protection program established under section 1238I(a).

"SEC. 1238I. FARMLAND PROTECTION.

''(a) IN GENERAL.—The Secretary, acting through the Natural Resources Conservation Service, shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in eligible land that is subject to a pending offer from an eligible entity for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

''(b) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this subchapter shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

''(c) COST SHARING.—

''(1) FARMLAND PROTECTION.—

''(A) SHARE PROVIDED UNDER THIS SUBSECTION.—The share of the cost of purchasing a conservation easement or other interest in eligible land described in subsection (a) provided under section 1241(d) shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

''(B) SHARE NOT PROVIDED UNDER THIS SUBSECTION.—As part of the share of the cost of purchasing a conservation easement or other interest in eligible land described in subsection (a) that is not provided under section 1241(d), an eligible entity may include a charitable donation by the private landowner from which the eligible land is to be purchased of not more than 25 percent of the fair market value of the conservation easement or other interest in eligible land.

''(2) BIDDING DOWN.—If the Secretary determines that 2 or more applications for the purchase of a conservation easement or other interest in eligible land described in subsection (a) are comparable in achieving the purposes of this section, the Secretary shall not assign a higher priority to any 1 of those applications solely on the basis of lesser cost to the farmland protection program established under subsection (a).

"SEC. 1238J. FARM VIABILITY PROGRAM.

''(a) IN GENERAL.—The Secretary may provide to eligible entities identified by the Secretary grants for use in carrying out farm viability programs developed by the eligible entities and approved by the Secretary.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section such sums as are necessary for each of fiscal years 2002 through 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) is repealed.

(B) Section 211 of the Agriculture Risk Protection Act of 2000 (16 U.S.C. 3830 note; Public Law 106–224) is amended—

(i) by striking subsection (a); and

(ii) in subsection (b)—

(I) by striking the subsection designation and the subsection heading;

(II) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively, and indenting appropriately;

(III) in subsection (a) (as so redesignated), by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and indenting appropriately;

(IV) in subsection (b) (as so redesignated), by striking ''ASSISTANCE'' and inserting ''ASSISTANCE''; and

(V) by striking ''subsection'' each place it appears and inserting ''section''.

(2) EFFECT ON CONTRACTS.—The amendment made by paragraph (1)(A) shall have no effect on any contract entered into under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note) that is in effect as of the date of enactment of this Act.

SEC. 2504. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.) is amended to read as follows:

"Subtitle H—Resource Conservation and Development Program

"SEC. 1528. DEFINITIONS.

''In this subtitle:

''(1) AREA PLAN.—The term 'area plan' means a resource conservation and use plan developed through a planning process by a council for a designated area of 1 or more States, or of land under the jurisdiction of an Indian tribe, that includes 1 or more of the following elements:

''(A) A land conservation element, the purpose of which is to control erosion and sedimentation.

''(B) A water management element that provides 1 or more clear environmental or conservation benefits, the purpose of which is to provide for—

''(i) the conservation, use, and quality of water, including irrigation and rural water supplies;

''(ii) the mitigation of floods and high water tables;

''(iii) the repair and improvement of reservoirs;

''(iv) the improvement of agricultural water management; and

''(v) the improvement of water quality.

''(C) A community development element, the purpose of which is to improve—

''(i) the development of resources-based industries;

''(ii) the protection of rural industries from natural resource hazards;

''(iii) the development of adequate rural water and waste disposal systems;

''(iv) the improvement of recreation facilities;

''(v) the improvement in the quality of rural housing;

''(vi) the provision of adequate health and education facilities;

''(vii) the satisfaction of essential transportation and communication needs; and

''(viii) the promotion of food security, economic development, and education.

''(D) A land management element, the purpose of which is—

''(i) energy conservation, including the production of energy crops;

''(ii) the protection of agricultural land, as appropriate, from conversion to other uses;

''(iii) farmland protection; and

''(iv) the protection of fish and wildlife habitats.

''(2) BOARD.—The term 'Board' means the Resource Conservation and Development Policy Advisory Board established under section 1533(a).

''(3) COUNCIL.—The term 'council' means a nonprofit entity (including an affiliate of the entity) operating in a State that is—

''(A) established by volunteers or representatives of States, local units of government, Indian tribes, or local nonprofit organizations to carry out an area plan in a designated area; and

''(B) designated by the chief executive officer or legislature of the State to receive technical assistance and financial assistance under this subtitle.

''(4) DESIGNATED AREA.—The term 'designated area' means a geographic area designated by the Secretary to receive technical assistance and financial assistance under this subtitle.

''(5) FINANCIAL ASSISTANCE.—The term 'financial assistance' means a grant or loan provided by the Secretary (or the Secretary and other Federal agencies) to, or a cooperative agreement entered into by the Secretary (or the Secretary and other Federal agencies) with, a council, or association of councils, to carry out an area plan in a designated area, including assistance provided for planning, analysis, feasibility studies, training, education, and other activities necessary to carry out the area plan.

''(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(7) LOCAL UNIT OF GOVERNMENT.—The term 'local unit of government' means—

''(A) any county, city, town, township, parish, village, or other general-purpose subdivision of a State; and

''(B) any local or regional special district or other limited political subdivision of a State, including any soil conservation district, school district, park authority, and water or sanitary district.

''(8) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any organization that is—

''(A) described in section 501(c) of the Internal Revenue Code of 1986; and

''(B) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

''(9) PLANNING PROCESS.—The term 'planning process' means actions taken by a council to develop and carry out an effective area plan in a designated area, including development of the area plan, goals, purposes, policies, implementation activities, evaluations and reviews, and the opportunity for public participation in the actions.

''(10) PROJECT.—The term 'project' means a project that is carried out by a council to achieve any of the elements of an area plan.

''(11) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(12) STATE.—The term 'State' means—

''(A) any State;

''(B) the District of Columbia; or

''(C) any territory or possession of the United States.

''(13) TECHNICAL ASSISTANCE.—The term 'technical assistance' means any service provided by the Secretary or agent of the Secretary, including—

''(A) inventorying, evaluating, planning, designing, supervising, laying out, and inspecting projects;

''(B) providing maps, reports, and other documents associated with the services provided;

''(C) providing assistance for the long-term implementation of area plans; and

''(D) providing services of an agency of the Department of Agriculture to assist councils in developing and carrying out area plans.

''SEC. 1529. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

''The Secretary shall establish a resource conservation and development program under which the Secretary shall provide technical assistance and financial assistance to councils to develop and carry out area plans and projects in designated areas—

''(1) to conserve and improve the use of land, develop natural resources, and improve and enhance the social, economic, and environmental conditions in primarily rural areas of the United States; and

''(2) to encourage and improve the capability of State, units of government, Indian tribes, nonprofit organizations, and councils to carry out the purposes described in paragraph (1).

''SEC. 1530. SELECTION OF DESIGNATED AREAS.

''The Secretary shall select designated areas for assistance under this subtitle on the basis of the elements of area plans.

''SEC. 1531. POWERS OF THE SECRETARY.

''In carrying out this subtitle, the Secretary may—

''(1) provide technical assistance to any council to assist in developing and implementing an area plan for a designated area;

''(2) cooperate with other departments and agencies of the Federal Government, States, local units of government, local Indian tribes, and local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;

''(3) assist in carrying out an area plan approved by the Secretary for any designated area by providing technical assistance and financial assistance to any council; and

''(4) enter into agreements with councils in accordance with section 1532.

''SEC. 1532. ELIGIBILITY; TERMS AND CONDITIONS.

''(a) ELIGIBILITY.—Technical assistance and financial assistance may be provided by the Secretary under this subtitle to any council to assist in carrying out a project specified in an area plan approved by the Secretary only if—

''(1) the council agrees in writing—

''(A) to carry out the project; and

''(B) to finance or arrange for financing of any portion of the cost of carrying out the project for which financial assistance is not provided by the Secretary under this subtitle;

''(2) the project is included in an area plan and is approved by the council;

''(3) the Secretary determines that assistance is necessary to carry out the area plan;

''(4) the project provided for in the area plan is consistent with any comprehensive plan for the area;

''(5) the cost of the land or an interest in the land acquired or to be acquired under the plan by any State, local unit of government, Indian tribe, or local nonprofit organization is borne by the State, local unit of government, Indian tribe, or local nonprofit organization, respectively; and

''(6) the State, local unit of government, Indian tribe, or local nonprofit organization participating in the area plan agrees to maintain and operate the project.

''(b) LOANS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), a loan made under this subtitle shall be made on such terms and conditions as the Secretary may prescribe.

''(2) TERM.—A loan for a project made under this subtitle shall have a term of not more than 30 years after the date of completion of the project.

''(3) INTEREST RATE.—A loan made under this subtitle shall bear interest at the average rate of interest paid by the United States on obligations of a comparable term, as determined by the Secretary of the Treasury.

''(c) APPROVAL BY SECRETARY.—Technical assistance and financial assistance under this subtitle may not be made available to a council to carry out an area plan unless the area plan has been submitted to and approved by the Secretary.

''(d) WITHDRAWAL.—The Secretary may withdraw technical assistance and financial assistance with respect to any area plan if the Secretary determines that the assistance is no longer necessary or that sufficient progress has not been made toward developing or implementing the elements of the area plan.

''SEC. 1533. RESOURCE CONSERVATION AND DEVELOPMENT POLICY ADVISORY BOARD.

''(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a Resource Conservation and Development Policy Advisory Board.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The Board shall be composed of at least 7 employees of the Department of Agriculture selected by the Secretary.

''(2) CHAIRPERSON.—A member of the Board shall be designated by the Secretary to serve as chairperson of the Board.

''(c) DUTIES.—The Board shall advise the Secretary regarding the administration of this subtitle, including the formulation of policies for carrying out this subtitle.

''SEC. 1534. EVALUATION OF PROGRAM.

''(a) IN GENERAL.—The Secretary, in consultation with councils, shall evaluate the program established under this subtitle to determine whether the program is effectively meeting the needs of, and the purposes identified by, States, units of government, Indian tribes, nonprofit organizations, and councils participating in, or served by, the program.

''(b) REPORT.—Not later than June 30, 2005, the Secretary 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 describing the results of the evaluation, together with any recommendations of the Secretary for continuing, terminating, or modifying the program.

''SEC. 1535. LIMITATION ON ASSISTANCE.

''In carrying out this subtitle, the Secretary shall provide technical assistance and financial assistance with respect to not more than 450 active designated areas.

''SEC. 1536. SUPPLEMENTAL AUTHORITY OF THE SECRETARY.

''The authority of the Secretary under this subtitle to assist councils in the development and implementation of area plans shall be supplemental to, and not in lieu of, any authority of the Secretary under any other provision of law.

''SEC. 1537. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be such sums as are necessary to carry out this subtitle.

''(b) LOANS.—The Secretary shall not use more than $15,000,000 of any funds made available for a fiscal year to make loans under this subtitle.

''(c) AVAILABILITY.—Funds appropriated to carry out this subtitle shall remain available until expended.''.

SEC. 2505. SMALL WATERSHED REHABILITATION PROGRAM.

Section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012) is amended by striking subsection (h) and inserting the following:

''(h) FUNDING.—

''(1) FUNDS OF COMMODITY CREDIT CORPORATION.—In carrying out this section, of the funds of the Commodity Credit Corporation, the Secretary shall make available, to remain available until expended—

''(A) $45,000,000 for fiscal year 2003;

''(B) $50,000,000 for fiscal year 2004;

''(C) $55,000,000 for fiscal year 2005;

''(D) $60,000,000 for fiscal year 2006;

''(E) $65,000,000 for fiscal year 2007; and

''(F) $0 for fiscal year 2008.

''(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under paragraph (1), there are authorized to be appropriated to the Secretary to carry out this section, to remain available until expended—

''(A) $45,000,000 for fiscal year 2003;

''(B) $55,000,000 for fiscal year 2004;

''(C) $65,000,000 for fiscal year 2005;

''(D) $75,000,000 for fiscal year 2006; and

''(E) $85,000,000 for fiscal year 2007.''.

SEC. 2506. USE OF SYMBOLS, SLOGANS, AND LOGOS.

Section 356 of the Federal Agriculture Improvement Act of 1996 (16 U.S.C. 5801 et seq.) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(B) by inserting after paragraph (3) the following:

''(4) on the written approval of the Secretary, to use, license, or transfer symbols, slogans, and logos of the Foundation (exclusive of any symbol or logo of a governmental entity);''; and

(2) in subsection (d), by adding at the end the following:

''(3) USE OF SYMBOLS, SLOGANS, AND LOGOS OF THE FOUNDATION.—

''(A) IN GENERAL.—The Secretary may authorize the Foundation to use, license, or transfer symbols, slogans, and logos of the Foundation.

''(B) INCOME.—

''(i) IN GENERAL.—All revenue received by the Foundation from the use, licensing, or transfer of symbols, slogans, and logos of the Foundation shall be transferred to the Secretary.

''(ii) CONSERVATION OPERATIONS.—The Secretary shall transfer all revenue received under clause (i) to the account within the Natural Resources Conservation Service that is used to carry out conservation operations.''.

SEC. 2507. DESERT TERMINAL LAKES.

''(a) IN GENERAL.—Subject to subsection (b), as soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall transfer $200,000,000 of the funds of the Commodity Credit Corporation to the Bureau of Reclamation Water and Related Resources Account, which funds shall—

''(1) be used by the Secretary of the Interior, acting through the Commissioner of Reclamation, to provide water to at-risk natural desert terminal lakes; and

''(2) remain available until expended.

''(b) LIMITATION.—The funds described in subsection (a) shall not be used to purchase or lease water rights.

Subtitle G—Conservation Corridor Demonstration Program

SEC. 2601. DEFINITIONS.

In this subtitle:

(1) DELMARVA PENINSULA.—The term ''Delmarva Peninsula'' means land in the States of Delaware, Maryland, and Virginia located on the east side of the Chesapeake Bay.

(2) DEMONSTRATION PROGRAM.—The term ''demonstration program'' means the Conservation Corridor Demonstration Program established under this subtitle.

(3) CONSERVATION CORRIDOR PLAN; PLAN.—The terms ''conservation corridor plan'' and ''plan'' mean a conservation corridor plan required to be submitted and approved as a condition for participation in the demonstration program.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 2602. CONSERVATION CORRIDOR DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a demonstration program, to be known as the ''Conservation Corridor Demonstration Program'', under which any of the States of Delaware, Maryland, and Virginia, a local government of any 1 of those States with jurisdiction over land on the Delmarva Peninsula, or a combination of those States, may submit a conservation corridor plan to integrate agriculture and forestry conservation programs of the Department of Agriculture with State and local efforts to address farm conservation needs.

(b) SUBMISSION OF CONSERVATION CORRIDOR PLAN.—

(1) SUBMISSION AND PROPOSAL.—To be eligible to participate in the demonstration program, a State, local government, or combination of States referred to in subsection (a) shall—

(A) submit to the Secretary a conservation corridor plan that—

(i) proposes specific criteria and commitment of resources in the geographic region designated in the plan; and

(ii) describes how the linkage of Federal, State, and local resources will improve—

(I) the economic viability of agriculture; and

(II) the environmental integrity of the watersheds in the Delmarva Peninsula; and

(B) demonstrate to the Secretary that, in developing the plan, the State, local government, or combination of States has solicited and taken into account the views of local residents.

(2) DRAFT MEMORANDUM OF AGREEMENT.—If the conservation corridor plan is submitted by more than 1 State, the plan shall provide a draft memorandum of agreement among entities in each submitting State.

(c) REVIEW OF PLAN.—Not later than 90 days after the date of receipt of a conservation corridor plan, the Secretary—

(1) shall review the plan; and

(2) may approve the plan for implementation under this subtitle if the Secretary determines that the plan meets the requirements specified in subsection (d).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a conservation corridor plan only if, as determined by the Secretary, the plan provides for each of the following:

(1) VOLUNTARY ACTIONS.—Actions taken under the plan—

(A) are voluntary;

(B) require the consent of willing landowners; and

(C) provide a mechanism by which the landowner may withdraw such consent without adverse consequences other than the loss of any payments to the landowner conditioned on continued enrollment of the land.

(2) LAND OF HIGH CONSERVATION VALUE.—Criteria specified in the plan ensure that land enrolled in each conservation program incorporated through the plan are of exceptionally high conservation value, as determined by the Secretary.

(3) NO EFFECT ON UNENROLLED LAND.—The enrollment of land in a conservation program incorporated through the plan will neither—

(A) adversely affect any adjacent land not so enrolled; nor

(B) create any buffer zone on such unenrolled land.

(4) GREATER BENEFITS.—The conservation programs incorporated through the plan provide benefits greater than the benefits that would likely be achieved through individual application of the conservation programs.

(5) SUFFICIENT STAFFING.—Staffing, considering both Federal and non-Federal resources, is sufficient to ensure success of the plan.

SEC. 2603. IMPLEMENTATION OF CONSERVATION CORRIDOR PLAN.

(a) MEMORANDUM OF AGREEMENT.—On approval of a conservation corridor plan, the Secretary may enter into a memorandum of agreement with the State, local government, or combination of States that submitted the plan to—

(1) guarantee specific program resources for implementation of the plan;

(2) establish various compensation rates to the extent that the parties to the agreement consider justified; and

(3) provide streamlined and integrated paperwork requirements.

(b) CONTINUED COMPLIANCE WITH PLAN APPROVAL CRITERIA.—The Secretary shall terminate the memorandum of agreement entered into under subsection (a) with respect to an approved conservation corridor plan and cease the provision of resources for implementation of the plan if the Secretary determines that, in the implementation of the plan—

(1) the State, local government, or combination of States that submitted the plan has deviated from—

(A) the plan;

(B) the criteria specified in section 2602(d) on which approval of the plan was conditioned; or

(C) the cost-sharing requirements of section 2604(a) or any other condition of the plan; or

(2) the economic viability of agriculture in the geographic region designated in the plan is being hindered.

(c) PROGRESS REPORT.—At the end of the 3-year period that begins on the date on which funds are first provided with respect to a conservation corridor plan under the demonstration program, the State, local government, or combination of States that submitted the plan shall submit to the Secretary—

(1) a report on the effectiveness of the activities carried out under the plan; and

(2) an evaluation of the economic viability of agriculture in the geographic region designated in the plan.

(d) DURATION.—The demonstration program shall be carried out for not less than 3 nor more than 5 years beginning on the date on which funds are first provided under the demonstration program.

SEC. 2604. FUNDING REQUIREMENTS.

(a) COST SHARING.—

(1) REQUIRED NON-FEDERAL SHARE.—Subject to paragraph (2), as a condition on the approval of a conservation corridor plan, the Secretary shall require the State and local participants to contribute financial resources sufficient to cover at least 50 percent of the total cost of the activities carried out under the plan.

(2) EXCEPTION.—The Secretary may reduce the cost-sharing requirement in the case of a specific project or activity under the demonstration program on good cause and on demonstration that the project or activity is likely to achieve extraordinary natural resource benefits.

(b) RESERVATION OF FUNDS.—The Secretary may consider directing funds on a priority basis to the demonstration program and to projects in areas identified by the plan.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle for each of fiscal years 2002 through 2007.

Subtitle H—Funding and Administration

SEC. 2701. FUNDING AND ADMINISTRATION.

Subtitle E of the Food Security Act of 1985 is amended by striking sections 1241 and 1242 (16 U.S.C. 3841, 3842) and inserting the following:

''SEC. 1241. COMMODITY CREDIT CORPORATION.

''(a) IN GENERAL.—For each of fiscal years 2002 through 2007, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out the following programs under subtitle D (including the provision of technical assistance):

''(1) The conservation reserve program under subchapter B of chapter 1.

''(2) The wetlands reserve program under subchapter C of chapter 1.

''(3) The conservation security program under subchapter A of chapter 2.

''(4) The farmland protection program under subchapter B of chapter 2, using, to the maximum extent practicable—

''(A) $50,000,000 in fiscal year 2002;

''(B) $100,000,000 in fiscal year 2003;

''(C) $125,000,000 in each of fiscal years 2004 and 2005;

''(D) $100,000,000 in fiscal year 2006; and

''(E) $97,000,000 in fiscal year 2007.

''(5) The grassland reserve program under subchapter C of chapter 2, using, to the maximum extent practicable $254,000,000 for the period of fiscal years 2003 through 2007.

''(6) The environmental quality incentives program under chapter 4, using, to the maximum extent practicable—

''(A) $400,000,000 in fiscal year 2002;

''(B) $700,000,000 in fiscal year 2003;

''(C) $1,000,000,000 in fiscal year 2004;

''(D) $1,200,000,000 in each of fiscal years 2005 and 2006; and

''(E) $1,300,000,000 in fiscal year 2007.

''(7) The wildlife habitat incentives program under section 1240N, using, to the maximum extent practicable—

''(A) $15,000,000 in fiscal year 2002;

''(B) $30,000,000 in fiscal year 2003;

''(C) $60,000,000 in fiscal year 2004; and

''(D) $85,000,000 in each of fiscal years 2005 through 2007.

''(b) SECTION 11.—Nothing in this section affects the limit on expenditures for technical assistance imposed by section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i).

''(c) REGIONAL EQUITY.—Before April 1 of each fiscal year, the Secretary shall give priority for funding under the conservation programs under subtitle D (excluding the conservation reserve program under subchapter B of chapter 1, the wetlands reserve program under subchapter C of chapter 1, and the conservation security program under subchapter A of chapter 2) to approved applications in any State that has not received, for the fiscal year, an aggregate amount of at least $12,000,000 for those conservation programs.

"SEC. 1242. DELIVERY OF TECHNICAL ASSISTANCE.

''(a) IN GENERAL.—The Secretary shall provide technical assistance under this title to a producer eligible for that assistance—

''(1) directly; or

''(2) at the option of the producer, through a payment, as determined by the Secretary, to the producer for an approved third party, if available.

''(b) CERTIFICATION OF THIRD-PARTY PROVIDERS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Farm Security and Rural Investment Act of 2002, the Secretary shall, by regulation, establish a system for—

''(A) approving individuals and entities to provide technical assistance to carry out programs under this title (including criteria for the evaluation of providers or potential providers of technical assistance); and

''(B) establishing the amounts and methods for payments for that assistance.

''(2) EXPERTISE.—In promulgating regulations to carry out this subsection the Secretary shall ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, environmental engineering (including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies), are eligible to become approved providers of the technical assistance.

''(3) INTERIM ASSISTANCE.—

''(A) IN GENERAL.—A person that has provided technical assistance in accordance with an agreement between the person and the Secretary before the date of enactment of the Farm Security and Rural Investment Act of 2002 may continue to provide technical assistance under this section until the date on which the Secretary establishes the system described in paragraph (1).

''(B) EVALUATION.—If a person described in subparagraph (A) seeks to continue to provide technical assistance after the date referred to in subparagraph (A), the Secretary shall evaluate the person using criteria referred to in paragraph (1).

''(4) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into cooperative agreements or contracts with, non-Federal entities to assist the Secretary in providing technical assistance necessary to develop and implement conservation programs under this title.''.

SEC. 2702. REGULATIONS.

(a) IN GENERAL.—Except as otherwise provided in this title or an amendment made by this title, not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.

(b) APPLICABLE AUTHORITY.—The promulgation of regulations under subsection (a) and administration of this title—

(1) shall—

(A) be carried out without regard to chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(2) may—

(A) be promulgated with an opportunity for notice and comment; or

(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.

TITLE III—TRADE

Subtitle A—Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

SEC. 3001. UNITED STATES POLICY.

Section 2 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691) is amended—

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

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

(3) by adding at the end the following:

''(6) prevent conflicts.''.

SEC. 3002. PROVISION OF AGRICULTURAL COMMODITIES.

Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722) is amended—

(1) in subsection (b), by adding at the end the following:

''(3) PROGRAM DIVERSITY.—The Administrator shall—

''(A) encourage eligible organizations to propose and implement program plans to address 1 or more aspects of the program under section 201; and

''(B) consider proposals that incorporate a variety of program objectives and strategic plans based on the identification by eligible organizations of appropriate activities, consistent with section 201, to assist development of foreign countries.'';

(2) in subsection (e)(1), by striking ''not less than $10,000,000, and not more than $28,000,000,'' and inserting ''not less than 5 percent nor more than 10 percent of the funds''; and

(3) by adding at the end the following:

''(h) STREAMLINED PROGRAM MANAGEMENT.—

''(1) IMPROVEMENTS.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall—

''(A) streamline program procedures and guidelines under this title for agreements with eligible organizations for programs in 1 or more countries; and

''(B) effective beginning with fiscal year 2004, to the maximum extent practicable, incorporate the changes into the procedures and guidelines for programs and the guidelines for resource requests.

''(2) STREAMLINED PROCEDURES AND GUIDELINES.—In carrying out paragraph (1), the Administrator shall make improvements in the Office of Food for Peace management systems that include—

''(A) expedition of and greater consistency in the program review and approval process under this title;

''(B) streamlining of information collection and reporting systems by identifying the critical information that needs to be monitored and reported on by eligible organizations; and

''(C) for approved programs, provision of greater flexibility for an eligible organization to make modifications in program activities to achieve program results with streamlined procedures for reporting such modifications.

''(3) CONSULTATION.—

''(A) IN GENERAL.—Paragraphs (1) and (2) shall be carried out in accordance with section 205 and subsections (b) and (c) of section 207.

''(B) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall consult with the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on progress made in carrying out this subsection.

''(4) REPORT.—Not later than 270 days after the date of enactment of this subsection, the Administrator shall submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the improvements made and planned upgrades in the information management, procurement, and financial management systems to administer this title.''.

SEC. 3003. GENERATION AND USE OF CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

Section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) is amended—

(1) in the section heading, by striking ''**FOREIGN**'';

(2) in subsection (a), by striking ''the recipient country, or in a country'' and inserting ''1 or more recipient countries, or 1 or more countries'';

(3) in subsection (b)—

(A) by striking ''in recipient countries, or in countries'' and inserting ''1 or more recipient countries, or in 1 or more countries''; and

(B) by striking ''foreign currency'';

(4) in subsection (c)—

(A) by striking ''foreign currency''; and

(B) by striking ''the recipient country, or in a country'' and inserting ''1 or more recipient countries, or in 1 or more countries''; and

(5) in subsection (d)—

(A) by striking ''Foreign currencies'' and inserting ''Proceeds'';

(B) in paragraph (2)—

(i) by striking ''income generating'' and inserting ''income-generating''; and

(ii) by striking ''the recipient country or within a country'' and inserting ''1 or more recipient countries or within 1 or more countries''; and

(C) in paragraph (3)—

(i) by inserting a comma after ''invested''; and

(ii) by inserting a comma after ''used''.

SEC. 3004. LEVELS OF ASSISTANCE.

Section 204(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)) is amended—

(1) by striking ''1996 through 2002'' each place it appears and inserting ''2002 through 2007'';

(2) in paragraph (1), by striking ''2,025,000'' and inserting ''2,500,000''; and

(3) in paragraph (2), by striking ''1,550,000 metric tons'' and inserting ''1,875,000 metric tons''.

SEC. 3005. FOOD AID CONSULTATIVE GROUP.

Section 205(f) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C.

1725(f)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 3006. MAXIMUM LEVEL OF EXPENDITURES.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) is repealed.

SEC. 3007. ADMINISTRATION.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (2) as paragraph (3); and

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

''(1) RECIPIENT COUNTRIES.—A proposal to enter into a nonemergency food assistance agreement under this title shall identify the recipient country or countries that are the subject of the agreement.

''(2) TIMING.—Not later than 120 days after the date of receipt by the Administrator of a proposal submitted by an eligible organization under this title, the Administrator shall determine whether to accept the proposal.'';

(2) in subsection (b), by striking ''guideline'' each place it appears and inserting ''guideline or annual policy guidance''; and

(3) by adding at the end the following:

''(e) TIMELY APPROVAL.—

''(1) IN GENERAL.—The Administrator is encouraged to finalize program agreements and resource requests for programs under this section before the beginning of each fiscal year.

''(2) REPORT.—Not later than December 1 of each year, the Administrator shall submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

''(A) a list of programs, countries, and commodities approved to date for assistance under this section; and

''(B) a statement of the total amount of funds approved to date for transportation and administrative costs under this section.''.

SEC. 3008. ASSISTANCE FOR STOCKPILING AND RAPID TRANSPORTATION, DELIVERY, AND DISTRIBUTION OF SHELF-STABLE PREPACKAGED FOODS.

Section 208(f) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726b(f)) is amended by striking ''and 2002'' and inserting ''through 2007''.

SEC. 3009. SALE PROCEDURE.

(a) IN GENERAL.—Section 403 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733) is amended—

(1) in subsection (e)—

(A) by striking ''In carrying'' and inserting the following:

''(1) IN GENERAL.—In carrying''; and

(B) by adding at the end the following:

''(2) SALE PRICE.—Sales of agricultural commodities described in paragraph (1) shall be made at a reasonable market price in the economy where the agricultural commodity is to be sold, as determined by the Secretary or the Administrator, as appropriate.''; and

(2) by adding at the end the following:

''(l) SALE PROCEDURE.—

''(1) IN GENERAL.—Subsections (b) and (h) shall apply to sales of commodities in recipient countries to generate proceeds to carry out projects under—

''(A) titles I and II;

''(B) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)); and

''(C) the Food for Progress Act of 1985 (7 U.S.C. 1736o).

''(2) CURRENCY.—A sale described in paragraph (1) may be made in United States dollars or other currencies.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended by adding at the end the following:

''(10) SALE PROCEDURE.—In approving sales of commodities under this subsection, the Secretary shall follow the sale procedure described in section 403(l) of the Agricultural Trade Development and Assistance Act of 1954.''.

(2) Subsection (f) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(f)) is amended by adding at the end the following:

''(5) SALE PROCEDURE.—In making sales of eligible commodities under this section, the Secretary shall follow the sale procedure described in section 403(l) of the Agricultural Trade Development and Assistance Act of 1954.''.

SEC. 3010. PREPOSITIONING.

Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended by striking ''and 2002'' and inserting ''through 2007''.

SEC. 3011. TRANSPORTATION AND RELATED COSTS.

Section 407(c)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)) is amended—

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

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

(2) by adding at the end the following:

''(B) CERTAIN COMMODITIES MADE AVAILABLE FOR NONEMERGENCY ASSISTANCE.—In the case of agricultural commodities made available for nonemergency assistance under title II for least developed countries that meet the poverty and other eligibility criteria established by the International Bank for Reconstruction and Development for financing under the International Development Association, the Administrator may pay the transportation costs incurred in moving the agricultural commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs.''.

SEC. 3012. EXPIRATION DATE.

Section 408 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b) is amended by striking ''2002'' and inserting ''2007''.

SEC. 3013. MICRONUTRIENT FORTIFICATION PROGRAMS.

Section 415 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736g–2) is amended—

*(1) in the section heading, by striking ''**PILOT PROGRAM.**'' and inserting ''**PROGRAMS.**'';*

(2) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins appropriately;

(B) by striking the first sentence and inserting the following:

''(1) PROGRAMS.—Not later than September 30, 2003, the Administrator, in consultation with the Secretary, shall establish micronutrient fortification programs.''; and

(C) in the second sentence, by striking ''The purpose of the program'' and inserting the following:

''(2) PURPOSE.—The purpose of a program''; and

(D) in paragraph (2) (as designated by subparagraph (C))—

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

(ii) in subparagraph (B)—

(I) by striking ''whole''; and

(II) by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) assess and apply technologies and systems to improve and ensure the quality, shelf life, bioavailability, and safety of fortified food aid commodities, and products of those commodities, that are provided to developing countries, by using the same mechanism that was used to assess the micronutrient fortification program in the report entitled 'Micronutrient Compliance Review of Fortified P.L. 480 Commodities', published October 2001 with funds from the Bureau for Humanitarian Response of the United States Agency for International Development.'';

(3) in subsection (b), by striking ''the pilot program'' and inserting ''a program under this section'';

(4) in the first sentence of subsection (c)—

(A) by striking ''the pilot program, whole'' and inserting ''a program,'';

(B) by striking ''the pilot program may'' and inserting ''a program may'';

(C) by striking ''including'' and inserting ''such as''; and

(D) by striking ''and iodine'' and inserting ''iodine, and folic acid''; and

(5) in subsection (d)—

(A) by striking ''the pilot program'' and inserting ''programs''; and

(B) by striking ''2002'' and inserting ''2007''.

SEC. 3014. JOHN OGONOWSKI FARMER-TO-FARMER PROGRAM.

Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended to read as follows:

''SEC. 501. JOHN OGONOWSKI FARMER-TO-FARMER PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) CARIBBEAN BASIN COUNTRY.—The term 'Caribbean Basin country' means a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

''(2) EMERGING MARKET.—The term 'emerging market' means a country that the Secretary determines—

''(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

''(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

''(3) MIDDLE INCOME COUNTRY.—The term 'middle income country' means a country that has developed economically to the point at which the country does not receive bilateral development assistance from the United States.

''(4) SUB-SAHARAN AFRICAN COUNTRY.—The term 'sub-Saharan African country' has the meaning given the term in section 107 of the Trade and Development Act of 2000 (19 U.S.C. 3706).

''(b) PROVISION.—Notwithstanding any other provision of law, to further assist developing countries, middle-income countries, emerging markets, sub-Saharan African countries, and Caribbean Basin countries to increase farm production and farmer incomes, the President may—

''(1) establish and administer a program, to be known as the 'John Ogonowski Farmer-to-Farmer Program', of farmer-to-farmer assistance between the United States and such countries to assist in—

''(A) increasing food production and distribution; and

''(B) improving the effectiveness of the farming and marketing operations of agricultural producers in those countries;

''(2) use United States agricultural producers, agriculturalists, colleges and universities (including historically black colleges and universities, land grant colleges or universities, and foundations maintained by colleges or universities), private agribusinesses, private organizations (including grassroots organizations with an established and demonstrated capacity to carry out such a bilateral exchange program), private corporations, and nonprofit farm organizations to work in conjunction with agricultural producers and farm organizations in those countries, on a voluntary basis—

''(A) to improve agricultural and agribusiness operations and agricultural systems in those countries, including improving—

''(i) animal care and health;

''(ii) field crop cultivation;

''(iii) fruit and vegetable growing;

''(iv) livestock operations;

''(v) food processing and packaging;

''(vi) farm credit;

''(vii) marketing;

''(viii) inputs; and

''(ix) agricultural extension; and

''(B) to strengthen cooperatives and other agricultural groups in those countries;

''(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on an individual basis, to those countries while enhancing the democratic process by supporting private and public agriculturally related organizations that request and support technical assistance activities through cash and in-kind services;

''(4) to the maximum extent practicable, make grants to or enter into contracts or other cooperative agreements with private voluntary organizations, cooperatives, land grant universities, private agribusiness, or nonprofit farm organizations to carry out this section (except that any such contract or other agreement may obligate the United States to make outlays only to the extent that the budget authority for such outlays is available under subsection (d) or has otherwise been provided in advance in appropriation Acts);

''(5) coordinate programs established under this section with other foreign assistance programs and activities carried out by the United States; and

''(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use, within the country in which the program is being conducted, of—

''(A) foreign currencies that accrue from the sale of agricultural commodities and products under this Act; and

''(B) local currencies generated from other types of foreign assistance activities.

''(c) SPECIAL EMPHASIS ON SUB-SAHARAN AFRICAN AND CARIBBEAN BASIN COUNTRIES.—

''(1) FINDINGS.—Congress finds that—

''(A) agricultural producers in sub-Saharan African and Caribbean Basin countries need training in agricultural techniques that are appropriate for the majority of eligible agricultural producers in those countries, including training in—

''(i) standard growing practices;

''(ii) insecticide and sanitation procedures; and

''(iii) other agricultural methods that will produce increased yields of more nutritious and healthful crops;

''(B) agricultural producers in the United States (including African-American agricultural producers) and banking and insurance professionals have agribusiness expertise that would be invaluable for agricultural producers in sub-Saharan African and Caribbean Basin countries;

''(C) a commitment by the United States is appropriate to support the development of a comprehensive agricultural skills training program for those agricultural producers that focuses on—

''(i) improving knowledge of insecticide and sanitation procedures to prevent crop destruction;

''(ii) teaching modern agricultural techniques that would facilitate a continual analysis of crop production, including—

''(I) the identification and development of standard growing practices; and

''(II) the establishment of systems for record-keeping;

''(iii) the use and maintenance of agricultural equipment that is appropriate for the majority of eligible agricultural producers in sub-Saharan African or Caribbean Basin countries;

''(iv) the expansion of small agricultural operations into agribusiness enterprises by increasing access to credit for agricultural producers through—

''(I) the development and use of village banking systems; and

''(II) the use of agricultural risk insurance pilot products; and

''(v) marketing crop yields to prospective purchasers (including businesses and individuals) for local needs and export; and

''(D) programs that promote the exchange of agricultural knowledge and expertise through the exchange of American and foreign agricultural producers have been effective in promoting improved agricultural techniques and food security and the extension of additional resources to such farmer-to-farmer exchanges is warranted.

''(2) GOALS FOR PROGRAMS CARRIED OUT IN SUB-SAHARAN AFRICAN AND CARIBBEAN COUNTRIES.—The goals of programs carried out under this section in sub-Saharan African and Caribbean Basin countries shall be—

''(A) to expand small agricultural operations in those countries into agribusiness enterprises by increasing access to credit for agricultural producers through—

''(i) the development and use of village banking systems; and

''(ii) the use of agricultural risk insurance pilot products;

''(B) to provide training to agricultural producers in those countries that will—

''(i) enhance local food security; and

''(ii) help mitigate and alleviate hunger;

''(C) to provide training to agricultural producers in those countries in groups to encourage participants to share and pass on to other agricultural producers in the home communities of the participants, the information and skills obtained from the training, rather than merely retaining the information and skills for the personal enrichment of the participants; and

''(D) to maximize the number of beneficiaries of the programs in sub-Saharan African and Caribbean Basin countries.

''(d) MINIMUM FUNDING.—Notwithstanding any other provision of law, in addition to any funds that may be specifically appropriated to carry out this section, not less than 0.5 percent of the amounts made available for each of fiscal years 2002 through 2007 to carry out this Act shall be used to carry out programs under this section, with—

''(1) not less than 0.2 percent to be used for programs in developing countries; and

''(2) not less than 0.1 percent to be used for programs in sub-Saharan African and Caribbean Basin countries.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out programs under this section in sub-Saharan African and Caribbean Basin countries $10,000,000 for each of fiscal years 2002 through 2007.

''(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available for a fiscal year under paragraph (1) may be used to pay administrative costs incurred in carrying out programs in sub-Saharan African and Caribbean Basin countries.''.

Subtitle B—Agricultural Trade Act of 1978

SEC. 3101. EXPORTER ASSISTANCE INITIATIVE.

Title I of the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

''SEC. 107. EXPORTER ASSISTANCE INITIATIVE.

''To provide a comprehensive source of information to facilitate exports of United States agricultural commodities, the Secretary shall maintain on a website on the Internet information to assist exporters and potential exporters of United States agricultural commodities.''.

SEC. 3102. EXPORT CREDIT GUARANTEE PROGRAM.

(a) TERMS OF SUPPLIER CREDIT PROGRAM.—Section 202(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(a)) is amended by adding at the end the following:

''(3) EXTENDED SUPPLIER CREDITS.—

''(A) IN GENERAL.—Subject to the appropriation of funds under subparagraph (B), in carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of more than 180 days, but not more than 360 days, by a United States exporter to a buyer in a foreign country.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to fund the additional costs attributable to the portion of any guarantee issued under this paragraph to cover the repayment of credit beyond the initial 180-day period.''.

(b) PROCESSED AND HIGH-VALUE PRODUCTS.—Section 202(k)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(k)(1)) is amended by striking '', 2001, and 2002'' and inserting ''through 2007''.

(c) REPORT.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended by adding at the end the following:

''(l) CONSULTATION ON AGRICULTURAL EXPORT CREDIT PROGRAMS.—The Secretary and the United States Trade Representative shall consult on a regular basis with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the status of multilateral negotiations regarding agricultural export credit programs.''.

(d) REAUTHORIZATION.—Section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(b)(1)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 3103. MARKET ACCESS PROGRAM.

Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking ''The Commodity'' and inserting the following:

''(1) IN GENERAL.—The Commodity'';

(3) by striking subparagraph (A) (as so redesignated) and inserting the following:

''(A) in addition to any funds that may be specifically appropriated to implement a market access program, not more than $90,000,000 for fiscal year 2001, $100,000,000 for fiscal year 2002, $110,000,000 for fiscal year 2003, $125,000,000 for fiscal year 2004, $140,000,000 for fiscal year 2005, and $200,000,000 for each of fiscal years 2006 and 2007, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and''; and

(4) by adding at the end the following:

''(2) PROGRAM PRIORITIES.—In providing any amount of funds made available under paragraph (1)(A) for any fiscal year that is in excess of the amount made available under paragraph (1)(A) for fiscal year 2001, the Secretary shall, to the maximum extent practicable—

''(A) give equal consideration to—

''(i) proposals submitted by organizations that were participating organizations in prior fiscal years; and

''(ii) proposals submitted by eligible trade organizations that have not previously participated in the program established under this title; and

''(B) give equal consideration to—

''(i) proposals submitted for activities in emerging markets; and

''(ii) proposals submitted for activities in markets other than emerging markets.''.

SEC. 3104. EXPORT ENHANCEMENT PROGRAM.

(a) IN GENERAL.—Section 301(e)(1)(G) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)(G)) is amended by striking ''fiscal year 2002'' and inserting ''each of fiscal years 2002 through 2007''.

(b) UNFAIR TRADE PRACTICES.—Section 102(5)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(5)(A)) is amended—

(1) in clause (i), by striking ''or'' at the end; and

(2) by striking clause (ii) and inserting the following:

''(ii) in the case of a monopolistic state trading enterprise engaged in the export sale of an agricultural commodity, implements a pricing practice that is inconsistent with sound commercial practice;

''(iii) provides a subsidy that—

''(I) decreases market opportunities for United States exports; or

''(II) unfairly distorts an agricultural market to the detriment of United States exporters;

''(iv) imposes an unfair technical barrier to trade, including—

''(I) a trade restriction or commercial requirement (such as a labeling requirement) that adversely affects a new technology (including biotechnology); and

''(II) an unjustified sanitary or phytosanitary restriction (including any restriction that, in violation of the Uruguay Round Agreements, is not based on scientific principles;

''(v) imposes a rule that unfairly restricts imports of United States agricultural commodities in the administration of tariff rate quotas; or

''(vi) fails to adhere to, or circumvents any obligation under, any provision of a trade agreement with the United States.''.

SEC. 3105. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) VALUE-ADDED PRODUCTS.—

(1) IN GENERAL.—Section 702(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5722(a)) is amended by inserting '', with a continued significant emphasis on the importance of the export of value-added United States agricultural products into emerging markets'' after ''products''.

(2) REPORT TO CONGRESS.—Section 702 of the Agricultural Trade Act of 1978 (7 U.S.C. 5722) is amended by adding at the end the following:

''(c) REPORT TO CONGRESS.—The Secretary shall annually submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on activities under this section describing the amount of funding provided, the types of programs funded, the value-added products that have been targeted, and the foreign markets for those products that have been developed.''.

(b) FUNDING.—Section 703 of the Agricultural Trade Act of 1978 (7 U.S.C. 5723) is amended to read as follows:

''SEC. 703. FUNDING.

''(a) IN GENERAL.—To carry out this title, the Secretary shall use funds of the Commodity Credit Corporation, or commodities of the Commodity Credit Corporation of a comparable value, in the amount of $34,500,000 for each of fiscal years 2002 through 2007.

''(b) PROGRAM PRIORITIES.—In providing any amount of funds or commodities made available under subsection (a) for any fiscal year that is in excess of the amount made available under this section for fiscal year 2001, the Secretary shall, to the maximum extent practicable—

''(1) give equal consideration to—

''(A) proposals submitted by organizations that were participating organizations in prior fiscal years; and

''(B) proposals submitted by eligible trade organizations that have not previously participated in the program established under this title; and

''(2) give equal consideration to—

''(A) proposals submitted for activities in emerging markets; and

''(B) proposals submitted for activities in markets other than emerging markets.''.

SEC. 3106. FOOD FOR PROGRESS.

(a) IN GENERAL.—Subsections (f)(3), (k), and (l)(1) of the Food for Progress Act of 1985 (7 U.S.C. 1736o) are each amended by striking ''2002'' and inserting ''2007''.

(b) DEFINITIONS; PROGRAM.—

(1) IN GENERAL.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended by striking subsections (b) and (c) and inserting the following:

''(b) DEFINITIONS.—In this section:

''(1) COOPERATIVE.—The term 'cooperative' has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

''(2) CORPORATION.—The term 'Corporation' means the Commodity Credit Corporation.

''(3) DEVELOPING COUNTRY.—The term 'developing country' has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

''(4) ELIGIBLE COMMODITY.—The term 'eligible commodity' means an agricultural commodity, or a product of an agricultural commodity, in inventories of the Corporation or acquired by the President or the Corporation for disposition through commercial purchases under a program authorized under this section.

''(5) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) the government of an emerging agricultural country;

''(B) an intergovernmental organization;

''(C) a private voluntary organization;

''(D) a nonprofit agricultural organization or cooperative;

''(E) a nongovernmental organization; and

''(F) any other private entity.

''(6) FOOD SECURITY.—The term 'food security' means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

''(7) NONGOVERNMENTAL ORGANIZATION.—The term 'nongovernmental organization' has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

''(8) PRIVATE VOLUNTARY ORGANIZATION.—The term 'private voluntary organization' has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

''(9) PROGRAM.—The term 'program' means a food assistance or development initiative proposed by an eligible entity and approved by the President under this section.

''(c) PROGRAM.—In order to use the food resources of the United States more effectively in support of developing countries, and countries that are emerging democracies that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President may enter into agreements with eligible entities to furnish to the countries eligible commodities made available under subsections (e) and (f).''.

(2) CONFORMING AMENDMENTS.—The Food for Progress Act of 1985 (7 U.S.C. 136o) is amended—

(A) in the first sentence of subsection (d), by striking ''food'';

(B) in subsection (l)(2), by striking ''agricultural'';

(C) in subsection (m)(1), by striking ''these'';

(D) in subsections (d), (e), (f), (h), (j), (l), and (m), by striking ''commodities'' each place it appears and inserting ''eligible commodities''; and

(E) in subsections (e), (f), and (l), by striking ''Commodity Credit Corporation'' each place it appears and inserting ''Corporation''; and

(F) by striking subsection (o).

(c) CONSIDERATION FOR AGREEMENTS.—Subsection (d) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(d)) is amended by striking ''(d) In determining'' and inserting ''(d) CONSIDERATION FOR AGREEMENTS.—In determining''.

(d) FUNDING OF ELIGIBLE COMMODITIES.—Subsection (e) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)) is amended—

(1) by striking ''(e)'' and inserting ''(e) FUNDING OF ELIGIBLE COMMODITIES.—'';

(2) in paragraph (2), by inserting '', and subsection (g) does not apply to eligible commodities furnished on a grant basis or on credit terms under that title'' before the period at the end; and

(3) by adding at the end the following:

''(5) NO EFFECT ON DOMESTIC PROGRAMS.—The President shall not make an eligible commodity available for disposition under this section in any amount that will reduce the amount of the eligible commodity that is traditionally made available through donations to domestic feeding programs or agencies, as determined by the President.

(e) PROVISION OF ELIGIBLE COMMODITIES TO DEVELOPING COUNTRIES.—Subsection (f) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(f)) is amended—

(1) by striking ''(f)'' and inserting ''(f) PROVISION OF ELIGIBLE COMMODITIES TO DEVELOPING COUNTRIES.—''; and

(2) in paragraph (3), by striking ''$30,000,000 (or in the case of fiscal year 1999, $35,000,000)'' and inserting ''$40,000,000''.

(f) MINIMUM TONNAGE.—The Food for Progress Act of 1985 is amended by striking subsection (g) (7 U.S.C. 1736o(g)) and inserting the following:

''(g) MINIMUM TONNAGE.—Subject to subsection (f)(3), not less than 400,000 metric tons of eligible commodities may be provided under this section for the program for each of fiscal years 2002 through 2007.''.

(g) PROHIBITION ON RESALE OR TRANSSHIPMENT OF ELIGIBLE COMMODITIES.—Subsection (h) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(h)) is amended by striking ''(h) An agreement'' and inserting ''(h) PROHIBITION ON RESALE OR TRANSSHIPMENT OF ELIGIBLE COMMODITIES.—An agreement''.

(h) DISPLACEMENT OF UNITED STATES COMMERCIAL SALES.—Subsection (i) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(i)) is amended by striking ''(i) In entering'' and inserting ''(i) DISPLACEMENT OF UNITED STATES COMMERCIAL SALES.—In entering''.

(i) MULTICOUNTRY OR MULTIYEAR BASIS.—Subsection (j) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(j)) is amended—

(1) by striking ''(j) In carrying out this section, the President may,'' and inserting the following: ''(j) MULTICOUNTRY OR MULTIYEAR BASIS.—

''(1) IN GENERAL.—In carrying out this section, the President,'';

(2) by striking ''approve'' and inserting ''is encouraged to approve'';

(3) by striking ''multiyear'' and inserting ''multicountry or multiyear''; and

(4) by adding at the end the following:

''(2) DEADLINE FOR PROGRAM ANNOUNCEMENTS.—Before the beginning of any fiscal year, the President shall, to the maximum extent practicable—

''(A) make all determinations concerning program agreements and resource requests for programs under this section; and

''(B) announce those determinations.

''(3) REPORT.—Not later than December 1 of each fiscal year, the President shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a list of programs, countries, and eligible commodities, and the total amount of funds for transportation and administrative costs, approved to date for the fiscal year under this section.''.

(j) EFFECTIVE AND TERMINATION DATES.—Subsection (k) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(k)) is amended by striking ''(k) This section'' and inserting ''(k) EFFECTIVE AND TERMINATION DATES.—This section''.

(k) ADMINISTRATIVE EXPENSES.—Subsection (l) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(l)) is amended—

(1) by striking ''(l)'' and inserting ''(l) ADMINISTRATIVE EXPENSES.—'';

(2) in paragraph (1), by striking ''$10,000,000'' and inserting ''$15,000,000'';

(3) in paragraph (3), by striking ''local currencies'' and inserting ''proceeds''; and

(4) by adding at the end the following:

''(4) HUMANITARIAN OR DEVELOPMENT PURPOSES.—The Secretary may authorize the use of proceeds to pay the costs incurred by an eligible entity under this section for—

''(A)(i) programs targeted at hunger and malnutrition; or

''(ii) development programs involving food security;

''(B) transportation, storage, and distribution of eligible commodities provided under this section; and

''(C) administration, sales, monitoring, and technical assistance.''.

(l) PRESIDENTIAL APPROVAL.—Subsection (m) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(m)) is amended by striking ''(m) In carrying'' and inserting ''(m) PRESIDENTIAL APPROVAL.—In carrying''.

(m) PROGRAM MANAGEMENT.—The Food for Progress Act of 1985 is amended by striking subsection (n) (7 U.S.C. 1736o(n)) and inserting the following:

''(n) PROGRAM MANAGEMENT.—

''(1) IN GENERAL.—The President shall ensure, to the maximum extent practicable, that each eligible entity participating in 1 or more programs under this section—

''(A) uses eligible commodities made available under this section—

''(i) in an effective manner;

''(ii) in the areas of greatest need; and

''(iii) in a manner that promotes the purposes of this section;

''(B) in using eligible commodities, assesses and takes into account the needs of recipient countries and the target populations of the recipient countries;

''(C) works with recipient countries, and indigenous institutions or groups in recipient countries, to design and carry out mutually acceptable programs authorized under this section; and

''(D) monitors and reports on the distribution or sale of eligible commodities provided under this section using methods that, as determined by the President, facilitate accurate and timely reporting.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the President shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify the application, approval, and implementation processes pertaining to agreements under this section.

''(B) CONSIDERATIONS.—In conducting the review, the President shall consider—

''(i) revising procedures for submitting proposals;

''(ii) developing criteria for program approval that separately address the objectives of the program;

''(iii) pre-screening organizations and proposals to ensure that the minimum qualifications are met;

''(iv) implementing e-government initiatives and otherwise improving the efficiency of the proposal submission and approval processes;

''(v) upgrading information management systems;

''(vi) improving commodity and transportation procurement processes; and

''(vii) ensuring that evaluation and monitoring methods are sufficient.

''(C) CONSULTATIONS.—Not later than 1 year after the date of enactment of this paragraph, the President shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on changes made in regulations and procedures.

''(3) REPORTS.—Each eligible entity that enters into an agreement under this section shall submit to the President, at such time as the President may request, a report containing such information as the President may request relating to the use of eligible commodities and funds furnished to the eligible entity under this section.''.

SEC. 3107. MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.

(a) DEFINITION OF AGRICULTURAL COMMODITY.—In this section, the term ''agricultural commodity'' means an agricultural commodity, or a product of an agricultural commodity, that is produced in the United States.

(b) PROGRAM.—Subject to subsection (l), the President may establish a program, to be known as ''McGovern-Dole International Food for Education and Child Nutrition Program'', requiring the procurement of agricultural commodities and the provision of financial and technical assistance to carry out—

(1) preschool and school food for education programs in foreign countries to improve food security, reduce the incidence of hunger, and improve literacy and primary education, particularly with respect to girls; and

(2) maternal, infant, and child nutrition programs for pregnant women, nursing mothers, infants, and children who are 5 years of age or younger.

(c) ELIGIBLE COMMODITIES AND COST ITEMS.—Notwithstanding any other provision of law—

(1) any agricultural commodity is eligible to be provided under this section;

(2) as necessary to achieve the purposes of this section, funds appropriated under this section may be used to pay—

(A)(i) the cost of acquiring agricultural commodities;

(ii) the costs associated with packaging, enrichment, preservation, and fortification of agricultural commodities;

(iii) the processing, transportation, handling, and other incidental costs up to the time of the delivery of agricultural commodities free on board vessels in United States ports;

(iv) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

(v) the costs associated with transporting agricultural commodities from United States ports to designated points of entry abroad in the case—

(I) of landlocked countries;

(II) of ports that cannot be used effectively because of natural or other disturbances;

(III) of the unavailability of carriers to a specific country; or

(IV) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports; and

(vi) the charges for general average contributions arising out of the ocean transport of agricultural commodities transferred pursuant thereto;

(B) all or any part of the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the President determines that—

(i) payment of the costs is appropriate; and

(ii) the recipient country is a low income, net food-importing country that—

(I) meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference; and

(II) has a national government that is committed to or is working toward, through a national action plan, the goals of the World Declaration on Education for All convened in 1990 in Jomtien, Thailand, and the followup Dakar Framework for Action of the World Education Forum, convened in 2000;

(C) the costs of activities conducted in the recipient countries by a nonprofit voluntary organization, cooperative, or intergovernmental agency or organization that would enhance the effectiveness of the activities implemented by such entities under this section; and

(D) the costs of meeting the allowable administrative expenses of private voluntary organizations, cooperatives, or intergovernmental organizations that are implementing activities under this section.

(d) GENERAL AUTHORITIES.—The President shall designate 1 or more Federal agencies to—

(1) implement the program established under this section;

(2) ensure that the program established under this section is consistent with the foreign policy and development assistance objectives of the United States; and

(3) consider, in determining whether a country should receive assistance under this section, whether the government of the country is taking concrete steps to improve the preschool and school systems in the country.

(e) ELIGIBLE ENTITIES.—Assistance may be provided under this section to private voluntary organizations, cooperatives, intergovernmental organizations, governments of developing countries and their agencies, and other organizations.

(f) PROCEDURES.—

(1) IN GENERAL.—In carrying out subsection (b), the President shall ensure that procedures are established that—

(A) provide for the submission of proposals by eligible entities, each of which may include 1 or more recipient countries, for commodities and other assistance under this section;

(B) provide for eligible commodities and assistance on a multiyear basis;

(C) ensure that eligible entities demonstrate the organizational capacity and the ability to develop, implement, monitor, report on, and provide accountability for activities conducted under this section;

(D) provide for the expedited development, review, and approval of proposals submitted in accordance with this section;

(E) ensure monitoring and reporting by eligible entities on the use of commodities and other assistance provided under this section; and

(F) allow for the sale or barter of commodities by eligible entities to acquire funds to implement activities that improve the food security of women and children or otherwise enhance the effectiveness of programs and activities authorized under this section.

(2) PRIORITIES FOR PROGRAM FUNDING.—In carrying out paragraph (1) with respect to criteria for determining the use of commodities and other assistance provided for programs and activities authorized under this section, the implementing agency may consider the ability of eligible entities to—

(A) identify and assess the needs of beneficiaries, especially malnourished or undernourished mothers and their children who are 5 years of age or younger, and school-age children who are malnourished, undernourished, or do not regularly attend school;

(B)(i) in the case of preschool and school-age children, target low-income areas where children's enrollment and attendance in school is low or girls' enrollment and participation in preschool or school is low, and incorporate developmental objectives for improving literacy and primary education, particularly with respect to girls; and

(ii) in the case of programs to benefit mothers and children who are 5 years of age or younger, coordinate supplementary feeding and nutrition programs with existing or newly-established maternal, infant, and children programs that provide health-needs interventions, including maternal, prenatal, and postnatal and newborn care;

(C) involve indigenous institutions as well as local communities and governments in the development and implementation of the programs and activities to foster local capacity building and leadership; and

(D) carry out multiyear programs that foster local self-sufficiency and ensure the longevity of programs in the recipient country.

(g) USE OF FOOD AND NUTRITION SERVICE.—The Food and Nutrition Service of the Department of Agriculture may provide technical advice on the establishment of programs under

subsection (b)(1) and on implementation of the programs in the field in recipient countries.

(h) MULTILATERAL INVOLVEMENT.—

(1) IN GENERAL.—The President is urged to engage existing international food aid coordinating mechanisms to ensure multilateral commitments to, and participation in, programs similar to programs supported under this section.

(2) REPORTS.—The President shall annually submit to the Committee on International Relations and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the commitments and activities of governments, including the United States government, in the global effort to reduce child hunger and increase school attendance.

(i) PRIVATE SECTOR INVOLVEMENT.—The President is urged to encourage the support and active involvement of the private sector, foundations, and other individuals and organizations in programs assisted under this section.

(j) GRADUATION.—An agreement with an eligible organization under this section shall include provisions—

(1) to—

(A) sustain the benefits to the education, enrollment, and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under a program under this section terminates; and

(B) estimate the period of time required until the recipient country or eligible organization is able to provide sufficient assistance without additional assistance under this section; or

(2) to provide other long-term benefits to targeted populations of the recipient country.

(k) REQUIREMENT TO SAFEGUARD LOCAL PRODUCTION AND USUAL MARKETING.—The requirement of section 403(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(a)) applies with respect to the availability of commodities under this section.

(l) FUNDING.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the President shall use $100,000,000 for fiscal year 2003 to carry out this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2004 through 2007.

(3) ADMINISTRATIVE EXPENSES.—Funds made available to carry out this section may be used to pay the administrative expenses of any Federal agency implementing or assisting in the implementation of this section.

Subtitle C—Miscellaneous

SEC. 3201. SURPLUS COMMODITIES FOR DEVELOPING OR FRIENDLY COUNTRIES.

(a) USE OF CURRENCIES.—Section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)) is amended—

(1) in clauses (i) and (iii), by striking ''foreign currency'' each place it appears;

(2) in clause (ii)—

(A) by striking ''Foreign currencies'' and inserting ''Proceeds''; and

(B) by striking ''foreign currency''; and

(3) in clause (iv)—

(A) by striking ''Foreign currency proceeds'' and inserting ''Proceeds'';

(B) by striking ''country of origin'' the second place it appears and all that follows through ''as necessary to expedite'' and inserting ''country of origin as necessary to expedite'';

(C) by striking ''; or'' and inserting a period; and

(D) by striking subclause (II).

(b) IMPLEMENTATION OF AGREEMENTS.—Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) (as amended by section 3009(b)) is amended—

(1) in paragraph (8), by striking ''(8)(A)'' and all that follows through ''(B) The Secretary'' and inserting the following:

''(8) ADMINISTRATIVE PROVISIONS.—

''(A) EXPEDITED PROCEDURES.—To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

''(B) ESTIMATE OF COMMODITIES.—The Secretary shall publish in the Federal Register, not later than October 31 of each fiscal year, an estimate of the types and quantities of commodities and products that will be available under this section for the fiscal year.

''(C) FINALIZATION OF AGREEMENTS.—The Secretary is encouraged to finalize program agreements under this section not later than December 31 of each fiscal year.

''(D) REGULATIONS.—The Secretary''; and

(2) by adding at the end the following:

''(11) REQUIREMENTS.—

''(A) IN GENERAL.—Not later than 270 days after the date of enactment of this subparagraph, the Secretary shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify the application, approval, and implementation processes pertaining to agreements under this section.

''(B) CONSIDERATIONS.—In conducting the review, the Secretary shall consider—

''(i) revising procedures for submitting proposals;

''(ii) developing criteria for program approval that separately address the objectives of the program;

''(iii) pre-screening organizations and proposals to ensure that the minimum qualifications are met;

''(iv) implementing e-government initiatives and otherwise improving the efficiency of the proposal submission and approval processes;

''(v) upgrading information management systems;

''(vi) improving commodity and transportation procurement processes; and

''(vii) ensuring that evaluation and monitoring methods are sufficient.

''(C) CONSULTATIONS.—Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on changes made in regulations and procedures under this paragraph.''.

SEC. 3202. BILL EMERSON HUMANITARIAN TRUST.

Section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1) is amended by striking ''2002'' each place it appears in subsection (b)(2)(B)(i) and paragraphs (1) and (2) of subsection (h) and inserting ''2007''.

SEC. 3203. EMERGING MARKETS.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended in subsections (a) and (d)(1)(A)(i) by striking ''2002'' and inserting ''2007''.

SEC. 3204. BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

The Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 1543 (7 U.S.C. 3293) the following:

''SEC. 1543A. BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

''(a) ESTABLISHMENT.—There is established in the Department the biotechnology and agricultural trade program.

''(b) PURPOSE.—The purpose of the program shall be to remove, resolve, or mitigate significant regulatory nontariff barriers to the export of United States agricultural commodities (as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602)) into foreign markets through public and private sector projects funded by grants that address—

''(1) quick response intervention regarding nontariff barriers to United States exports involving—

''(A) United States agricultural commodities produced through biotechnology;

''(B) food safety;

''(C) disease; or

''(D) other sanitary or phytosanitary concerns; or

''(2) developing protocols as part of bilateral negotiations with other countries on issues such as animal health, grain quality, and genetically modified commodities.

''(c) ELIGIBLE PROGRAMS.—Depending on need, as determined by the Secretary, activities authorized under this section may be carried out through—

''(1) this section;

''(2) the emerging markets program under section 1542; or

''(3) the Cochran Fellowship Program under section 1543.

''(d) FUNDING.—There is authorized to be appropriated $6,000,000 for each of fiscal years 2002 through 2007.''.

SEC. 3205. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish an export assistance program (referred to in this section as the ''program'') to address unique barriers that prohibit or threaten the export of United States specialty crops.

(b) PURPOSE.—The program shall provide direct assistance through public and private sector projects and technical assistance to remove, resolve, or mitigate sanitary and phytosanitary and related barriers to trade.

(c) PRIORITY.—The program shall address time sensitive and strategic market access projects based on—

(1) trade effect on market retention, market access, and market expansion; and

(2) trade impact.

(d) FUNDING.—For each of fiscal years 2002 through 2007, the Secretary shall make available $2,000,000 of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation.

SEC. 3206. GLOBAL MARKET STRATEGY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and biennially thereafter, the Secretary of Agriculture shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the formulation and implementation of a global market strategy for the Department of Agriculture that, to the maximum extent practicable—

(1) identifies opportunities for the growth of agricultural exports to overseas markets;

(2) ensures that the resources, programs, and policies of the Department are coordinated with those of other agencies; and

(3) remove barriers to agricultural trade in overseas markets.

(b) REVIEW.—The consultations under subsection (a) shall include a review of—

(1) the strategic goals of the Department; and

(2) the progress of the Department in implementing the strategic goals through the global market strategy.

SEC. 3207. REPORT ON USE OF PERISHABLE COMMODITIES AND LIVE ANIMALS.

Not later than 120 days after the date of enactment of this Act, 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 international food aid programs of the United States that evaluates—

(1) the implications of storage and transportation capacity and funding for the use of perishable agricultural commodities and semiperishable agricultural commodities; and

(2) the feasibility of the transport of lambs and other live animals under the program.

SEC. 3208. STUDY ON FEE FOR SERVICES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary

of Agriculture shall submit to the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a report on the feasibility of instituting a program under which the Secretary would charge and retain a fee to cover the costs incurred by the Department of Agriculture, acting through the Foreign Agricultural Service or any successor agency, in providing persons with commercial services provided outside the United States.

(b) PURPOSE OF PROGRAM.—The purpose of a program described in subsection (a) would be to supplement and not replace any services currently offered overseas by the Foreign Agricultural Service.

(c) MARKET DEVELOPMENT STRATEGY.—A program under subsection (b) would be part of an overall market development strategy for a particular country or region.

(d) PILOT PROGRAM.—A program under subsection (a) would be established on a pilot basis to ensure that the program does not disadvantage small- and medium-sized companies, including companies that have never engaged in exporting.

SEC. 3209. SENSE OF CONGRESS CONCERNING FOREIGN ASSISTANCE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) the international community faces a continuing epidemic of ethnic, sectarian, and criminal violence;

(2) poverty, hunger, political uncertainty, and social instability are the principal causes of violence and conflict around the world;

(3) broad-based, equitable economic growth and agriculture development facilitates political stability, food security, democracy, and the rule of law;

(4) democratic governments are more likely to advocate and observe international laws, protect civil and human rights, pursue free market economies, and avoid external conflicts;

(5) the United States Agency for International Development has provided critical democracy and governance assistance to a majority of the nations that successfully made the transition to democratic governments during the past 2 decades;

(6) 43 of the top 50 consumer nations of American agricultural products were once United States foreign aid recipients;

(7) in the past 50 years, infant child death rates in the developing world have been reduced by 50 percent, and health conditions around the world have improved more during this period than in any other period;

(8) the United States Agency for International Development child survival programs have significantly contributed to a 10 percent reduction in infant mortality rates worldwide in just the past 8 years;

(9) in providing assistance by the United States and other donors in better seeds and teaching more efficient agricultural techniques over the past 2 decades have helped make it possible to feed an additional 1,000,000,000 people in the world;

(10) despite this progress, approximately 1,200,000,000 people, one-quarter of the world's population, live on less that $1 per day, and approximately 3,000,000,000 people live on only $2 per day;

(11) 95 percent of new births occur in developing countries, including the world's poorest countries; and

(12) only ½ percent of the Federal budget is dedicated to international economic and humanitarian assistance.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign assistance programs should play an increased role in the global fight against terrorism to complement the national security objectives of the United States;

(2) the United States should lead coordinated international efforts to provide increased financial assistance to countries with impoverished and disadvantaged populations that are the breeding grounds for terrorism; and

(3) the United States Agency for International Development and the Department of Agriculture should substantially increase humanitarian, economic development, and agricultural assistance to foster international peace and stability and the promotion of human rights.

SEC. 3210. SENSE OF THE SENATE CONCERNING AGRICULTURAL TRADE.

(a) AGRICULTURE TRADE NEGOTIATING OBJECTIVES.—It is the sense of the Senate that the principal negotiating objective of the United States with respect to agricultural trade in all multilateral, regional, and bilateral negotiations is to obtain competitive opportunities for the export of United States 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 agricultural trade in bulk and value-added commodities by—

(1) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for the export of United States agricultural commodities, giving priority to United States agricultural commodities that are subject to significantly higher tariffs or subsidy regimes of major producing countries;

(2) immediately eliminating all export subsidies on agricultural commodities worldwide 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;

(3) leveling the playing field for United States agricultural producers by disciplining domestic supports such that no other country can provide greater support, measured as a percentage of total agricultural production value, than the United States does while preserving existing green box category to support conservation activities, family farms, and rural communities;

(4) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities for United States agricultural commodities or distort agricultural markets to the detriment of the United States, including—

(A) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on—

(i) requiring price transparency in the operation of state trading enterprises and such other mechanisms; and

(ii) ending discriminatory pricing practices for agricultural commodities that amount to de facto export subsidies so that the enterprises or other mechanisms do not (except in cases of bona fide food aid) sell agricultural commodities in foreign markets at prices below domestic market prices or prices below the full costs of acquiring and delivering agricultural commodities to the foreign markets;

(B) unjustified trade restrictions or commercial requirements affecting new agricultural technologies, including biotechnology;

(C) unjustified sanitary or phytosanitary restrictions, including restrictions that are not based on scientific principles, in contravention of the Agreement on the Application of Sanitary and Phytosanitary Measures (as described in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3)));

(D) other unjustified technical barriers to agricultural trade; and

(E) restrictive and nontransparent rules in the administration of tariff rate quotas;

(5) improving import relief mechanisms to recognize the unique characteristics of perishable agricultural commodities;

(6) taking into account whether a party to negotiations with respect to trading in an agricultural commodity has—

(A) failed to adhere to the provisions of an existing bilateral trade agreement with the United States;

(B) circumvented obligations under a multilateral trade agreement to which the United States is a signatory; or

(C) manipulated its currency value to the detriment of United States agricultural producers or exporters; and

(7) otherwise ensuring that countries that accede to the World Trade Organization—

(A) have made meaningful market liberalization commitments in agriculture; and

(B) make progress in fulfilling those commitments over time.

(b) PRIORITY FOR AGRICULTURE TRADE.—It is the sense of the Senate that—

(1) reaching a successful agreement on agriculture should be the top priority of United States negotiators in World Trade Organization talks; and

(2) if the primary export competitors of the United States fail to reduce their trade distorting domestic supports and eliminate export subsidies in accordance with the negotiating objectives expressed in this section, the United States should take steps to increase the leverage of United States negotiators and level the playing field for United States producers, within existing World Trade Organization commitments.

(c) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—It is the sense of the Senate that—

(1) before the United States Trade Representative negotiates a trade agreement that would reduce tariffs on agricultural commodities or require a change in United States agricultural law, the United States Trade Representative should consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(2) not less than 48 hours before initialing an agreement relating to agricultural trade negotiated under the auspices of the World Trade Organization, the United States Trade Representative should consult closely with the committees referred to in paragraph (1) regarding—

(A) the details of the agreement;

(B) the potential impact of the agreement on United States agricultural producers; and

(C) any changes in United States law necessary to implement the agreement; and

(3) any agreement or other understanding (whether verbal or in writing) that relates to agricultural trade that is not disclosed to Congress before legislation implementing a trade agreement is introduced in either the Senate or the House of Representatives should not be considered to be part of the agreement approved by Congress and should have no force and effect under Unites States law or in any dispute settlement body.

TITLE IV—NUTRITION PROGRAMS

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Food Stamp Reauthorization Act of 2002''.

Subtitle A—Food Stamp Program

SEC. 4101. ENCOURAGEMENT OF PAYMENT OF CHILD SUPPORT.

(a) EXCLUSION.—Section 5(d)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(6)) is amended by adding at the end the following: ''and child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments,''.

(b) SIMPLIFIED PROCEDURE.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e), by striking paragraph (4) and inserting the following:

''(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

''(A) IN GENERAL.—In lieu of providing an exclusion for legally obligated child support payments made by a household member under subsection (d)(6), a State agency may elect to provide a deduction for the amount of the payments.

''(B) ORDER OF DETERMINING DEDUCTIONS.—A deduction under this paragraph shall be determined before the computation of the excess shelter expense deduction under paragraph (6).''; and

(2) by adding at the end the following:

''(n) STATE OPTIONS TO SIMPLIFY DETERMINATION OF CHILD SUPPORT PAYMENTS.—Regardless of whether a State agency elects to provide a deduction under subsection (e)(4), the Secretary shall establish simplified procedures to allow State agencies, at the option of the State agencies, to determine the amount of any legally obligated child support payments made, including procedures to allow the State agency to rely on information from the agency responsible for implementing the program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) concerning payments made in prior months in lieu of obtaining current information from the households.''.

SEC. 4102. SIMPLIFIED DEFINITION OF INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking ''and (15)'' and inserting ''(15)''; and

(2) by inserting before the period at the end the following: '', (16) at the option of the State agency, any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like (other than loans, grants, scholarships, fellowships, veterans' educational benefits, and the like excluded under paragraph (3)), to the extent that they are required to be excluded under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), (17) at the option of the State agency, any State complementary assistance program payments that are excluded for the purpose of determining eligibility for medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), and (18) at the option of the State agency, any types of income that the State agency does not consider when determining eligibility for (A) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or the amount of such assistance, or (B) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), except that this paragraph does not authorize a State agency to exclude wages or salaries, benefits under title I, II, IV, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.), regular payments from a government source (such as unemployment benefits and general assistance), worker's compensation, child support payments made to a household member by an individual who is legally obligated to make the payments, or such other types of income the consideration of which the Secretary determines by regulation to be essential to equitable determinations of eligibility and benefit levels''.

SEC. 4103. STANDARD DEDUCTION.

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:

''(1) STANDARD DEDUCTION.—

''(A) IN GENERAL.—

''(i) DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands of the United States in an amount that is—

''(I) equal to 8.31 percent of the income standard of eligibility established under subsection (c)(1); but

''(II) not more than 8.31 percent of the income standard of eligibility established under subsection (c)(1) for a household of 6 members.

''(ii) MINIMUM AMOUNT.—Notwithstanding clause (i), the standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands of the United States shall be not less than $134, $229, $189, and $118, respectively.

''(B) GUAM.—

''(i) IN GENERAL.—The Secretary shall allow a standard deduction for each household in Guam in an amount that is—

''(I) equal to 8.31 percent of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

''(II) not more than 8.31 percent of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia for a household of 6 members.

''(ii) MINIMUM AMOUNT.—Notwithstanding clause (i), the standard deduction for each household in Guam shall be not less than $269.''.

SEC. 4104. SIMPLIFIED UTILITY ALLOWANCE.

Section 5(e)(7)(C)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(C)(iii)) is amended—

(1) in subclause (I)(bb), by inserting ''(without regard to subclause (III))'' after ''Secretary finds''; and

(2) by adding at the end the following:

''(III) INAPPLICABILITY OF CERTAIN RESTRICTIONS.—Clauses (ii)(II) and (ii)(III) shall not apply in the case of a State agency that has made the use of a standard utility allowance mandatory under subclause (I).''.

SEC. 4105. SIMPLIFIED DETERMINATION OF HOUSING COSTS.

(a) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by adding at the end the following:

''(D) HOMELESS HOUSEHOLDS.—

''(i) ALTERNATIVE DEDUCTION.—In lieu of the deduction provided under subparagraph (A), a State agency may elect to allow a household in which all members are homeless individuals, but that is not receiving free shelter throughout the month, to receive a deduction of $143 per month.

''(ii) INELIGIBILITY.—The State agency may make a household with extremely low shelter costs ineligible for the alternative deduction under clause (i).''.

(b) CONFORMING AMENDMENTS.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e)—

(A) by striking paragraph (5); and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(2) in subsection (k)(4)(B), by striking ''subsection (e)(7)'' and inserting ''subsection (e)(6)''.

SEC. 4106. SIMPLIFIED DETERMINATION OF DEDUCTIONS.

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by adding at the end the following:

''(C) SIMPLIFIED DETERMINATION OF DEDUCTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), for the purposes of subsection (e), a State agency may elect to disregard until the next recertification of eligibility under section 11(e)(4) 1 or more types of changes in the circumstances of a household that affect the amount of deductions the household may claim under subsection (e).

''(ii) CHANGES THAT MAY NOT BE DISREGARDED.—Under clause (i), a State agency may not disregard—

''(I) any reported change of residence; or

''(II) under standards prescribed by the Secretary, any change in earned income.''.

SEC. 4107. SIMPLIFIED DEFINITION OF RESOURCES.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended—

(1) in paragraph (1), by striking ''a member who is 60 years of age or older'' and inserting ''an elderly or disabled member''; and

(2) by adding at the end the following:

''(6) EXCLUSION OF TYPES OF FINANCIAL RESOURCES NOT CONSIDERED UNDER CERTAIN OTHER FEDERAL PROGRAMS.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State agency may, at the option of the State agency, exclude from financial resources under this subsection any types of financial resources that the State agency does not consider when determining eligibility for—

''(i) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

''(ii) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1).

''(B) LIMITATIONS.—Except to the extent that any of the types of resources specified in clauses (i) through (iv) are excluded under another paragraph of this subsection, subparagraph (A) does not authorize a State agency to exclude—

''(i) cash;

''(ii) licensed vehicles;

''(iii) amounts in any account in a financial institution that are readily available to the household; or

''(iv) any other similar type of resource the inclusion in financial resources of which the Secretary determines by regulation to be essential to equitable determinations of eligibility under the food stamp program.''.

SEC. 4108. ALTERNATIVE ISSUANCE SYSTEMS IN DISASTERS.

(a) IN GENERAL.—Section 5(h)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(3)(B)) is amended—

(1) in the first sentence, by inserting ''issuance methods and'' after ''shall adjust''; and

(2) in the second sentence, by inserting '', any conditions that make reliance on electronic benefit transfer systems described in section 7(i) impracticable,'' after ''personnel''.

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

SEC. 4109. STATE OPTION TO REDUCE REPORTING REQUIREMENTS.

Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended—

(1) in subparagraph (B), by striking ''on a monthly basis''; and

(2) by adding at the end the following:

''(D) FREQUENCY OF REPORTING.—

''(i) IN GENERAL.—Except as provided in subparagraphs (A) and (C), a State agency may require households that report on a periodic basis to submit reports—

''(I) not less often than once each 6 months; but

''(II) not more often than once each month.

''(ii) REPORTING BY HOUSEHOLDS WITH EXCESS INCOME.—A household required to report less often than once each 3 months shall, notwithstanding subparagraph (B), report in a manner prescribed by the Secretary if the income of the household for any month exceeds the income standard of eligibility established under section 5(c)(2).''.

SEC. 4110. COST NEUTRALITY FOR ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 7(i)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(2)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively.

SEC. 4111. REPORT ON ELECTRONIC BENEFIT TRANSFER SYSTEMS.

(a) DEFINITION OF EBT SYSTEM.—In this section, the term ''EBT system'' means an electronic benefit transfer system used in issuance of benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) REPORT.—Not later than October 1, 2003, 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 that—

(1) describes the status of use by each State agency of EBT systems;

(2) specifies the number of vendors that have entered into a contract for an EBT system with a State agency;

(3)(A) specifies the number of State agencies that have entered into an EBT-system contract with multiple EBT-system vendors; and

(B) describes, for each State agency described in subparagraph (A), how responsibilities are divided among the various vendors;

(4) with respect to any State in which an EBT system is not operational throughout the State as of October 1, 2002—

(A) provides an explanation of the reasons why an EBT system is not operational throughout the State;

(B) describes how the reasons are being addressed; and

(C) specifies the expected date of operation of an EBT system throughout the State;

(5) provides a description of—

(A) the issues faced by any State agency that has awarded a second EBT-system contract in the 2-year period preceding the date of the report; and

(B) the steps that the State agency has taken to address those issues;

(6) provides a description of—

(A) the issues faced by any State agency that will award a second EBT-system contract within the 2-year period beginning on the date of the report; and

(B) strategies that the State agency is considering to address those issues;

(7) describes initiatives being considered or taken by the Department of Agriculture, food retailers, EBT-system vendors, and client advocates to address any outstanding issues with respect to EBT systems; and

(8) examines areas of potential advances in electronic benefit delivery in the 5- to 10-year period beginning on the date of the report, including—

(A) access to EBT systems at farmers' markets;

(B) increased use of transaction data from EBT systems to identify and prosecute fraud; and

(C) fostering of increased competition among EBT-system vendors to ensure cost containment and optimal service.

SEC. 4112. ALTERNATIVE PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.

(a) IN GENERAL.—Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

''(f) ALTERNATIVE PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.—

''(1) IN GENERAL.—

''(A) APPLICABILITY.—

''(i) IN GENERAL.—Subject to clause (ii), at the option of the State agency, allotments for residents of any facility described in subparagraph (B), (C), (D), or (E) of section 3(i)(5) (referred to in this subsection as a 'covered facility') may be determined and issued under this paragraph in lieu of subsection (a).

''(ii) LIMITATION.—Unless the Secretary authorizes implementation of this paragraph in all States under paragraph (3), clause (i) shall apply only to residents of covered facilities participating in a pilot project under paragraph (2).

''(B) AMOUNT OF ALLOTMENT.—The allotment for each eligible resident described in subparagraph (A) shall be calculated in accordance with standardized procedures established by the Secretary that take into account the allotments typically received by residents of covered facilities.

''(C) ISSUANCE OF ALLOTMENT.—

''(i) IN GENERAL.—The State agency shall issue an allotment determined under this paragraph to a covered facility as the authorized representative of the residents of the covered facility.

''(ii) ADJUSTMENT.—The Secretary shall establish procedures to ensure that a covered facility does not receive a greater proportion of a resident's monthly allotment than the proportion of the month during which the resident lived in the covered facility.

''(D) DEPARTURES OF RESIDENTS OF COVERED FACILITIES.—

''(i) NOTIFICATION.—Any covered facility that receives an allotment for a resident under this paragraph shall—

''(I) notify the State agency promptly on the departure of the resident; and

''(II) notify the resident, before the departure of the resident, that the resident—

''(aa) is eligible for continued benefits under the food stamp program; and

''(bb) should contact the State agency concerning continuation of the benefits.

''(ii) ISSUANCE TO DEPARTED RESIDENTS.—On receiving a notification under clause (i)(I) concerning the departure of a resident, the State agency—

''(I) shall promptly issue the departed resident an allotment for the days of the month after the departure of the resident (calculated in a manner prescribed by the Secretary) unless the departed resident reapplies to participate in the food stamp program; and

''(II) may issue an allotment for the month following the month of the departure (but not any subsequent month) based on this paragraph unless the departed resident reapplies to participate in the food stamp program.

''(iii) STATE OPTION.—The State agency may elect not to issue an allotment under clause (ii)(I) if the State agency lacks sufficient information on the location of the departed resident to provide the allotment.

''(iv) EFFECT OF REAPPLICATION.—If the departed resident reapplies to participate in the food stamp program, the allotment of the departed resident shall be determined without regard to this paragraph.

''(2) PILOT PROJECTS.—

''(A) IN GENERAL.—Before the Secretary authorizes implementation of paragraph (1) in all States, the Secretary shall carry out, at the request of 1 or more State agencies and in 1 or more areas of the United States, such number of pilot projects as the Secretary determines to be sufficient to test the feasibility of determining and issuing allotments to residents of covered facilities under paragraph (1) in lieu of subsection (a).

''(B) PROJECT PLAN.—To be eligible to participate in a pilot project under subparagraph (A), a State agency shall submit to the Secretary for approval a project plan that includes—

''(i) a specification of the covered facilities in the State that will participate in the pilot project;

''(ii) a schedule for reports to be submitted to the Secretary on the pilot project;

''(iii) procedures for standardizing allotment amounts that takes into account the allotments typically received by residents of covered facilities; and

''(iv) a commitment to carry out the pilot project in compliance with the requirements of this subsection other than paragraph (1)(B).

''(3) AUTHORIZATION OF IMPLEMENTATION IN ALL STATES.—

''(A) IN GENERAL.—The Secretary shall—

''(i) determine whether to authorize implementation of paragraph (1) in all States; and

''(ii) notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the determination.

''(B) DETERMINATION NOT TO AUTHORIZE IMPLEMENTATION IN ALL STATES.—

''(i) IN GENERAL.—If the Secretary makes a finding described in clause (ii), the Secretary—

''(I) shall not authorize implementation of paragraph (1) in all States; and

''(II) shall terminate all pilot projects under paragraph (2) within a reasonable period of time (as determined by the Secretary).

''(ii) FINDING.—The finding referred to in clause (i) is that—

''(I) an insufficient number of project plans that the Secretary determines to be eligible for approval are submitted by State agencies under paragraph (2)(B); or

''(II)(aa) a sufficient number of pilot projects have been carried out under paragraph (2)(A); and

''(bb) authorization of implementation of paragraph (1) in all States is not in the best interest of the food stamp program.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended—

(A) by striking ''(i) 'Household' means (1) an'' and inserting the following:

''(i)(1) 'Household' means—

''(A) an'';

(B) in the first sentence, by striking ''others, or (2) a group'' and inserting the following: ''others; or

''(B) a group'';

(C) in the second sentence, by striking ''Spouses'' and inserting the following:

''(2) Spouses'';

(D) in the third sentence, by striking ''Notwithstanding'' and inserting the following:

''(3) Notwithstanding'';

(E) in paragraph (3) (as designated by subparagraph (D)), by striking ''the preceding sentences'' and inserting ''paragraphs (1) and (2)'';

(F) in the fourth sentence, by striking ''In no event'' and inserting the following:

''(4) In no event'';

(G) in the fifth sentence, by striking ''For the purposes of this subsection, residents'' and inserting the following:

''(5) For the purposes of this subsection, the following persons shall not be considered to be residents of institutions and shall be considered to be individual households:

''(A) Residents''; and

(H) in paragraph (5) (as designated by subparagraph (G))—

(i) by striking ''Act, or are individuals'' and inserting the following: ''Act.

''(B) Individuals'';

(ii) by striking ''such section, temporary'' and inserting the following: ''that section.

''(C) Temporary'';

(iii) by striking ''children, residents'' and inserting the following: ''children.

''(D) Residents'';

(iv) by striking ''coupons, and narcotics'' and inserting the following: ''coupons.

''(E) Narcotics''; and

(v) by striking ''shall not'' and all that follows and inserting a period.

(2) Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking ''the third sentence of section 3(i)'' each place it appears and inserting ''section 3(i)(4)''.

(3) Section 8(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2017(e)(1)) is amended by striking ''the last sentence of section 3(i)'' and inserting ''section 3(i)(5)''.

(4) Section 17(b)(1)(B)(iv)(III)(aa) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(iv)(III)(aa)) is amended by striking ''the last 2 sentences of section 3(i)'' and inserting ''paragraphs (4) and (5) of section 3(i)''.

SEC. 4113. REDEMPTION OF BENEFITS THROUGH GROUP LIVING ARRANGEMENTS.

(a) IN GENERAL.—Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2019) is amended by inserting after the first sentence the following: ''Notwithstanding the preceding sentence, a center, organization, institution, shelter, group living arrangement, or establishment described in that sentence may be authorized to redeem coupons through a financial institution described in that sentence if the center, organization, institution, shelter, group living arrangement, or establishment is equipped with 1 or more point-of-sale devices and is operating in an area in which an electronic benefit transfer system described in section 7(i) has been implemented.''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 4114. AVAILABILITY OF FOOD STAMP PROGRAM APPLICATIONS ON THE INTERNET.

(a) IN GENERAL.—Section 11(e)(2)(B)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(2)(B)(ii)) is amended—

(1) by inserting ''(I)'' after ''(ii)'';

(2) in subclause (I) (as designated by paragraph (1)), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(II) if the State agency maintains a website for the State agency, shall make the application available on the website in each language in which the State agency makes a printed application available;''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect 18 months after the date of enactment of this Act.

SEC. 4115. TRANSITIONAL FOOD STAMPS FOR FAMILIES MOVING FROM WELFARE.

(a) IN GENERAL.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

''(s) TRANSITIONAL BENEFITS OPTION.—

''(1) IN GENERAL.—A State agency may provide transitional food stamp benefits to a household that ceases to receive cash assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

''(2) TRANSITIONAL BENEFITS PERIOD.—Under paragraph (1), a household may receive transitional food stamp benefits for a period of not more than 5 months after the date on which cash assistance is terminated.

''(3) AMOUNT OF BENEFITS.—During the transitional benefits period under paragraph (2), a household shall receive an amount of food stamp benefits equal to the allotment received in the month immediately preceding the date on which cash assistance was terminated, adjusted for the change in household income as a result of—

''(A) the termination of cash assistance; and

''(B) at the option of the State agency, information from another program in which the household participates.

''(4) DETERMINATION OF FUTURE ELIGIBILITY.—In the final month of the transitional benefits period under paragraph (2), the State agency may—

''(A) require the household to cooperate in a recertification of eligibility; and

''(B) initiate a new certification period for the household without regard to whether the preceding certification period has expired.

''(5) LIMITATION.—A household shall not be eligible for transitional benefits under this subsection if the household—

''(A) loses eligibility under section 6;

''(B) is sanctioned for a failure to perform an action required by Federal, State, or local law relating to a cash assistance program described in paragraph (1); or

''(C) is a member of any other category of households designated by the State agency as ineligible for transitional benefits.

''(6) APPLICATIONS FOR RECERTIFICATION.—

''(A) IN GENERAL.—A household receiving transitional benefits under this subsection may apply for recertification at any time during the transitional benefits period under paragraph (2).

''(B) DETERMINATION OF ALLOTMENT.—If a household applies for recertification under subparagraph (A), the allotment of the household for all subsequent months shall be determined without regard to this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by adding at the end the following: ''The limits specified in this subsection may be extended until the end of any transitional benefit period established under section 11(s).''.

(2) Section 6(c) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)) is amended by striking ''No household'' and inserting ''Except in a case in which a household is receiving transitional benefits during the transitional benefits period under section 11(s), no household''.

SEC. 4116. GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.

(a) IN GENERAL.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) (as amended by section 4115(a)) is amended by adding at the end the following:

''(t) GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.—

''(1) IN GENERAL.—For each of fiscal years 2003 through 2007, the Secretary shall use not more than $5,000,000 of funds made available under section 18(a)(1) to make grants to pay 100 percent of the costs of eligible entities approved by the Secretary to carry out projects to develop and implement—

''(A) simple food stamp application and eligibility determination systems; or

''(B) measures to improve access to food stamp benefits by eligible households.

''(2) TYPES OF PROJECTS.—A project under paragraph (1) may consist of—

''(A) coordinating application and eligibility determination processes, including verification practices, under the food stamp program and other Federal, State, and local assistance programs;

''(B) establishing methods for applying for benefits and determining eligibility that—

''(i) more extensively use—

''(I) communications by telephone; and

''(II) electronic alternatives such as the Internet; or

''(ii) otherwise improve the administrative infrastructure used in processing applications and determining eligibility;

''(C) developing procedures, training materials, and other resources aimed at reducing barriers to participation and reaching eligible households;

''(D) improving methods for informing and enrolling eligible households; or

''(E) carrying out such other activities as the Secretary determines to be appropriate.

''(3) LIMITATION.—A grant under this subsection shall not be made for the ongoing cost of carrying out any project.

''(4) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this subsection, an entity shall be—

''(A) a State agency administering the food stamp program;

''(B) a State or local government;

''(C) an agency providing health or welfare services;

''(D) a public health or educational entity; or

''(E) a private nonprofit entity such as a community-based organization, food bank, or other emergency feeding organization.

''(5) SELECTION OF ELIGIBLE ENTITIES.—The Secretary—

''(A) shall develop criteria for the selection of eligible entities to receive grants under this subsection; and

''(B) may give preference to any eligible entity that consists of a partnership between a governmental entity and a nongovernmental entity.''.

(b) CONFORMING AMENDMENTS.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended—

(1) by striking subsection (i); and

(2) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

SEC. 4117. DELIVERY TO RETAILERS OF NOTICES OF ADVERSE ACTION.

(a) IN GENERAL.—Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended by striking paragraph (2) and inserting the following:

''(2) DELIVERY OF NOTICES.—A notice under paragraph (1) shall be delivered by any form of delivery that the Secretary determines will provide evidence of the delivery.''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 4118. REFORM OF QUALITY CONTROL SYSTEM.

(a) IN GENERAL.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) is amended—

(1) by striking ''(c)(1) The program'' and all that follows through the end of paragraph (1) and inserting the following:

''(c) QUALITY CONTROL SYSTEM.—

''(1) IN GENERAL.—

''(A) SYSTEM.—In carrying out the food stamp program, the Secretary shall carry out a system that enhances payment accuracy and improves administration by establishing fiscal incentives that require State agencies with high payment error rates to share in the cost of payment error.

''(B) ADJUSTMENT OF FEDERAL SHARE OF ADMINISTRATIVE COSTS FOR FISCAL YEARS BEFORE FISCAL YEAR 2003.—

''(i) IN GENERAL.—Subject to clause (ii), with respect to any fiscal year before fiscal year 2003, the Secretary shall adjust a State agency's federally funded share of administrative costs under subsection (a), other than the costs already shared in excess of 50 percent under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing that share of all such administrative costs by 1 percentage point to a maximum of 60 percent of all such administrative costs for each full 1/10 of a percentage point by which the payment error rate is less than 6 percent.

''(ii) LIMITATION.—Only States with a rate of invalid decisions in denying eligibility that is less than a nationwide percentage that the Secretary determines to be reasonable shall be entitled to the adjustment under clause (i).

''(C) ESTABLISHMENT OF LIABILITY AMOUNT FOR FISCAL YEAR 2003 AND THEREAFTER.—With respect to fiscal year 2004 and any fiscal year thereafter for which the Secretary determines that, for the second or subsequent consecutive fiscal year, a 95 percent statistical probability exists that the payment error rate of a State agency exceeds 105 percent of the national performance measure for payment error rates announced under paragraph (6), the Secretary shall establish an amount for which the State agency may be liable (referred to in this paragraph as the 'liability amount') that is equal to the product obtained by multiplying—

''(i) the value of all allotments issued by the State agency in the fiscal year;

''(ii) the difference between—

''(I) the payment error rate of the State agency; and

''(II) 6 percent; and

''(iii) 10 percent.

''(D) AUTHORITY OF SECRETARY WITH RESPECT TO LIABILITY AMOUNT.—With respect to the liability amount established for a State agency under subparagraph (C) for any fiscal year, the Secretary shall—

''(i)(I) waive the responsibility of the State agency to pay all or any portion of the liability amount established for the fiscal year (referred to in this paragraph as the 'waiver amount');

''(II) require that a portion, not to exceed 50 percent, of the liability amount established for the fiscal year be used by the State agency for new investment, approved by the Secretary, to improve administration by the State agency of the food stamp program (referred to in this paragraph as the 'new investment amount'), which new investment amount shall not be matched by Federal funds;

''(III) designate a portion, not to exceed 50 percent, of the amount established for the fiscal year for payment to the Secretary in accordance with subparagraph (E) (referred to in this paragraph as the 'at-risk amount'); or

''(IV) take any combination of the actions described in subclauses (I) through (III); or

''(ii) make the determinations described in clause (i) and enter into a settlement with the

State agency, only with respect to any waiver amount or new investment amount, before the end of the fiscal year in which the liability amount is determined under subparagraph (C).

''(E) PAYMENT OF AT-RISK AMOUNT FOR CERTAIN STATES.—

''(i) IN GENERAL.—A State agency shall pay to the Secretary the at-risk amount designated under subparagraph (D)(i)(III) for any fiscal year in accordance with clause (ii), if, with respect to the immediately following fiscal year, a liability amount has been established for the State agency under subparagraph (C).

''(ii) METHOD OF PAYMENT OF AT-RISK AMOUNT.—

''(I) REMISSION TO THE SECRETARY.—In the case of a State agency required to pay an at-risk amount under clause (i), as soon as practicable after completion of all administrative and judicial reviews with respect to that requirement to pay, the chief executive officer of the State shall remit to the Secretary the at-risk amount required to be paid.

''(II) ALTERNATIVE METHOD OF COLLECTION.—

''(aa) IN GENERAL.—If the chief executive officer of the State fails to make the payment under subclause (I) within a reasonable period of time determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this section by the amount required to be paid under clause (i).

''(bb) ACCRUAL OF INTEREST.—During any period of time determined by the Secretary under item (aa), interest on the payment under subclause (I) shall not accrue under section 13(a)(2).

''(F) USE OF PORTION OF LIABILITY AMOUNT FOR NEW INVESTMENT.—

''(i) REDUCTION OF OTHER AMOUNTS DUE TO STATE AGENCY.—In the case of a State agency that fails to comply with a requirement for new investment under subparagraph (D)(i)(II) or clause (iii)(I), the Secretary may reduce any amount due to the State agency under any other provision of this section by the portion of the liability amount that has not been used in accordance with that requirement.

''(ii) EFFECT OF STATE AGENCY'S WHOLLY PREVAILING ON APPEAL.—If a State agency begins required new investment under subparagraph (D)(i)(II), the State agency appeals the liability amount of the State agency, and the determination by the Secretary of the liability amount is reduced to $0 on administrative or judicial review, the Secretary shall pay to the State agency an amount equal to 50 percent of the new investment amount that was included in the liability amount subject to the appeal.

''(iii) EFFECT OF SECRETARY'S WHOLLY PREVAILING ON APPEAL.—If a State agency does not begin required new investment under subparagraph (D)(i)(II), the State agency appeals the liability amount of the State agency, and the determination by the Secretary of the liability amount is wholly upheld on administrative or judicial review, the Secretary shall—

''(I) require all or any portion of the new investment amount to be used by the State agency for new investment, approved by the Secretary, to improve administration by the State agency of the food stamp program, which amount shall not be matched by Federal funds; and

''(II) require payment of any remaining portion of the new investment amount in accordance with subparagraph (E)(ii).

''(iv) EFFECT OF NEITHER PARTY'S WHOLLY PREVAILING ON APPEAL.—The Secretary shall promulgate regulations regarding obligations of the Secretary and the State agency in a case in which the State agency appeals the liability amount of the State agency and neither the Secretary nor the State agency wholly prevails.

''(G) CORRECTIVE ACTION PLANS.—The Secretary shall foster management improvements by the States by requiring State agencies, other than State agencies with payment error rates of less than 6 percent, to develop and implement corrective action plans to reduce payment errors.'';

(2) in paragraph (4), by striking ''(4)'' and all that follows through the end of the first sentence and inserting the following:

''(4) REPORTING REQUIREMENTS.—The Secretary may require a State agency to report any factors that the Secretary considers necessary to determine a State agency's payment error rate, liability amount or new investment amount under paragraph (1), or performance under the performance measures under subsection (d).'';

(3) in paragraph (5)—

(A) by striking ''(5)'' and all that follows through the end of the second sentence and inserting the following:

''(5) PROCEDURES.—To facilitate the implementation of this subsection, each State agency shall expeditiously submit to the Secretary data concerning the operations of the State agency in each fiscal year sufficient for the Secretary to establish the State agency's payment error rate, liability amount or new investment amount under paragraph (1), or performance under the performance measures under subsection (d).''; and

(B) in the last sentence, by striking ''paragraph (1)(C)'' and inserting ''paragraph (1)'';

(4) in paragraph (6)—

(A) by striking ''(6) At'' and inserting the following:

''(6) NATIONAL PERFORMANCE MEASURE FOR PAYMENT ERROR RATES.—

''(A) ANNOUNCEMENT.—At'';

(B) in subparagraph (A) (as designated by subparagraph (A)), by striking ''and incentive payments or claims pursuant to paragraphs (1)(A) and (1)(C)'';

(C) in the first and third sentences, by striking ''paragraph (5)'' each place it appears and inserting ''paragraph (8)'';

(D) by striking ''Where a State'' and inserting the following:

''(B) USE OF ALTERNATIVE MEASURE OF STATE ERROR.—Where a State'';

(E) by striking ''The announced'' and inserting the following:

''(C) USE OF NATIONAL PERFORMANCE MEASURE.—The announced'';

(F) in subparagraph (C) (as designated by subparagraph (E)), by striking ''the State share of the cost of payment error under paragraph (1)(C)'' and inserting ''the liability amount of a State under paragraph (1)(C)''; and

(G) by adding at the end the following:

''(D) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The national performance measure announced under this paragraph shall not be subject to administrative or judicial review.'';

(5) in paragraph (7)—

(A) by striking ''(7) If the Secretary asserts a financial claim against'' and inserting the following:

''(7) ADMINISTRATIVE AND JUDICIAL REVIEW.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), if the Secretary asserts a financial claim against or establishes a liability amount with respect to'';

(B) in subparagraph (A) (as designated by subparagraph (A)), by striking ''paragraph (1)(C)'' and inserting ''paragraph (1)''; and

(C) by adding at the end the following:

''(B) DETERMINATION OF PAYMENT ERROR RATE.—With respect to any fiscal year, a determination of the payment error rate of a State agency or a determination whether the payment error rate exceeds 105 percent of the national performance measure for payment error rates shall be subject to administrative or judicial review only if the Secretary establishes a liability amount with respect to the fiscal year under paragraph (1)(C).

''(C) AUTHORITY OF SECRETARY WITH RESPECT TO LIABILITY AMOUNT.—An action by the Secretary under subparagraph (D) or (F)(iii) of paragraph (1) shall not be subject to administrative or judicial review.''; and

(6) in paragraph (8)—

(A) in subparagraph (A), by striking ''paragraph (1)(C)'' and inserting ''paragraph (1)'';

(B) in subparagraph (C)—

(i) in clause (i), by striking ''payment claimed against State agencies; and'' and inserting ''payment claimed against State agencies or liability amount established with respect to State agencies;'';

(ii) in clause (ii), by striking ''claims.'' and inserting ''claims or liability amounts; and''; and

(iii) by adding at the end the following:

''(iii) provide a copy of the document providing notification under clause (ii) to the chief executive officer and the legislature of the State.''; and

(C) in subparagraphs (D) and (H), by inserting ''or liability amount'' after ''claim'' each place it appears.

(b) AUTHORITY TO SETTLE CLAIMS CONCERNING AT-RISK AMOUNTS.—Section 13(a) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)) is amended—

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

''(a) GENERAL AUTHORITY OF THE SECRETARY.—

''(1) DETERMINATION OF CLAIMS.—Except in the case of an at-risk amount required under section 16(c)(1)(D)(i)(III), the'';

(2) by striking the fourth sentence;

(3) by striking ''To the extent'' and inserting the following:

''(2) CLAIMS ESTABLISHED UNDER QUALITY CONTROL SYSTEM.—To the extent'';

(4) in paragraph (2) (as designated by paragraph (3)), by striking ''section 16(c)(1)(C)'' and inserting ''section 16(c)(1)'';

(5) by striking ''Any interest'' and inserting the following:

''(3) COMPUTATION OF INTEREST.—Any interest''; and

(6) by striking ''(2) Each adult'' and inserting the following:

''(4) JOINT AND SEVERAL LIABILITY OF HOUSEHOLD MEMBERS.—Each adult''.

(c) CREDITING OF PAYMENTS TO FOOD STAMP APPROPRIATIONS ACCOUNT.—Section 18(e) of the Food Stamp Act of 1977 (7 U.S.C. 2027(e)) is amended in the first sentence—

(1) by striking ''11(g) and (h), and'' and inserting ''subsections (g) and (h) of section 11,''; and

(2) by inserting ''and section 16(c)(1),'' after ''section 13,''.

(d) CONFORMING AMENDMENTS.—Section 22(h) of the Food Stamp Act of 1977 (7 U.S.C. 2031(h)) is amended—

(1) in the second sentence, by striking ''section 16(c)(1)(C)'' and inserting ''section 16(c)(1)''; and

(2) by striking the third sentence.

(e) APPLICABILITY.—The amendments made by this section shall not apply with respect to any sanction, appeal, new investment agreement, or other action by the Secretary of Agriculture or a State agency that is based on a payment error rate calculated for any fiscal year before fiscal year 2003.

SEC. 4119. IMPROVEMENT OF CALCULATION OF STATE PERFORMANCE MEASURES.

(a) IN GENERAL.—Section 16(c)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)(8)) is amended—

(1) in subparagraph (B), by striking ''180 days after the end of the fiscal year'' and inserting ''the first May 31 after the end of the fiscal year referred to in subparagraph (A)''; and

(2) in subparagraph (C), by striking ''30 days thereafter'' and inserting ''the first June 30 after the end of the fiscal year referred to in subparagraph (A)''.

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

SEC. 4120. BONUSES FOR STATES THAT DEMONSTRATE HIGH OR MOST IMPROVED PERFORMANCE.

(a) IN GENERAL.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by striking subsection (d) and inserting the following:

''(d) BONUSES FOR STATES THAT DEMONSTRATE HIGH OR MOST IMPROVED PERFORMANCE.—

''(1) FISCAL YEARS 2003 AND 2004.—

''(A) GUIDANCE.—With respect to fiscal years 2003 and 2004, the Secretary shall establish, in guidance issued to State agencies not later than October 1, 2002—

''(i) performance criteria relating to—

''(I) actions taken to correct errors, reduce rates of error, and improve eligibility determinations; and

''(II) other indicators of effective administration determined by the Secretary; and

''(ii) standards for high and most improved performance to be used in awarding performance bonus payments under subparagraph (B)(ii).

''(B) PERFORMANCE BONUS PAYMENTS.—With respect to each of fiscal years 2003 and 2004, the Secretary shall—

''(i) measure the performance of each State agency with respect to the criteria established under subparagraph (A)(i); and

''(ii) subject to paragraph (3), award performance bonus payments in the following fiscal year, in a total amount of $48,000,000 for each fiscal year, to State agencies that meet standards for high or most improved performance established by the Secretary under subparagraph (A)(ii).

''(2) FISCAL YEARS 2005 AND THEREAFTER.—

''(A) REGULATIONS.—With respect to fiscal year 2005 and each fiscal year thereafter, the Secretary shall—

''(i) establish, by regulation, performance criteria relating to—

''(I) actions taken to correct errors, reduce rates of error, and improve eligibility determinations; and

''(II) other indicators of effective administration determined by the Secretary;

''(ii) establish, by regulation, standards for high and most improved performance to be used in awarding performance bonus payments under subparagraph (B)(ii); and

''(iii) before issuing proposed regulations to carry out clauses (i) and (ii), solicit ideas for performance criteria and standards for high and most improved performance from State agencies and organizations that represent State interests.

''(B) PERFORMANCE BONUS PAYMENTS.—With respect to fiscal year 2005 and each fiscal year thereafter, the Secretary shall—

''(i) measure the performance of each State agency with respect to the criteria established under subparagraph (A)(i); and

''(ii) subject to paragraph (3), award performance bonus payments in the following fiscal year, in a total amount of $48,000,000 for each fiscal year, to State agencies that meet standards for high or most improved performance established by the Secretary under subparagraph (A)(ii).

''(3) PROHIBITION ON RECEIPT OF PERFORMANCE BONUS PAYMENTS.—A State agency shall not be eligible for a performance bonus payment with respect to any fiscal year for which the State agency has a liability amount established under subsection (c)(1)(C).

''(4) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to award a performance bonus payment under this subsection shall not be subject to administrative or judicial review.''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 4121. EMPLOYMENT AND TRAINING PROGRAM.

(a) LEVELS OF FUNDING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking clause (vii) and inserting the following:

''(vii) for each of fiscal years 2002 through 2007, $90,000,000.'';

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

''(B) ALLOCATION.—Funds made available under subparagraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—

''(i) is determined and adjusted by the Secretary; and

''(ii) takes into account the number of individuals who are not exempt from the work requirement under section 6(o).''; and

(3) by striking subparagraphs (E) through (G) and inserting the following:

''(E) ADDITIONAL ALLOCATIONS FOR STATES THAT ENSURE AVAILABILITY OF WORK OPPORTUNITIES.—

''(i) IN GENERAL.—In addition to the allocations under subparagraph (A), from funds made available under section 18(a)(1), the Secretary shall allocate not more than $20,000,000 for each of fiscal years 2002 through 2007 to reimburse a State agency that is eligible under clause (ii) for the costs incurred in serving food stamp recipients who—

''(I) are not eligible for an exception under section 6(o)(3); and

''(II) are placed in and comply with a program described in subparagraph (B) or (C) of section 6(o)(2).

''(ii) ELIGIBILITY.—To be eligible for an additional allocation under clause (i), a State agency shall make and comply with a commitment to offer a position in a program described in subparagraph (B) or (C) of section 6(o)(2) to each applicant or recipient who—

''(I) is in the last month of the 3-month period described in section 6(o)(2);

''(II) is not eligible for an exception under section 6(o)(3);

''(III) is not eligible for a waiver under section 6(o)(4); and

''(IV) is not exempt under section 6(o)(6).''.

(b) CARRYOVER FUNDS.—Notwithstanding any other provision of law, funds provided under section 16(h)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)(A)) for any fiscal year before fiscal year 2002 shall be rescinded on the date of enactment of this Act, unless obligated by a State agency before that date.

(c) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(I)(i)(I)) is amended by striking '', except that the State agency may limit such reimbursement to each participant to $25 per month''.

(d) FEDERAL REIMBURSEMENT.—Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended by striking ''such total amount shall not exceed an amount representing $25 per participant per month for costs of transportation and other actual costs (other than dependent care costs) and'' and inserting ''the amount of the reimbursement for dependent care expenses shall not exceed''.

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

SEC. 4122. REAUTHORIZATION OF FOOD STAMP PROGRAM AND FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.

(a) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(3)) is amended—

(1) in the first sentence of subparagraph (A), by striking ''2002'' and inserting ''2007''; and

(2) in subparagraph (B)(ii), by striking ''2002'' and inserting ''2007''.

(b) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended by striking ''2002'' and inserting ''2007''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking ''1996 through 2002'' and inserting ''2003 through 2007''.

SEC. 4123. EXPANDED GRANT AUTHORITY.

(a) IN GENERAL.—Section 17(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(a)(1)) is amended—

(1) by striking '', by way of making contracts with or grants to public or private organizations or agencies,'' and inserting ''enter into contracts with or make grants to public or private organizations or agencies under this section to''; and

(2) by adding at the end the following: ''The waiver authority of the Secretary under subsection (b) shall extend to all contracts and grants under this section.''.

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

SEC. 4124. CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.

(a) CONSOLIDATED FUNDING.—Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended—

(1) by striking the section heading and ''(a)(1)(A) From'' and all that follows through ''(2) The'' and inserting the following:

''SEC. 19. CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.

''(a) PAYMENTS TO GOVERNMENTAL ENTITIES.—

''(1) DEFINITION OF GOVERNMENTAL ENTITY.—In this subsection, the term 'governmental entity' means—

''(A) the Commonwealth of Puerto Rico; and

''(B) American Samoa.

''(2) BLOCK GRANTS.—

''(A) AMOUNT OF BLOCK GRANTS.—From the sums appropriated under this Act, the Secretary shall, subject to this section, pay to governmental entities to pay the expenditures for nutrition assistance programs for needy persons as described in subparagraphs (B) and (C)—

''(i) for fiscal year 2003, $1,401,000,000; and

''(ii) for each of fiscal years 2004 through 2007, the amount specified in clause (i), as adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(o)(4) between June 30, 2002, and June 30 of the immediately preceding fiscal year.

''(B) PAYMENTS TO COMMONWEALTH OF PUERTO RICO.—

''(i) IN GENERAL.—For fiscal year 2003 and each fiscal year thereafter, the Secretary shall use 99.6 percent of the funds made available under subparagraph (A) for payment to the Commonwealth of Puerto Rico to pay—

''(I) 100 percent of the expenditures by the Commonwealth for the fiscal year for the provision of nutrition assistance included in the plan of the Commonwealth approved under subsection (b); and

''(II) 50 percent of the related administrative expenses.

''(ii) EXCEPTION FOR EXPENDITURES FOR CERTAIN SYSTEMS.—Notwithstanding clause (i), the Commonwealth of Puerto Rico may spend in fiscal year 2002 or 2003 not more than $6,000,000 of the amount required to be paid to the Commonwealth for fiscal year 2002 under this paragraph (as in effect on the day before the date of enactment of this clause) to pay 100 percent of the costs of—

''(I) upgrading and modernizing the electronic data processing system used to carry out nutrition assistance programs for needy persons;

''(II) implementing systems to simplify the determination of eligibility to receive the nutrition assistance; and

''(III) operating systems to deliver the nutrition assistance through electronic benefit transfers.

''(C) PAYMENTS TO AMERICAN SAMOA.—For fiscal year 2003 and each fiscal year thereafter, the Secretary shall use 0.4 percent of the funds made available under subparagraph (A) for payment to American Samoa to pay 100 percent of the expenditures by American Samoa for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).

''(D) CARRYOVER OF FUNDS.—For fiscal year 2002 and each fiscal year thereafter, not more

than 2 percent of the funds made available under this paragraph for the fiscal year to each governmental entity may be carried over to the following fiscal year.

''(3) TIME AND MANNER OF PAYMENTS TO COMMONWEALTH OF PUERTO RICO.—The'';

(2) in subsection (b), by striking ''subsection (a)(1)(A)'' each place it appears and inserting ''subsection (a)(2)(B)''; and

(3) in subsection (c), by striking ''subsection (a)(1)(A)'' each place it appears and inserting ''subsection (a)(2)(A)''.

(b) CONFORMING AMENDMENT.—Section 24 of the Food Stamp Act of 1977 (7 U.S.C. 2033) is repealed.

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section apply beginning on October 1, 2002.

(2) EXCEPTIONS.—Subparagraphs (B)(ii) and (D) of section 19(a)(2) of the Food Stamp Act of 1977 (as amended by subsection (a)(1)) apply beginning on the date of enactment of this Act.

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

SEC. 4125. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

(a) IN GENERAL.—Section 25 of the Food Stamp Act of 1977 (7 U.S.C. 2034) is amended—

(1) in subsection (a)—

(A) by striking ''(1)'' and inserting ''(1)(A)'';

(B) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C), respectively, of paragraph (1);

(C) in paragraph (1)(C) (as redesignated by subparagraph (B)), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(2) meet specific State, local, or neighborhood food and agricultural needs, including needs for—

''(A) infrastructure improvement and development;

''(B) planning for long-term solutions; or

''(C) the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.'';

(2) in subsection (b)(2)(B)—

(A) by striking ''$2,500,000'' and inserting ''$5,000,000''; and

(B) by striking ''2002'' and inserting ''2007'';

(3) in subsection (d), by striking paragraph (4) and inserting the following:

''(4) encourage long-term planning activities, and multisystem, interagency approaches with multistakeholder collaborations, that build the long-term capacity of communities to address the food and agricultural problems of the communities, such as food policy councils and food planning associations.''; and

(4) by striking subsection (h) and inserting the following:

''(h) INNOVATIVE PROGRAMS FOR ADDRESSING COMMON COMMUNITY PROBLEMS.—

''(1) IN GENERAL.—The Secretary shall offer to enter into a contract with, or make a grant to, 1 nongovernmental organization that meets the requirements of paragraph (2) to coordinate with Federal agencies, States, political subdivisions, and nongovernmental organizations (collectively referred to in this subsection as 'targeted entities') to gather information, and recommend to the targeted entities, innovative programs for addressing common community problems, including—

''(A) loss of farms and ranches;

''(B) rural poverty;

''(C) welfare dependency;

''(D) hunger;

''(E) the need for job training; and

''(F) the need for self-sufficiency by individuals and communities.

''(2) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in paragraph (1) shall—

''(A) be selected by the Secretary on a competitive basis;

''(B) be experienced in working with other targeted entities and in organizing workshops that demonstrate programs to other targeted entities;

''(C) be experienced in identifying programs that effectively address community problems described in paragraph (1) that can be implemented by other targeted entities;

''(D) be experienced in, and capable of, receiving information from and communicating with other targeted entities throughout the United States;

''(E) be experienced in operating a national information clearinghouse that addresses 1 or more of the community problems described in paragraph (1); and

''(F) as a condition of entering into the contract or receiving the grant referred to in paragraph (1), agree—

''(i) to contribute in-kind resources toward implementation of the contract or grant;

''(ii) to provide to other targeted entities information and guidance on the innovative programs referred to in paragraph (1); and

''(iii) to operate a national information clearinghouse on innovative means for addressing community problems described in paragraph (1) that—

''(I) is easily usable by—

''(aa) Federal, State, and local government agencies;

''(bb) local community leaders;

''(cc) nongovernmental organizations; and

''(dd) the public; and

''(II) includes information on approved community food projects.

''(3) AUDITS; EFFECTIVE USE OF FUNDS.—The Secretary shall establish auditing procedures and otherwise ensure the effective use of funds made available to carry out this subsection.

''(4) FUNDING.—Not later than 90 days after the date of enactment of this paragraph, and on October 1 of each of fiscal years 2003 through 2007, the Secretary shall allocate to carry out this subsection $200,000 of the funds made available under subsection (b), to remain available until expended.''.

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

SEC. 4126. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2036(a)) is amended—

(1) by striking ''1997 through 2002'' and inserting ''2002 through 2007''; and

(2) by striking ''$100,000,000'' and inserting ''$140,000,000''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2001.

Subtitle B—Commodity Distribution

SEC. 4201. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) COMMODITY DISTRIBUTION PROGRAM.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended in the first sentence by striking ''2002'' and inserting ''2007''.

(b) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GRANTS PER ASSIGNED CASELOAD SLOT.—

''(1) IN GENERAL.—In carrying out the program under section 4 (referred to in this section as the 'commodity supplemental food program'), for each of fiscal years 2003 through 2007, the Secretary shall provide to each State agency from funds made available to carry out that section (including any such funds remaining available from the preceding fiscal year), a grant per assigned caseload slot for administrative costs incurred by the State agency and local agencies in the State in operating the commodity supplemental food program.

''(2) AMOUNT OF GRANTS.—

''(A) FISCAL YEAR 2003.—For fiscal year 2003, the amount of each grant per assigned caseload slot shall be equal to the amount of the grant per assigned caseload slot for administrative costs in 2001, adjusted by the percentage change between—

''(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 2001; and

''(ii) the value of that index for the 12-month period ending June 30, 2002.

''(B) FISCAL YEARS 2004 THROUGH 2007.—For each of fiscal years 2004 through 2007, the amount of each grant per assigned caseload slot shall be equal to the amount of the grant per assigned caseload slot for the preceding fiscal year, adjusted by the percentage change between—

''(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

''(ii) the value of that index for the 12-month period ending June 30 of the preceding fiscal year.'';

(2) in subsection (d)(2), by striking ''2002'' each place it appears and inserting ''2007''; and

(3) by striking subsection (l) and inserting the following:

''(l) USE OF APPROVED FOOD SAFETY TECHNOLOGY.—

''(1) IN GENERAL.—In acquiring commodities for distribution through a program specified in paragraph (2), the Secretary shall not prohibit the use of any technology to improve food safety that—

''(A) has been approved by the Secretary; or

''(B) has been approved or is otherwise allowed by the Secretary of Health and Human Services.

''(2) PROGRAMS.—A program referred to in paragraph (1) is a program authorized under—

''(A) this Act;

''(B) the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

''(C) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

''(D) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); or

''(E) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).''.

(c) ADDITIONAL FUNDING FOR CERTAIN STATES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available an amount equal to the amount that the Secretary of Agriculture determines to be necessary to permit each State that began administering the commodity supplemental food program under the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) in the 2000 caseload cycle to administer the program, through the 2002 caseload cycle, at a caseload level that is not less than the originally assigned caseload level of the State.

(2) PROVISION TO STATES.—The Secretary shall provide to each State described in paragraph (1) for the purpose described in that paragraph the funds made available under that paragraph.

(d) EFFECTIVE DATE.—The amendment made by subsection (b)(3) takes effect on the date of enactment of this Act.

SEC. 4202. COMMODITY DONATIONS.

(a) IN GENERAL.—The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237) is amended—

(1) by redesignating sections 17 and 18 as sections 18 and 19, respectively; and

(2) by inserting after section 16 the following:

"SEC. 17. COMMODITY DONATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law concerning commodity donations, any commodities acquired in the conduct of the operations of the Commodity Credit Corporation and any commodities acquired under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to the extent that the commodities are in excess of the quantities of commodities that are essential to carry out other authorized activities of the Commodity Credit Corporation and the Secretary (including any quantity specifically reserved for a specific purpose), may be used for any program authorized to be carried out by the Secretary that involves the acquisition of commodities for use in a domestic feeding program, including any program conducted by the Secretary that provides commodities to individuals in cases of hardship.

''(b) PROGRAMS.—A program described in subsection (a) includes a program authorized by—

''(1) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

''(2) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

''(3) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

''(4) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); or

''(5) such other laws as the Secretary determines to be appropriate.''.

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

SEC. 4203. DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking ''2002'' and inserting ''2007''.

SEC. 4204. EMERGENCY FOOD ASSISTANCE.

Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking ''$50,000,000'' and inserting ''$60,000,000'';

(2) by striking ''1991 through 2002'' and inserting ''2003 through 2007'';

(3) by striking ''administrative'';

(4) by inserting ''storage,'' after ''processing,''; and

(5) by inserting '', including commodities secured by gleaning (as defined in section 111(a) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note; Public Law 100–435))'' after ''sources''.

Subtitle C—Child Nutrition and Related Programs

SEC. 4301. COMMODITIES FOR SCHOOL LUNCH PROGRAM.

(a) IN GENERAL.—Section 6(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking ''2001'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 4302. ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS.

(a) IN GENERAL.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

''(7) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—For each of fiscal years 2002 and 2003, the amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 4303. PURCHASES OF LOCALLY PRODUCED FOODS.

Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following:

''(j) PURCHASES OF LOCALLY PRODUCED FOODS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) encourage institutions participating in the school lunch program under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to purchase, in addition to other food purchases, locally produced foods for school meal programs, to the maximum extent practicable and appropriate;

''(B) advise institutions participating in a program described in subparagraph (A) of the policy described in that subparagraph and post information concerning the policy on the website maintained by the Secretary; and

''(C) in accordance with requirements established by the Secretary, provide startup grants to not more than 200 institutions to defray the initial costs of equipment, materials, and storage facilities, and similar costs, incurred in carrying out the policy described in subparagraph (A).

''(2) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $400,000 for each of fiscal years 2003 through 2007, to remain available until expended.

''(B) LIMITATION.—No amounts may be made available to carry out this subsection unless specifically provided by an appropriation Act.''.

SEC. 4304. APPLICABILITY OF BUY-AMERICAN REQUIREMENT TO PUERTO RICO.

Section 12(n) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(n)) is amended by adding at the end the following:

''(4) APPLICABILITY TO PUERTO RICO.—Paragraph (2)(A) shall apply to a school food authority in the Commonwealth of Puerto Rico with respect to domestic commodities or products that are produced in the Commonwealth of Puerto Rico in sufficient quantities to meet the needs of meals provided under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).''.

SEC. 4305. FRUIT AND VEGETABLE PILOT PROGRAM.

(a) IN GENERAL.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following:

''(g) FRUIT AND VEGETABLE PILOT PROGRAM.—

''(1) IN GENERAL.—In the school year beginning July 2002, the Secretary shall carry out a pilot program to make available to students in 25 elementary or secondary schools in each of 4 States, and in elementary or secondary schools on 1 Indian reservation, free fresh and dried fruits and fresh vegetables throughout the school day in 1 or more areas designated by the school.

''(2) PUBLICITY.—A school that participates in the pilot program shall widely publicize within the school the availability of free fruits and vegetables under the pilot program.

''(3) REPORT.—Not later than May 1, 2003, the Secretary, acting through the Administrator of the Economic Research Service, shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the results of the pilot program.

''(4) FUNDING.—The Secretary shall use not more than $6,000,000 of funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out this subsection (other than paragraph (3)).''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 4306. ELIGIBILITY FOR ASSISTANCE UNDER THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—Section 17(d)(2)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(B)(i)) is amended—

(1) by striking ''basic allowance for housing'' and inserting the following: ''basic allowance—

''(I) for housing'';

(2) by striking ''and'' at the end and inserting ''or''; and

(3) by adding at the end the following:

''(II) provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law; and''.

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

SEC. 4307. WIC FARMERS' MARKET NUTRITION PROGRAM.

(a) IN GENERAL.—Section 17(m)(9) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)) is amended—

(1) by striking ''(9)(A) There'' and inserting the following:

''(9) FUNDING.—

''(A) IN GENERAL.—

''(i) AUTHORIZATION OF APPROPRIATIONS.—There''; and

(2) in subparagraph (A), by adding at the end the following:

''(ii) MANDATORY FUNDING.—Not later than 30 days after the date of enactment of the Food Stamp Reauthorization Act of 2002, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $15,000,000, to remain available until expended.''.

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

Subtitle D—Miscellaneous

SEC. 4401. PARTIAL RESTORATION OF BENEFITS TO LEGAL IMMIGRANTS.

(a) RESTORATION OF BENEFITS TO DISABLED ALIENS.—Section 402(a)(2)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(F)) is amended by striking ''(i) was'' and all that follows through ''(II) in the case'' and inserting the following:

''(i) in the case of the specified Federal program described in paragraph (3)(A)—

''(I) was lawfully residing in the United States on August 22, 1996; and

''(II) is blind or disabled (as defined in paragraph (2) or (3) of section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a))); and

''(ii) in the case''.

(b) RESTORATION OF BENEFITS TO ALL QUALIFIED ALIEN CHILDREN.—

(1) IN GENERAL.—Section 402(a)(2)(J) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(J)) is amended by striking ''who'' and all that follows through ''is under'' and inserting ''who is under''.

(2) CONFORMING AMENDMENTS.—

(A) Section 403(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)) is amended by adding at the end the following:

''(L) Assistance or benefits provided to individuals under the age of 18 under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).''.

(B) Section 421(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(d)) is amended by adding at the end the following:

''(3) This section shall not apply to assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to the extent that a qualified alien is eligible under section 402(a)(2)(J).''.

(C) Section 5(i)(2)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2014(i)(2)(E)) is amended by inserting before the period at the end the following: '', *or to any alien who is under 18 years of age''.*

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on October 1, 2003.

(c) FOOD STAMP EXCEPTION FOR CERTAIN QUALIFIED ALIENS.—

(1) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

''(L) FOOD STAMP EXCEPTION FOR CERTAIN QUALIFIED ALIENS.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any qualified alien who has resided in the United States with a status within the meaning of the term 'qualified alien' for a period of 5 years or more beginning on the date of the alien's entry into the United States.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on April 1, 2003.

SEC. 4402. SENIORS FARMERS' MARKET NUTRITION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall use $5,000,000 for fiscal year 2002, and $15,000,000 for each of fiscal years 2003 through 2007, of the funds available to the Commodity Credit Corporation to carry out and expand a seniors farmers' market nutrition program.

(b) PROGRAM PURPOSES.—The purposes of the seniors farmers' market nutrition program are—

(1) to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs from farmers' markets, roadside stands, and community supported agriculture programs to low-income seniors;

(2) to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and community supported agriculture programs; and

(3) to develop or aid in the development of new and additional farmers' markets, roadside stands, and community supported agriculture programs.

(c) REGULATIONS.—The Secretary may issue such regulations as the Secretary considers necessary to carry out the seniors farmers' market nutrition program.

SEC. 4403. NUTRITION INFORMATION AND AWARENESS PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture may establish, in not more than 5 States, for a period not to exceed 4 years for each participating State, a pilot program to increase the domestic consumption of fresh fruits and vegetables.

(b) PURPOSE.—

(1) IN GENERAL.—Subject to paragraph (2), the purpose of the program shall be to provide funds to States solely for the purpose of assisting eligible public and private sector entities with cost-share assistance to carry out demonstration projects—

(A) to increase fruit and vegetable consumption; and

(B) to convey related health promotion messages.

(2) LIMITATION.—Funds made available to a State under the program shall not be used to disparage any agricultural commodity.

(c) SELECTION OF STATES.—

(1) IN GENERAL.—In selecting States to participate in the program, the Secretary shall take into consideration, with respect to projects and activities proposed to be carried out under the program—

(A) experience in carrying out similar projects or activities;

(B) innovative approaches; and

(C) the ability of the State to promote and track increases in levels of fruit and vegetable consumption.

(2) ENHANCEMENT OF EXISTING STATE PROGRAMS.—The Secretary may use the pilot program to enhance existing State programs that are consistent with the purpose of the pilot program specified in subsection (b).

(d) ELIGIBLE PUBLIC AND PRIVATE SECTOR ENTITIES.—

(1) IN GENERAL.—A participating State shall establish eligibility criteria under which the State may select public and private sector entities to carry out demonstration projects under the program.

(2) LIMITATION.—No funds made available to States under the program shall be provided by a State to any foreign for-profit corporation.

(e) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds provided under this section shall be 50 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2007.

SEC. 4404. HUNGER FELLOWSHIP PROGRAM.

(a) SHORT TITLE; FINDINGS.—

(1) SHORT TITLE.—This section may be cited as the ''Congressional Hunger Fellows Act of 2002''.

(2) FINDINGS.—The Congress finds as follows:

(A) There is a critical need for compassionate individuals who are committed to assisting people who suffer from hunger as well as a need for such individuals to initiate and administer solutions to the hunger problem.

(B) Bill Emerson, the distinguished late Representative from the 8th District of Missouri, demonstrated his commitment to solving the problem of hunger in a bipartisan manner, his commitment to public service, and his great affection for the institution and the ideals of the United States Congress.

(C) George T. (Mickey) Leland, the distinguished late Representative from the 18th District of Texas, demonstrated his compassion for those in need, his high regard for public service, and his lively exercise of political talents.

(D) The special concern that Mr. Emerson and Mr. Leland demonstrated during their lives for the hungry and poor was an inspiration for others to work toward the goals of equality and justice for all.

(E) These two outstanding leaders maintained a special bond of friendship regardless of political affiliation and worked together to encourage future leaders to recognize and provide service to others, and therefore it is especially appropriate to honor the memory of Mr. Emerson and Mr. Leland by creating a fellowship program to develop and train the future leaders of the United States to pursue careers in humanitarian service.

(b) ESTABLISHMENT.—There is established as an independent entity of the legislative branch of the United States Government the Congressional Hunger Fellows Program (hereinafter in this section referred to as the ''Program'').

(c) BOARD OF TRUSTEES.—

(1) IN GENERAL.—The Program shall be subject to the supervision and direction of a Board of Trustees.

(2) MEMBERS OF THE BOARD OF TRUSTEES.—

(A) APPOINTMENT.—The Board shall be composed of 6 voting members appointed under clause (i) and one nonvoting ex officio member designated in clause (ii) as follows:

(i) VOTING MEMBERS.—(I) The Speaker of the House of Representatives shall appoint two members.

(II) The minority leader of the House of Representatives shall appoint one member.

(III) The majority leader of the Senate shall appoint two members.

(IV) The minority leader of the Senate shall appoint one member.

(ii) NONVOTING MEMBER.—The Executive Director of the program shall serve as a nonvoting ex officio member of the Board.

(B) TERMS.—Members of the Board shall serve a term of 4 years.

(C) VACANCY.—

(i) AUTHORITY OF BOARD.—A vacancy in the membership of the Board does not affect the power of the remaining members to carry out this section.

(ii) APPOINTMENT OF SUCCESSORS.—A vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(iii) INCOMPLETE TERM.—If a member of the Board does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(D) CHAIRPERSON.—As the first order of business of the first meeting of the Board, the members shall elect a Chairperson.

(E) COMPENSATION.—

(i) IN GENERAL.—Subject to clause (ii), members of the Board may not receive compensation for service on the Board.

(ii) TRAVEL.—Members of the Board may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the program.

(3) DUTIES.—

(A) BYLAWS.—

(i) ESTABLISHMENT.—The Board shall establish such bylaws and other regulations as may be appropriate to enable the Board to carry out this section, including the duties described in this paragraph.

(ii) CONTENTS.—Such bylaws and other regulations shall include provisions—

(I) for appropriate fiscal control, funds accountability, and operating principles;

(II) to prevent any conflict of interest, or the appearance of any conflict of interest, in the procurement and employment actions taken by the Board or by any officer or employee of the Board and in the selection and placement of individuals in the fellowships developed under the program;

(III) for the resolution of a tie vote of the members of the Board; and

(IV) for authorization of travel for members of the Board.

(iii) TRANSMITTAL TO CONGRESS.—Not later than 90 days after the date of the first meeting of the Board, the Chairperson of the Board shall transmit to the appropriate congressional committees a copy of such bylaws.

(B) BUDGET.—For each fiscal year the program is in operation, the Board shall determine a budget for the program for that fiscal year. All spending by the program shall be pursuant to such budget unless a change is approved by the Board.

(C) PROCESS FOR SELECTION AND PLACEMENT OF FELLOWS.—The Board shall review and approve the process established by the Executive Director for the selection and placement of individuals in the fellowships developed under the program.

(D) ALLOCATION OF FUNDS TO FELLOWSHIPS.—The Board of Trustees shall determine the priority of the programs to be carried out under this section and the amount of funds to be allocated for the Emerson and Leland fellowships.

(d) PURPOSES; AUTHORITY OF PROGRAM.—

(1) PURPOSES.—The purposes of the program are—

(A) to encourage future leaders of the United States to pursue careers in humanitarian service, to recognize the needs of people who are hungry and poor, and to provide assistance and compassion for those in need;

(B) to increase awareness of the importance of public service; and

(C) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities.

(2) AUTHORITY.—The program is authorized to develop such fellowships to carry out the purposes of this section, including the fellowships described in paragraph (3).

(3) FELLOWSHIPS.—

(A) IN GENERAL.—The program shall establish and carry out the Bill Emerson Hunger Fellowship and the Mickey Leland Hunger Fellowship.

(B) CURRICULUM.—

(i) IN GENERAL.—The fellowships established under subparagraph (A) shall provide experience and training to develop the skills and understanding necessary to improve the humanitarian conditions and the lives of individuals who suffer from hunger, including—

(I) training in direct service to the hungry in conjunction with community-based organizations through a program of field placement; and

(II) experience in policy development through placement in a governmental entity or nonprofit organization.

(ii) FOCUS OF BILL EMERSON HUNGER FELLOWSHIP.—The Bill Emerson Hunger Fellowship shall address hunger and other humanitarian needs in the United States.

(iii) FOCUS OF MICKEY LELAND HUNGER FELLOWSHIP.—The Mickey Leland Hunger Fellowship shall address international hunger and other humanitarian needs.

(iv) WORKPLAN.—To carry out clause (i) and to assist in the evaluation of the fellowships under paragraph (4), the program shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities related to those objectives.

(C) PERIOD OF FELLOWSHIP.—

(i) EMERSON FELLOW.—A Bill Emerson Hunger Fellowship awarded under this paragraph shall be for no more than 1 year.

(ii) LELAND FELLOW.—A Mickey Leland Hunger Fellowship awarded under this paragraph shall be for no more than 2 years. Not less than 1 year of the fellowship shall be dedicated to fulfilling the requirement of subparagraph (B)(i)(I).

(D) SELECTION OF FELLOWS.—

(i) IN GENERAL.—A fellowship shall be awarded pursuant to a nationwide competition established by the program.

(ii) QUALIFICATION.—A successful applicant shall be an individual who has demonstrated—

(I) an intent to pursue a career in humanitarian service and outstanding potential for such a career;

(II) leadership potential or actual leadership experience;

(III) diverse life experience;

(IV) proficient writing and speaking skills;

(V) an ability to live in poor or diverse communities; and

(VI) such other attributes as determined to be appropriate by the Board.

(iii) AMOUNT OF AWARD.—

(I) IN GENERAL.—Each individual awarded a fellowship under this paragraph shall receive a living allowance and, subject to subclause (II), an end-of-service award as determined by the program.

(II) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each individual awarded a fellowship under this paragraph shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service as determined by the Executive Director.

(iv) RECOGNITION OF FELLOWSHIP AWARD.—

(I) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an ''Emerson Fellow''.

(II) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a ''Leland Fellow''.

(4) EVALUATION.—The program shall conduct periodic evaluations of the Bill Emerson and Mickey Leland Hunger Fellowships. Such evaluations shall include the following:

(A) An assessment of the successful completion of the work plan of the fellow.

(B) An assessment of the impact of the fellowship on the fellows.

(C) An assessment of the accomplishment of the purposes of the program.

(D) An assessment of the impact of the fellow on the community.

(e) TRUST FUND.—

(1) ESTABLISHMENT.—There is established the Congressional Hunger Fellows Trust Fund (hereinafter in this section referred to as the ''Fund'') in the Treasury of the United States, consisting of amounts appropriated to the Fund under subsection (i), amounts credited to it under paragraph (3), and amounts received under subsection (g)(3)(A).

(2) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest the full amount of the Fund. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary in consultation with the Board, has a maturity suitable for the Fund.

(3) RETURN ON INVESTMENT.—Except as provided in subsection (f)(2), the Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from the sale or redemption of, obligations held in the Fund.

(f) EXPENDITURES; AUDITS.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the program from the amounts described in subsection (e)(3) and subsection (g)(3)(A) such sums as the Board determines are necessary to enable the program to carry out the provisions of this section.

(2) LIMITATION.—The Secretary may not transfer to the program the amounts appropriated to the Fund under subsection (i).

(3) USE OF FUNDS.—Funds transferred to the program under paragraph (1) shall be used for the following purposes:

(A) STIPENDS FOR FELLOWS.—To provide for a living allowance for the fellows.

(B) TRAVEL OF FELLOWS.—To defray the costs of transportation of the fellows to the fellowship placement sites.

(C) INSURANCE.—To defray the costs of appropriate insurance of the fellows, the program, and the Board.

(D) TRAINING OF FELLOWS.—To defray the costs of preservice and midservice education and training of fellows.

(E) SUPPORT STAFF.—Staff described in subsection (g).

(F) AWARDS.—End-of-service awards under subsection (d)(3)(D)(iii)(II).

(G) ADDITIONAL APPROVED USES.—For such other purposes that the Board determines appropriate to carry out the program.

(4) AUDIT BY GAO.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct an annual audit of the accounts of the program.

(B) BOOKS.—The program shall make available to the Comptroller General all books, accounts, financial records (including records of salaries of the Executive Director and other personnel), reports, files, and all other papers, things, or property belonging to or in use by the program and necessary to facilitate such audit.

(C) REPORT TO CONGRESS.—The Comptroller General shall submit a copy of the results of each such audit to the appropriate congressional committees.

(g) STAFF; POWERS OF PROGRAM.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall appoint an Executive Director of the program who shall administer the program. The Executive Director shall carry out such other functions consistent with the provisions of this section as the Board shall prescribe.

(B) RESTRICTION.—The Executive Director may not serve as Chairperson of the Board.

(C) COMPENSATION.—The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—

(A) IN GENERAL.—With the approval of a majority of the Board, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers necessary and appropriate to carry out the functions of the provisions of this section.

(B) COMPENSATION.—An individual appointed under subparagraph (A) shall be paid at a rate not to exceed the rate of basic pay payable for level GS–15 of the General Schedule.

(3) POWERS.—In order to carry out the provisions of this section, the program may perform the following functions:

(A) GIFTS.—The program may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the program. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Fund and shall be available for disbursement upon order of the Board.

(B) EXPERTS AND CONSULTANTS.—The program may procure temporary and intermittent services under section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

(C) CONTRACT AUTHORITY.—The program may contract, with the approval of a majority of the members of the Board, with and compensate Government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) OTHER NECESSARY EXPENDITURES.—The program shall make such other expenditures which the program considers necessary to carry out the provisions of this section, but excluding project development.

(h) REPORT.—Not later than December 31 of each year, the Board shall submit to the appropriate congressional committees a report on the activities of the program carried out during the previous fiscal year, and shall include the following:

(1) An analysis of the evaluations conducted under subsection (d)(4) (relating to evaluations of the Emerson and Leland fellowships and accomplishment of the program purposes) during that fiscal year.

(2) A statement of the total amount of funds attributable to gifts received by the program in that fiscal year (as authorized under subsection (g)(3)(A)), and the total amount of such funds that were expended to carry out the program that fiscal year.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $18,000,000 to carry out the provisions of this section.

(j) DEFINITION.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Agriculture and the Committee on International Relations of the House of Representatives; and

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

SEC. 4405. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title take effect on October 1, 2002.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 5001. DIRECT LOANS.

Section 302(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922(b)(1)) is amended by striking ''operated'' and inserting ''participated in the business operations of''.

SEC. 5002. FINANCING OF BRIDGE LOANS.

Section 303(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923(a)(1)) is amended—

(1) in subparagraph (C), by striking ''or'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(E) refinancing a temporary bridge loan made by a commercial or cooperative lender to a farmer or rancher for the acquisition of land for a farm or ranch, if—

''(i) the Secretary approved an application for a direct farm ownership loan to the farmer or rancher for acquisition of the land; and

''(ii) funds for direct farm ownership loans under section 346(b) were not available at the time at which the application was approved.''.

SEC. 5003. AMOUNT OF GUARANTEE OF LOANS FOR FARM OPERATIONS ON TRIBAL LANDS.

Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended—

(1) in paragraph (4), by striking ''paragraphs (5) and (6)'' and inserting ''paragraphs (5), (6), and (7)''; and

(2) by adding at the end the following:

''(7) AMOUNT OF GUARANTEE OF LOANS FOR FARM OPERATIONS ON TRIBAL LANDS.—In the case of an operating loan made to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction of an Indian tribe, the Secretary shall guarantee 95 percent of the loan.''.

SEC. 5004. GUARANTEE OF LOANS MADE UNDER STATE BEGINNING FARMER OR RANCHER PROGRAMS.

Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end the following:

''(j) GUARANTEE OF LOANS MADE UNDER STATE BEGINNING FARMER OR RANCHER PROGRAMS.—The Secretary may guarantee under this title a loan made under a State beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond for land or property described in section 144(a)(12)(B)(ii) of the Internal Revenue Code of 1986.''.

SEC. 5005. DOWN PAYMENT LOAN PROGRAM.

Section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''30 percent'' and inserting ''40 percent''; and

(B) in paragraph (3), by striking ''10 years'' and inserting ''15 years''; and

(2) in subsection (c)(3)(B), by striking ''10-year'' and inserting ''15-year''.

SEC. 5006. BEGINNING FARMER AND RANCHER CONTRACT LAND SALES PROGRAM.

Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) is amended by adding at the end the following:

''SEC. 310F. BEGINNING FARMER AND RANCHER CONTRACT LAND SALES PROGRAM.

''(a) IN GENERAL.—If the Secretary makes a determination that the risk is comparable under subsection (b), the Secretary shall carry out a pilot program in not fewer than 5 States, as determined by the Secretary, to guarantee up to 5 loans per State in each of fiscal years 2003 through 2007 made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a contract land sale basis, if the loan meets applicable underwriting criteria and a commercial lending institution agrees to serve as escrow agent.

''(b) DATE OF COMMENCEMENT OF PROGRAM.—Not later than October 1, 2002, the Secretary shall make a determination on whether guarantees of contract land sales present a risk that is comparable with the risk presented in the case of guarantees to commercial lenders.''.

Subtitle B—Operating Loans

SEC. 5101. DIRECT LOANS.

Section 311(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c)) is amended—

(1) in paragraph (1)—

(A) in the matter that precedes subparagraph (A), by striking ''paragraph (3)'' and inserting ''paragraphs (3) and (4)''; and

(B) in subparagraph (A), by striking ''who has not'' and all that follows through ''5 years''; and

(2) by adding at the end the following:

''(4) WAIVERS.—

''(A) FARM AND RANCH OPERATIONS ON TRIBAL LANDS.—The Secretary shall waive the limitation under paragraph (1)(C) or (3) for a direct loan made under this subtitle to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction of an Indian tribe if the Secretary determines that commercial credit is not generally available for such farm or ranch operations.

''(B) OTHER FARM AND RANCH OPERATIONS.—On a case-by-case determination not subject to administrative appeal, the Secretary may grant a borrower a waiver, 1 time only for a period of 2 years, of the limitation under paragraph (1)(C) or (3) for a direct operating loan if the borrower demonstrates to the satisfaction of the Secretary that—

''(i) the borrower has a viable farm or ranch operation;

''(ii) the borrower applied for commercial credit from at least 2 commercial lenders;

''(iii) the borrower was unable to obtain a commercial loan (including a loan guaranteed by the Secretary); and

''(iv) the borrower successfully has completed, or will complete within 1 year, borrower training under section 359 (from which requirement the Secretary shall not grant a waiver under section 359(f)).''.

SEC. 5102. SUSPENSION OF LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.

During the period beginning January 1, 2002, and ending December 31, 2006, section 319(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949(b)) shall have no force or effect.

Subtitle C—Emergency Loans

SEC. 5201. EMERGENCY LOANS IN RESPONSE TO AN EMERGENCY RESULTING FROM QUARANTINES.

(a) LOAN AUTHORITY.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in each of the 1st and 3rd sentences, by striking ''a natural disaster in the United States or by'' and inserting ''a quarantine imposed by the Secretary under the Plant Protection Act or the animal quarantine laws (as defined in section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990), a natural disaster in the United States, or''; and

(2) in the 4th sentence—

(A) by striking ''a natural disaster'' and inserting ''such a quarantine or natural disaster''; and

(B) by striking ''by such natural disaster'' and inserting ''by such quarantine or natural disaster''.

(b) CONFORMING AMENDMENT.—Section 323 of such Act (7 U.S.C. 1963) is amended by inserting ''quarantine,'' before ''natural disaster''.

Subtitle D—Administrative Provisions

SEC. 5301. EVALUATIONS OF DIRECT AND GUARANTEED LOAN PROGRAMS.

(a) STUDIES.—The Secretary of Agriculture shall conduct 2 studies of the direct and guaranteed loan progams under sections 302 and 311 of the Consolidated Farm and Rural Development Act, each of which shall include an examination of the number, average principal amount, and delinquency and default rates of loans provided or guaranteed during the period covered by the study.

(b) PERIODS COVERED.—

(1) FIRST STUDY.—One study under subsection (a) shall cover the 1-year period that begins 1 year after the date of the enactment of this section.

(2) SECOND STUDY.—One study under subsection (a) shall cover the 1-year period that begins 3 years after such date of enactment.

(c) REPORTS TO THE CONGRESS.—At the end of the period covered by each study under this section, the Secretary of Agriculture shall submit to the Congress a report that contains an evaluation of the results of the study, including an analysis of the effectiveness of loan programs referred to in subsection (a) in meeting the credit needs of agricultural producers in an efficient and fiscally responsible manner.

SEC. 5302. ELIGIBILITY OF TRUSTS AND LIMITED LIABILITY COMPANIES FOR FARM OWNERSHIP LOANS, FARM OPERATING LOANS, AND EMERGENCY LOANS.

(a) IN GENERAL.—Sections 302(a), 311(a), and 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922(a), 1941(a), and 1961(a)) are each amended by striking ''and joint operations'' each place it appears and inserting ''joint operations, trusts, and limited liability companies''.

(b) CONFORMING AMENDMENT.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking ''or joint operations'' each place it appears and inserting ''joint operations, trusts, or limited liability companies''.

SEC. 5303. DEBT SETTLEMENT.

Section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) is amended—

(1) by striking ''The Secretary may release'' and inserting ''After consultation with a local or area county committee, the Secretary may release''; and

(2) by striking ''carried out—'' and all that follows through ''(B) after'' and inserting ''carried out after''.

SEC. 5304. TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS; PRIVATE COLLECTION AGENCIES.

(a) IN GENERAL.—Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by striking subsections (d) and (e).

(b) APPLICATION.—The amendment made by subsection (a) shall not apply to a contract entered into before the effective date of this Act.

SEC. 5305. INTEREST RATE OPTIONS FOR LOANS IN SERVICING.

Section 331B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981b) is amended—

(1) by striking ''lower of (1) the'' and inserting the following: ''lowest of—

''(1) the''; and

(2) by striking ''original loan or (2) the'' and inserting the following: ''original loan;

''(2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time at which the borrower applies for a deferral, consolidation, rescheduling, or reamortization; or

''(3) the''.

SEC. 5306. ELIMINATION OF REQUIREMENT THAT SECRETARY REQUIRE COUNTY COMMITTEES TO CERTIFY IN WRITING THAT CERTAIN LOAN REVIEWS HAVE BEEN CONDUCTED.

Section 333(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)) is amended to read as follows:

''(2) except with respect to a loan under section 306, 310B, or 314—

''(A) an annual review of the credit history and business operation of the borrower; and

''(B) an annual review of the continued eligibility of the borrower for the loan;''.

SEC. 5307. SIMPLIFIED LOAN GUARANTEE APPLICATION AVAILABLE FOR LOANS OF GREATER AMOUNTS.

Section 333A(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C.

1983a(g)(1)) is amended by striking ''$50,000'' and inserting ''$125,000''.

SEC. 5308. INVENTORY PROPERTY.

Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) in clause (i), by striking ''75 days'' and inserting ''135 days''; and

(ii) by adding at the end the following:

''(iv) COMBINING AND DIVIDING OF PROPERTY.—To the maximum extent practicable, the Secretary shall maximize the opportunity for beginning farmers and ranchers to purchase real property acquired by the Secretary under this title by combining or dividing inventory parcels of the property in such manner as the Secretary determines to be appropriate.''; and

(B) in subparagraph (C)—

(i) by striking ''75 days'' and inserting ''135 days''; and

(ii) by striking ''75-day period'' and inserting ''135-day period''; and

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

''(2) PREVIOUS LEASE.—In the case of real property acquired before April 4, 1996, that the Secretary leased before April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).''.

SEC. 5309. ADMINISTRATION OF CERTIFIED LENDERS AND PREFERRED CERTIFIED LENDERS PROGRAMS.

Section 339 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1989) is amended by adding at the end the following:

''(e) ADMINISTRATION OF CERTIFIED LENDERS AND PREFERRED CERTIFIED LENDERS PROGRAMS.—The Secretary may administer the loan guarantee programs under subsections (c) and (d) through central offices established in States or in multi-State areas.''.

SEC. 5310. DEFINITIONS.

(a) QUALIFIED BEGINNING FARMER OR RANCHER.—Section 343(a)(11)(F) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)(F)) is amended by striking ''25 percent'' and inserting ''30 percent''.

(b) DEBT FORGIVENESS.—Section 343(a)(12)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(12)(B)) is amended to read as follows:

''(B) EXCEPTIONS.—The term 'debt forgiveness' does not include—

''(i) consolidation, rescheduling, reamortization, or deferral of a loan; or

''(ii) any write-down provided as part of a resolution of a discrimination complaint against the Secretary.''.

SEC. 5311. LOAN AUTHORIZATION LEVELS.

Section 346(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(1)) is amended to read as follows:

''(1) IN GENERAL.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 for not more than $3,796,000,000 for each of fiscal years 2003 through 2007, of which, for each fiscal year—

''(A) $770,000,000 shall be for direct loans, of which—

''(i) $205,000,000 shall be for farm ownership loans under subtitle A; and

''(ii) $565,000,000 shall be for operating loans under subtitle B; and

''(B) $3,026,000,000 shall be for guaranteed loans, of which—

''(i) $1,000,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

''(ii) $2,026,000,000 shall be for guarantees of operating loans under subtitle B.''.

SEC. 5312. RESERVATION OF FUNDS FOR DIRECT OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.

Section 346(b)(2)(A)(ii)(III) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(2)(A)(ii)(III)) is amended by striking ''2000 through 2002'' and inserting ''2003 through 2007''.

SEC. 5313. INTEREST RATE REDUCTION PROGRAM.

Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(1) in subsection (a)—

(A) by striking ''PROGRAM.—'' and all that follows through ''The Secretary'' and inserting ''PROGRAM.—The Secretary''; and

(B) by striking paragraph (2); and

(2) in subsection (e), by striking paragraph (2) and inserting the following:

''(2) MAXIMUM AMOUNT OF FUNDS.—

''(A) IN GENERAL.—The total amount of funds used by the Secretary to carry out this section for a fiscal year shall not exceed $750,000,000.

''(B) BEGINNING FARMERS AND RANCHERS.—

''(i) IN GENERAL.—The Secretary shall reserve not less than 15 percent of the funds used by the Secretary under subparagraph (A) to make payments for guaranteed loans made to beginning farmers and ranchers.

''(ii) DURATION OF RESERVATION OF FUNDS.—Funds reserved for beginning farmers or ranchers under clause (i) for a fiscal year shall be reserved only until March 1 of the fiscal year.''.

SEC. 5314. REAMORTIZATION OF RECAPTURE PAYMENTS.

Section 353(e)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)(7)) is amended by adding at the end the following:

''(D) REAMORTIZATION.—

''(i) IN GENERAL.—The Secretary may modify the amortization of a recapture payment referred to in subparagraph (A) of this paragraph on which a payment has become delinquent by using loan service tools under section 343(b)(3) if—

''(I) the default is due to circumstances beyond the control of the borrower; and

''(II) the borrower acted in good faith (as determined by the Secretary) in attempting to repay the recapture amount.

''(ii) LIMITATIONS.—

''(I) TERM OF REAMORTIZATION.—The term of a reamortization under this subparagraph may not exceed 25 years from the date of the original amortization agreement.

''(II) NO REDUCTION OR PRINCIPAL OR UNPAID INTEREST DUE.—A reamortization of a recapture payment under this subparagraph may not provide for reducing the outstanding principal or unpaid interest due on the recapture payment.

SEC. 5315. ALLOCATION OF CERTAIN FUNDS FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

The last sentence of section 355(c)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(c)(2)) is amended to read as follows: ''Any funds reserved and allocated under this paragraph but not used within a State shall, to the extent necessary to satisfy pending applications under this title, be available for use by socially disadvantaged farmers and ranchers in other States, as determined by the Secretary, and any remaining funds shall be reallocated within the State.''.

SEC. 5316. WAIVER OF BORROWER TRAINING CERTIFICATION REQUIREMENT.

Section 359 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006a) is amended by striking subsection (f) and inserting the following:

''(f) WAIVERS.—

''(1) IN GENERAL.—The Secretary may waive the requirements of this section for an individual borrower if the Secretary determines that the borrower demonstrates adequate knowledge in areas described in this section.

''(2) CRITERIA.—The Secretary shall establish criteria providing for the application of paragraph (1) consistently in all counties nationwide.''.

SEC. 5317. TIMING OF LOAN ASSESSMENTS.

Section 360(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006b(a)) is amended by striking ''After an applicant is determined eligible for assistance under this title by the appropriate county committee established pursuant to section 332, the'' and inserting ''The''.

SEC. 5318. ANNUAL REVIEW OF BORROWERS.

Section 360(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006b(d)(1)) is amended by striking ''biannual'' and inserting ''annual''.

SEC. 5319. LOAN ELIGIBILITY FOR BORROWERS WITH PRIOR DEBT FORGIVENESS.

Section 373(b)(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008h(b)(2)(A)) is amended—

(1) in clause (i), by striking ''or'';

(2) in clause (ii), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(iii) received debt forgiveness on not more than 1 occasion resulting directly and primarily from a major disaster or emergency designated by the President on or after April 4, 1996, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).''.

SEC. 5320. MAKING AND SERVICING OF LOANS BY PERSONNEL OF STATE, COUNTY, OR AREA COMMITTEES.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008j) is amended by adding at the end the following:

''SEC. 376. MAKING AND SERVICING OF LOANS BY PERSONNEL OF STATE, COUNTY, OR AREA COMMITTEES.

''The Secretary shall use personnel of a State, county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C 590h(b)(5)) to make and service loans under this title to the extent the personnel have been trained to do so.''.

SEC. 5321. ELIGIBILITY OF EMPLOYEES OF STATE, COUNTY, OR AREA COMMITTEE FOR LOANS AND LOAN GUARANTEES.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008j) is further amended by adding at the end the following:

''SEC. 377. ELIGIBILITY OF EMPLOYEES OF STATE, COUNTY, OR AREA COMMITTEE FOR LOANS AND LOAN GUARANTEES.

''(a) IN GENERAL.—The Secretary shall not prohibit an employee of a State, county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of the Department of Agriculture from obtaining a loan or loan guarantee under subtitle A, B or C of this title.

''(b) APPROVALS.—

''(1) COUNTY OR AREA OFFICE.—In the case of a loan application from an employee in a county or area office, the Farm Service Agency State office shall be responsible for reviewing and approving the application.

''(2) STATE OFFICE.—In the case of a loan application from an employee of a State office, the Farm Service Agency national office shall be responsible for reviewing and approving the application.''.

Subtitle E—Farm Credit

SEC. 5401. REPEAL OF BURDENSOME APPROVAL REQUIREMENTS.

(a) BANKS FOR COOPERATIVES.—Section 3.1(11)(B) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)) is amended—

(1) by striking clause (iii); and

(2) by redesignating clause (iv) as clause (iii).

(b) OTHER SYSTEM BANKS; ASSOCIATIONS.—Section 4.18A of the Farm Credit Act of 1971 (12 U.S.C. 2206a) is amended—

(1) in subsection (a)(1), by striking ''3.1(11)(B)(iv)'' and inserting ''3.1(11)(B)(iii)''; and

(2) by striking subsection (c).

SEC. 5402. BANKS FOR COOPERATIVES.

Section 3.7(b) of the Farm Credit Act of 1971 (12 U.S.C. 2128(b)) is amended—

(1) in paragraphs (1) and (2)(A)(i), by striking ''farm supplies'' each place it appears and inserting ''agricultural supplies''; and

(2) by adding at the end the following:

''(4) DEFINITION OF AGRICULTURAL SUPPLY.—In this subsection, the term 'agricultural supply' includes—

''(A) a farm supply; and

''(B)(i) agriculture-related processing equipment;

''(ii) agriculture-related machinery; and

''(iii) other capital goods related to the storage or handling of agricultural commodities or products.''.

SEC. 5403. INSURANCE CORPORATION PREMIUMS.

(a) REDUCTION IN PREMIUMS FOR GSE-GUARANTEED LOANS.—

(1) IN GENERAL.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4) is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking ''government-guaranteed loans provided for in subparagraph (C)'' and inserting ''loans provided for in subparagraphs (C) and (D)'';

(II) in subparagraph (B), by striking ''and'' at the end;

(III) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(IV) by adding at the end the following:

''(D) the annual average principal outstanding for such year on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans made by the bank that are in accrual status, multiplied by a factor, not to exceed 0.0015, determined by the Corporation at the sole discretion of the Corporation.''; and

(ii) by adding at the end the following:

''(4) DEFINITION OF GOVERNMENT SPONSORED ENTERPRISE-GUARANTEED LOAN.—In this section and sections 1.12(b) and 5.56(a), the term 'Government Sponsored Enterprise-guaranteed loan' means a loan or credit, or portion of a loan or credit, that is guaranteed by an entity that is chartered by Congress to serve a public purpose and the debt obligations of which are not explicitly guaranteed by the United States, including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, and the Federal Agricultural Mortgage Corporation, but not including any other institution of the Farm Credit System.''; and

(B) in subsection (e)(4)(B), by striking ''government-guaranteed loans described in subsection (a)(1)(C)'' and inserting ''loans described in subparagraph (C) or (D) of subsection (a)(1)''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1.12(b) of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

(i) in paragraph (1), by inserting ''and Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4)) provided for in paragraph (4)'' after ''government-guaranteed loans (as defined in section 5.55(a)(3)) provided for in paragraph (3)'';

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

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

(iv) by adding at the end the following:

''(4) the annual average principal outstanding for such year on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans (as so defined) made by the association, or by the other financing institution and funded by or discounted with the Farm Credit Bank, that are in accrual status, multiplied by a factor, not to exceed 0.0015, determined by the Corporation for the purpose of setting the premium for such guaranteed portions of loans under section 5.55(a)(1)(D).''.

(B) Section 5.56(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5(a)) is amended—

(i) in paragraph (1), by inserting ''and Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4))'' after ''government-guaranteed loans'';

(ii) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(iii) by inserting after paragraph (3) the following:

''(4) the annual average principal outstanding on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4)) that are in accrual status;''.

(b) APPLICABILITY.—The amendments made by this section shall apply with respect to determinations of premiums for calendar year 2002 and for any succeeding calendar year, and to certified statements with respect to such premiums.

Subtitle F—General Provisions

SEC. 5501. TECHNICAL AMENDMENTS.

(a) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking ''Disaster Relief and Emergency Assistance Act'' each place it appears and inserting ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)''.

(b) Section 336(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1986(b)) is amended in the second sentence by striking ''provided for in section 332 of this title''.

(c) Section 359(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006a(c)(1)) is amended by striking ''established pursuant to section 332,''.

TITLE VI—RURAL DEVELOPMENT

Subtitle A—Consolidated Farm and Rural Development Act

SEC. 6001. ELIGIBILITY OF RURAL EMPOWERMENT ZONES AND RURAL ENTERPRISE COMMUNITIES FOR DIRECT AND GUARANTEED LOANS FOR ESSENTIAL COMMUNITY FACILITIES.

Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting after the first sentence the following: ''The Secretary may also make or insure loans to communities that have been designated as rural empowerment zones or rural enterprise communities pursuant to part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986, or as rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681, 2681–37), to provide for the installation or improvement of essential community facilities including necessary related equipment, and to furnish financial assistance or other aid in planning projects for such purposes.''.

SEC. 6002. WATER OR WASTE DISPOSAL GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended—

(1) by striking ''(2) The'' and inserting the following:

''(2) WATER, WASTE DISPOSAL, AND WASTEWATER FACILITY GRANTS.—

''(A) AUTHORITY.—

''(i) IN GENERAL.—The'';

(2) by striking ''aggregating not to exceed $590,000,000 in any fiscal year'';

(3) by striking ''The amount'' and inserting the following:

''(ii) AMOUNT.—The amount'';

(4) by striking ''paragraph'' and inserting ''subparagraph'';

(5) by striking ''The Secretary shall'' and inserting the following:

''(iii) GRANT RATE.—The Secretary shall''; and

(6) by adding at the end the following:

''(B) REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS.—

''(i) IN GENERAL.—The Secretary may make grants to qualified private, nonprofit entities to capitalize revolving funds for the purpose of providing financing to eligible entities for—

''(I) predevelopment costs associated with proposed water and wastewater projects or with existing water and wastewater systems; and

''(II) short-term costs incurred for replacement equipment, small-scale extension services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

''(ii) ELIGIBLE ENTITIES.—To be eligible to obtain financing from a revolving fund under clause (i), an eligible entity must be eligible to obtain a loan, loan guarantee, or grant under paragraph (1) or this paragraph.

''(iii) MAXIMUM AMOUNT OF FINANCING.—The amount of financing made to an eligible entity under this subparagraph shall not exceed—

''(I) $100,000 for costs described in clause (i)(I); and

''(II) $100,000 for costs described in clause (i)(II).

''(iv) TERM.—The term of financing provided to an eligible entity under this subparagraph shall not exceed 10 years.

''(v) ADMINISTRATION.—The Secretary shall limit the amount of grant funds that may be used by a grant recipient for administrative costs incurred under this subparagraph.

''(vi) ANNUAL REPORT.—A nonprofit entity receiving a grant under this subparagraph shall submit to the Secretary an annual report that describes the number and size of communities served and the type of financing provided.

''(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $30,000,000 for each of fiscal years 2002 through 2007.''.

SEC. 6003. RURAL BUSINESS OPPORTUNITY GRANTS.

Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended—

(1) by striking ''$7,500,000'' and inserting ''$15,000,000''; and

(2) by striking ''2002'' and inserting ''2007''.

SEC. 6004. CHILD DAY CARE FACILITIES.

Section 306(a)(19) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)) is amended by adding at the end the following:

''(C) RESERVATION OF FUNDS FOR CHILD DAY CARE FACILITIES.—

''(i) IN GENERAL.—For each fiscal year, not less than 10 percent of the funds made available to carry out this paragraph shall be reserved for grants to pay the Federal share of the cost of developing and constructing day care facilities for children in rural areas.

''(ii) RELEASE.—Funds reserved under clause (i) for a fiscal year shall be reserved only until April 1 of the fiscal year.''.

SEC. 6005. RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding at the end the following:

''(22) RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.—

''(A) IN GENERAL.—The Secretary shall establish a national rural water and wastewater circuit rider program that is based on the rural water circuit rider program of the National Rural Water Association that (as of the date of enactment of this paragraph) receives funding from the Secretary, acting through the Rural Utilities Service.

''(B) RELATIONSHIP TO EXISTING PROGRAM.—The program established under subparagraph (A) shall not affect the authority of the Secretary to carry out the circuit rider program for which funds are made available under the heading ''RURAL COMMUNITY ADVANCEMENT PROGRAM'' in title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (115 Stat. 719).

''(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry

out this paragraph $15,000,000 for fiscal year 2003 and each fiscal year thereafter.''.

SEC. 6006. MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 6005) is amended by adding at the end the following:

''(23) MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS.—

''(A) GRANTS.—The Secretary shall provide grants to multijurisdictional regional planning and development organizations to pay the Federal share of the cost of providing assistance to local governments to improve the infrastructure, services, and business development capabilities of local governments and local economic development organizations.

''(B) PRIORITY.—In determining which organizations will receive a grant under this paragraph, the Secretary shall give priority to an organization that—

''(i) serves a rural area that, during the most recent 5-year period—

''(I) had a net out-migration of inhabitants, or other population loss, from the rural area that equals or exceeds 5 percent of the population of the rural area; or

''(II) had a median household income that is less than the nonmetropolitan median household income of the applicable State; and

''(ii) has a history of providing substantive assistance to local governments and economic development organizations.

''(C) FEDERAL SHARE.—A grant provided under this paragraph shall be for not more than 75 percent of the cost of providing assistance described in subparagraph (A).

''(D) MAXIMUM AMOUNT OF GRANTS.—The amount of a grant provided to an organization under this paragraph shall not exceed $100,000.

''(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $30,000,000 for each of fiscal years 2003 through 2007.''.

SEC. 6007. LOAN GUARANTEES FOR CERTAIN RURAL DEVELOPMENT LOANS.

(a) LOAN GUARANTEES FOR WATER, WASTEWATER, AND ESSENTIAL COMMUNITY FACILITIES LOANS.—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925(a)) (as amended by section 6006) is amended by adding at the end the following:

''(24) LOAN GUARANTEES FOR WATER, WASTEWATER, AND ESSENTIAL COMMUNITY FACILITIES LOANS.—

''(A) IN GENERAL.—The Secretary may guarantee a loan made to finance a community facility or water or waste facility project in a rural area, including a loan financed by the net proceeds of a bond described in section 142(a) of the Internal Revenue Code of 1986.

''(B) REQUIREMENTS.—To be eligible for a loan guarantee under subparagraph (A), an individual or entity offering to purchase the loan shall demonstrate to the Secretary that the person has—

''(i) the capabilities and resources necessary to service the loan in a manner that ensures the continued performance of the loan, as determined by the Secretary; and

''(ii) the ability to generate capital to provide borrowers of the loan with the additional credit necessary to properly service the loan.''.

(b) LOAN GUARANTEES FOR CERTAIN LOANS.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

''(h) LOAN GUARANTEES FOR CERTAIN LOANS.—The Secretary may guarantee loans made under subsection (a) to finance the issuance of bonds for the projects described in section 306(a)(24).''.

SEC. 6008. TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 6007(a)) is amended by adding at the end the following:

''(25) TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.—

''(A) IN GENERAL.—The Secretary may make grants to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)) to provide the Federal share of the cost of developing specific tribal college or university essential community facilities in rural areas.

''(B) FEDERAL SHARE.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph.

''(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

''(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale of the percentages of the cost covered by a grant made under this paragraph that provides higher percentages for facilities in communities that have lower community population and income levels, as determined by the Secretary.

''(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 2003 through 2007.''.

SEC. 6009. EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

Section 306A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a) is amended—

(1) in the section heading, by inserting ''and imminent'' after ''emergency'';

(2) in subsection (a)—

(A) in paragraph (1), by inserting '', or when such a decline is imminent'' before the semicolon at the end; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''acute'' and inserting ''acute, or imminent,''; and

(ii) in subparagraph (B), by striking ''decline'' and inserting ''decline, or imminent decline,'';

(3) in subsection (c)(2), by striking ''occurred'' and inserting ''occurred, or will occur,'';

(4) in subsection (d), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Grants made under this section may be used—

''(A) for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, and hook and tap fees;

''(B) for any other appropriate purpose associated with developing sources of, treating, storing, or distributing water;

''(C) to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

''(D) to provide potable water to communities through other means.'';

(5) in subsection (f)(2), by striking ''$75,000'' and inserting ''$150,000'';

(6) in subsection (h)—

(A) in the second sentence of paragraph (1), by striking ''decline'' and inserting ''decline, or imminent decline,''; and

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

''(2) TIMING OF REVIEW OF APPLICATIONS.—

''(A) SIMPLIFIED APPLICATION.—The application process developed by the Secretary under paragraph (1) shall include a simplified application form that will permit expedited consideration of an application for a grant filed under this section.

''(B) PRIORITY REVIEW.—In processing applications for any water or waste grant or loan authorized under this title, the Secretary shall afford priority processing to an application for a grant under this section to the extent funds will be available for an award on the application at the conclusion of priority processing.

''(C) TIMING.—The Secretary shall, to the maximum extent practicable, review and act on an application under this section within 60 days after the date on which the application is submitted to the Secretary.''; and

(7) by striking subsection (i) and inserting the following:

''(i) FUNDING.—

''(1) RESERVATION.—

''(A) IN GENERAL.—For each fiscal year, not less than 3 nor more than 5 percent of the total amount made available to carry out section 306(a)(2) for the fiscal year shall be reserved for grants under this section.

''(B) RELEASE.—Funds reserved under subparagraph (A) for a fiscal year shall be reserved only until July 1 of the fiscal year.

''(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there is authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 2003 through 2007.''.

SEC. 6010. WATER AND WASTE FACILITY GRANTS FOR NATIVE AMERICAN TRIBES.

Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) is amended by striking subsection (e) and inserting the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated—

''(A) for grants under this section, $30,000,000 for each fiscal year;

''(B) for loans under this section, $30,000,000 for each fiscal year; and

''(C) in addition to grants provided under subparagraph (A), for grants under this section to benefit Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), $20,000,000 for each fiscal year.

''(2) EXCEPTION.—An entity eligible to receive funding through a grant made under section 306D shall not be eligible for a grant from funds made available under paragraph (1)(C).''.

SEC. 6011. GRANTS FOR WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

Section 306D(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d(d)(1)) is amended by striking ''and 2002'' and inserting ''through 2007''.

SEC. 6012. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.

(a) IN GENERAL.—The Consolidated Farm and Rural Development Act is amended by inserting after section 306D (7 U.S.C. 1926d) the following:

''SEC. 306E. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.

''(a) DEFINITION OF ELIGIBLE INDIVIDUAL.—In this section, the term 'eligible individual' means an individual who is a member of a household the members of which have a combined income (for the most recent 12-month period for which the information is available) that is not more than 100 percent of the median nonmetropolitan household income for the State or territory in which the individual resides, according to the most recent decennial census of the United States.

''(b) GRANTS.—

''(1) IN GENERAL.—The Secretary may make grants to private nonprofit organizations for the purpose of providing loans to eligible individuals for the construction, refurbishing, and servicing of individual household water well systems in rural areas that are or will be owned by the eligible individuals.

''(2) TERMS OF LOANS.—A loan made with grant funds under this section—

''(A) shall have an interest rate of 1 percent;

''(B) shall have a term not to exceed 20 years; and

''(C) shall not exceed $8,000 for each water well system described in paragraph (1).

''(3) ADMINISTRATIVE EXPENSES.—A recipient of a grant made under this section may use grant funds to pay administrative expenses associated with providing the assistance described in paragraph (1), as determined by the Secretary.

''(c) PRIORITY IN AWARDING GRANTS.—In awarding grants under this section, the Secretary shall give priority to an applicant that has substantial expertise and experience in promoting the safe and productive use of individually-owned household water well systems and ground water.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2007.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2002.

SEC. 6013. LOANS AND LOAN GUARANTEES FOR RENEWABLE ENERGY SYSTEMS.

Section 310B(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(3)) is amended by inserting ''and other renewable energy systems (including wind energy systems and anaerobic digestors for the purpose of energy generation)'' after ''solar energy systems''.

SEC. 6014. RURAL BUSINESS ENTERPRISE GRANTS.

Section 310B(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)(1)) is amended—

(1) by striking ''(1) IN GENERAL.—The Secretary'' and inserting the following:

''(1) GRANTS.—

''(A) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(B) SMALL AND EMERGING PRIVATE BUSINESS ENTERPRISES.—

''(i) IN GENERAL.—For the purpose of subparagraph (A), a small and emerging private business enterprise shall include (regardless of the number of employees or operating capital of the enterprise) an eligible nonprofit entity, or other tax-exempt organization, with a principal office in an area that is located—

''(I) on land of an existing or former Native American reservation; and

''(II) in a city, town, or unincorporated area that has a population of not more than 5,000 inhabitants.

''(ii) USE OF GRANT.—An eligible nonprofit entity, or other tax exempt organization, described in clause (i) may use assistance provided under this paragraph to create, expand, or operate value-added processing in an area described in clause (i) in connection with production agriculture.

''(iii) PRIORITY.—In making grants under this paragraph, the Secretary shall give priority to grants that will be used to provide assistance to eligible nonprofit entities and other tax exempt organizations described in clause (i).''.

SEC. 6015. RURAL COOPERATIVE DEVELOPMENT GRANTS.

Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended—

(1) in paragraph (5)(F), before the period at the end the following: '', except that the Secretary shall not require non-Federal financial support in an amount that is greater than 5 percent in the case of a 1994 institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382))''; and

(2) in paragraph (9), by striking ''2002'' and inserting ''2007''.

SEC. 6016. GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2002 through 2007.''.

SEC. 6017. BUSINESS AND INDUSTRY LOAN MODIFICATIONS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by striking subsection (g) and inserting the following:

''(g) BUSINESS AND INDUSTRY DIRECT AND GUARANTEED LOANS.—

''(1) DEFINITION OF BUSINESS AND INDUSTRY LOAN.—In this subsection, the term 'business and industry loan' means a business and industry direct or guaranteed loan that is made or guaranteed by the Secretary under subsection (a)(1).

''(2) LOAN GUARANTEES FOR THE PURCHASE OF COOPERATIVE STOCK.—

''(A) IN GENERAL.—The Secretary may guarantee a business and industry loan to individual farmers or ranchers for the purpose of purchasing capital stock of a farmer or rancher cooperative established for the purpose of processing an agricultural commodity.

''(B) PROCESSING CONTRACTS DURING INITIAL PERIOD.—A cooperative described in subparagraph (A) for which a farmer or rancher receives a guarantee to purchase stock under subparagraph (A) may contract for services to process agricultural commodities, or otherwise process value-added agricultural products, during the 5-year period beginning on the date of the startup of the cooperative in order to provide adequate time for the planning and construction of the processing facility of the cooperative.

''(C) FINANCIAL INFORMATION.—Financial information required by the Secretary from a farmer or rancher as a condition of making a business and industry loan guarantee under this paragraph shall be provided in the manner generally required by commercial agricultural lenders in the area.

''(3) LOANS TO COOPERATIVES.—

''(A) IN GENERAL.—The Secretary may make or guarantee a business and industry loan to a cooperative organization that is headquartered in a metropolitan area if the loan is used for a project or venture described in subsection (a) that is located in a rural area or a loan guarantee that meets the requirements of paragraph (6).

''(B) REFINANCING.—A cooperative organization that is eligible for a business and industry loan shall be eligible to refinance an existing business and industry loan with a lender if—

''(i) the cooperative organization—

''(I) is current and performing with respect to the existing loan; and

''(II) is not, and has not been, in payment default, or the collateral of which has not been converted, with respect to the existing loan; and

''(ii) there is adequate security or full collateral for the refinanced loan.

''(4) LOAN APPRAISALS.—The Secretary may require that any appraisal made in connection with a business and industry loan be conducted by a specialized appraiser that uses standards that are similar to standards used for similar purposes in the private sector, as determined by the Secretary.

''(5) FEES.—The Secretary may assess a 1-time fee for any guaranteed business and industry loan in an amount that does not exceed 2 percent of the guaranteed principal portion of the loan.

''(6) LOAN GUARANTEES IN NONRURAL AREAS.—

''(A) IN GENERAL.—The Secretary may guarantee a business and industry loan to a cooperative organization for a facility that is not located in a rural area if—

''(i) the primary purpose of the loan guarantee is for a facility to provide value-added processing for agricultural producers that are located within 80 miles of the facility;

''(ii) the applicant demonstrates to the Secretary that the primary benefit of the loan guarantee will be to provide employment for residents of a rural area; and

''(iii) the total amount of business and industry loans guaranteed for a fiscal year under this paragraph does not exceed 10 percent of the business and industry loans guaranteed for the fiscal year under subsection (a)(1).

''(B) PRINCIPAL AMOUNTS.—The principal amount of a business and industry loan guaranteed under this paragraph may not exceed $25,000,000.

''(7) INTANGIBLE ASSETS.—In determining whether a cooperative organization is eligible for a guaranteed business and industry loan, the Secretary may consider the market value of a properly appraised brand name, patent, or trademark of the cooperative.

''(8) LIMITATIONS ON LOAN GUARANTEES FOR COOPERATIVE ORGANIZATIONS.—

''(A) PRINCIPAL AMOUNT.—

''(i) IN GENERAL.—Subject to clause (ii), the principal amount of a business and industry loan made to a cooperative organization and guaranteed under this subsection shall not exceed $40,000,000.

''(ii) USE.—To be eligible for a guarantee under this subsection for a business and industry loan made to a cooperative organization, the principal amount of the any such loan in excess of $25,000,000 shall be used to carry out a project—

''(I) in a rural area; and

''(II) that provides for the value-added processing of agricultural commodities.

''(B) APPLICATIONS.—If a cooperative organization submits an application for a guarantee under this subsection of a business and industry loan with a principal amount that is in excess of $25,000,000, the Secretary—

''(i) shall review and, if appropriate, approve the application; and

''(ii) may not delegate the approval authority.

''(C) MAXIMUM AMOUNT.—The total amount of business and industry loans made to cooperative organizations and guaranteed for a fiscal year under this subsection with principal amounts that are in excess of $25,000,000 may not exceed 10 percent of the business and industry loans guaranteed for the fiscal year under subsection (a)(1).''.

SEC. 6018. USE OF RURAL DEVELOPMENT LOANS AND GRANTS FOR OTHER PURPOSES.

Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by section 5006) is amended by adding at the end the following:

''SEC. 310G. USE OF RURAL DEVELOPMENT LOANS AND GRANTS FOR OTHER PURPOSES.

''If, after making a loan or a grant described in section 381E(d), the Secretary determines that the circumstances under which the loan or grant was made have sufficiently changed to make the project or activity for which the loan or grant was made available no longer appropriate, the Secretary may allow the loan borrower or grant recipient to use property (real and personal) purchased or improved with the loan or grant funds, or proceeds from the sale of property (real and personal) purchased with such funds, for another project or activity that (as determined by the Secretary)—

''(1) will be carried out in the same area as the original project or activity;

''(2) meets the criteria for a loan or a grant described in section 381E(d); and

''(3) satisfies such additional requirements as are established by the Secretary.''.

SEC. 6019. SIMPLIFIED APPLICATION FORMS FOR LOAN GUARANTEES.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) (as amended by section 5307) is amended by striking subsection (g) and inserting the following:

''(g) SIMPLIFIED APPLICATION FORMS FOR LOAN GUARANTEES.—

''(1) IN GENERAL.—The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of—

''(A) farmer program loans the principal amount of which is $125,000 or less; and

''(B) business and industry guaranteed loans under section 310B(a)(1) the principal amount of which is—

''(i) in the case of a loan guarantee made during fiscal year 2002 or 2003, $400,000 or less; and

''(ii) in the case of a loan guarantee made during any subsequent fiscal year—

''(I) $400,000 or less; or

''(II) if the Secretary determines that there is not a significant increased risk of a default on the loan, $600,000 or less.

''(2) WATER AND WASTE DISPOSAL GRANTS AND LOANS.—The Secretary shall develop an application process that accelerates, to the maximum extent practicable, the processing of applications for water and waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 306(a) the grant award amount or principal loan amount, respectively, of which is $300,000 or less.

''(3) ADMINISTRATION.—In developing an application under this subsection, the Secretary shall—

''(A) consult with commercial and cooperative lenders; and

''(B) ensure that—

''(i) the form can be completed manually or electronically, at the option of the lender;

''(ii) the form minimizes the documentation required to accompany the form;

''(iii) the cost of completing and processing the form is minimal; and

''(iv) the form can be completed and processed in an expeditious manner.''.

SEC. 6020. DEFINITION OF RURAL AND RURAL AREA.

(a) IN GENERAL.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended by adding at the end the following:

''(13) RURAL AND RURAL AREA.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the terms 'rural' and 'rural area' mean any area other than—

''(i) a city or town that has a population of greater than 50,000 inhabitants; and

''(ii) the urbanized area contiguous and adjacent to such a city or town.

''(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1), (2), and (24) of section 306(a), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

''(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21), and (24) of section 306(a), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of not more than 20,000 inhabitants.

''(D) MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS; NATIONAL RURAL DEVELOPMENT PARTNERSHIP.—In sections 306(a)(23) and 378, the term 'rural area' means—

''(i) all the territory of a State that is not within the boundary of any standard metropolitan statistical area; and

''(ii) all territory within any standard metropolitan statistical area within a census tract having a population density of less than 20 persons per square mile, as determined by the Secretary according to the most recent census of the United States as of any date.

''(E) RURAL BUSINESS INVESTMENT PROGRAM.—In subtitle H, the term 'rural area' means an area that is located—

''(i) outside a standard metropolitan statistical area; or

''(ii) within a community that has a population of 50,000 inhabitants or less.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by striking paragraph (7).

(2) Section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Section 735 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–29) is repealed.

SEC. 6021. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 5321) is amended by adding at the end the following:

''SEC. 378. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY WITH RURAL RESPONSIBILITIES.—The term 'agency with rural responsibilities' means any executive agency (as defined in section 105 of title 5, United States Code) that implements a Federal law, or administers a program, targeted at or having a significant impact on rural areas.

''(2) COORDINATING COMMITTEE.—The term 'Coordinating Committee' means the National Rural Development Coordinating Committee established by subsection (c).

''(3) PARTNERSHIP.—The term 'Partnership' means the National Rural Development Partnership continued by subsection (b).

''(4) STATE RURAL DEVELOPMENT COUNCIL.—The term 'State rural development council' means a State rural development council that meets the requirements of subsection (d).

''(b) PARTNERSHIP.—

''(1) IN GENERAL.—The Secretary shall continue the National Rural Development Partnership composed of—

''(A) the Coordinating Committee; and

''(B) State rural development councils.

''(2) PURPOSES.—The purposes of the Partnership are to empower and build the capacity of States and rural communities to design flexible and innovative responses to their own special rural development needs, with local determinations of progress and selection of projects and activities.

''(3) GOVERNING PANEL.—

''(A) IN GENERAL.—A panel consisting of representatives of the Coordinating Committee and State rural development councils shall be established to lead and coordinate the strategic operation, policies, and practices of the Partnership.

''(B) ANNUAL REPORTS.—In conjunction with the Coordinating Committee and State rural development councils, the panel shall prepare and submit to Congress an annual report on the activities of the Partnership.

''(4) ROLE OF FEDERAL GOVERNMENT.—The role of the Federal Government in the Partnership may be that of a partner and facilitator, with Federal agencies authorized—

''(A) to cooperate with States to implement the Partnership;

''(B) to provide States with the technical and administrative support necessary to plan and implement tailored rural development strategies to meet local needs;

''(C) to ensure that the head of each agency with rural responsibilities designates a senior-level agency official to represent the agency on the Coordinating Committee and directs appropriate field staff to participate fully with the State rural development council within the jurisdiction of the field staff; and

''(D) to enter into cooperative agreements with, and to provide grants and other assistance to, the Coordinating Committee and State rural development councils.

''(c) NATIONAL RURAL DEVELOPMENT COORDINATING COMMITTEE.—

''(1) ESTABLISHMENT.—The Secretary shall establish a National Rural Development Coordinating Committee within the Department of Agriculture.

''(2) COMPOSITION.—The Coordinating Committee shall be composed of—

''(A) 1 representative of each agency with rural responsibilities; and

''(B) representatives, approved by the Secretary, of—

''(i) national associations of State, regional, local, and tribal governments and intergovernmental and multijurisdictional agencies and organizations;

''(ii) national public interest groups;

''(iii) other national nonprofit organizations that elect to participate in the activities of the Coordinating Committee; and

''(iv) the private sector.

''(3) DUTIES.—The Coordinating Committee shall—

''(A) support the work of the State rural development councils;

''(B) facilitate coordination of rural development policies, programs, and activities among Federal agencies and with those of State, local, and tribal governments, the private sector, and nonprofit organizations;

''(C) review and comment on policies, regulations, and proposed legislation that affect or would affect rural areas and gather and provide related information;

''(D) develop and facilitate strategies to reduce or eliminate administrative and regulatory impediments; and

''(E) require each State rural development council receiving funds under this section to submit an annual report on the use of the funds, including a description of strategic plans, goals, performance measures, and outcomes for the State rural development council of the State.

''(4) FEDERAL PARTICIPATION IN COORDINATING COMMITTEE.—

''(A) IN GENERAL.—A Federal employee shall fully participate in the governance and operations of the Coordinating Committee, including activities related to grants, contracts, and other agreements, in accordance with this section.

''(B) CONFLICTS.—Participation by a Federal employee in the Coordinating Committee in accordance with this paragraph shall not constitute a violation of section 205 or 208 of title 18, United States Code.

''(5) ADMINISTRATIVE SUPPORT.—The Secretary may provide such administrative support for the Coordinating Committee as the Secretary determines is necessary to carry out the duties of the Coordinating Committee.

''(6) PROCEDURES.—The Secretary may prescribe such regulations, bylaws, or other procedures as are necessary for the operation of the Coordinating Committee.

''(d) STATE RURAL DEVELOPMENT COUNCILS.—

''(1) ESTABLISHMENT.—Notwithstanding chapter 63 of title 31, United States Code, each State may elect to participate in the Partnership by entering into an agreement with the Secretary to recognize a State rural development council.

''(2) COMPOSITION.—A State rural development council shall—

''(A) be composed of representatives of Federal, State, local, and tribal governments, nonprofit organizations, regional organizations, the private sector, and other entities committed to rural advancement; and

''(B) have a nonpartisan and nondiscriminatory membership that—

''(i) is broad and representative of the economic, social, and political diversity of the State; and

''(ii) shall be responsible for the governance and operations of the State rural development council.

''(3) DUTIES.—A State rural development council shall—

''(A) facilitate collaboration among Federal, State, local, and tribal governments and the private and nonprofit sectors in the planning and implementation of programs and policies that have an impact on rural areas of the State;

''(B) monitor, report, and comment on policies and programs that address, or fail to address, the needs of the rural areas of the State;

''(C) as part of the Partnership, in conjunction with the Coordinating Committee, facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of Federal, State, local, and tribal governments; and

''(D)(i) provide to the Coordinating Committee an annual plan with goals and performance measures; and

''(ii) submit to the Coordinating Committee an annual report on the progress of the State rural development council in meeting the goals and measures.

''(4) FEDERAL PARTICIPATION IN STATE RURAL DEVELOPMENT COUNCILS.—

''(A) IN GENERAL.—A State Director for Rural Development of the Department of Agriculture, other employees of the Department, and employees of other Federal agencies with rural responsibilities shall fully participate as voting members in the governance and operations of State rural development councils (including activities related to grants, contracts, and other agreements in accordance with this section) on an equal basis with other members of the State rural development councils.

''(B) CONFLICTS.—Participation by a Federal employee in a State rural development council in accordance with this paragraph shall not constitute a violation of section 205 or 208 of title 18, United States Code.

''(e) ADMINISTRATIVE SUPPORT OF THE PARTNERSHIP.—

''(1) DETAIL OF EMPLOYEES.—

''(A) IN GENERAL.—In order to provide experience in intergovernmental collaboration, the head of an agency with rural responsibilities that elects to participate in the Partnership may, and is encouraged to, detail to the Secretary for the support of the Partnership 1 or more employees of the agency with rural responsibilities without reimbursement for a period of up to 1 year.

''(B) CIVIL SERVICE STATUS.—The detail shall be without interruption or loss of civil service status or privilege.

''(2) ADDITIONAL SUPPORT.—The Secretary may provide for any additional support staff to the Partnership as the Secretary determines to be necessary to carry out the duties of the Partnership.

''(3) INTERMEDIARIES.—The Secretary may enter into a contract with a qualified intermediary under which the intermediary shall be responsible for providing administrative and technical assistance to a State rural development council, including administering the financial assistance available to the State rural development council.

''(f) MATCHING REQUIREMENTS FOR STATE RURAL DEVELOPMENT COUNCILS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a State rural development council shall provide matching funds, or in-kind goods or services, to support the activities of the State rural development council in an amount that is not less than 33 percent of the amount of Federal funds received from a Federal agency under subsection (g)(2).

''(2) EXCEPTIONS TO MATCHING REQUIREMENT FOR CERTAIN FEDERAL FUNDS.—Paragraph (1) shall not apply to funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or technical assistance received by a State rural development council from a Federal agency that are used—

''(A) to support 1 or more specific program or project activities; or

''(B) to reimburse the State rural development council for services provided to the Federal agency providing the funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or technical assistance.

''(3) DEPARTMENT'S SHARE.—The Secretary shall develop a plan to decrease, over time, the share of the Department of Agriculture of the cost of the core operations of State rural development councils.

''(g) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2007.

''(2) FEDERAL AGENCIES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law limiting the ability of an agency, along with other agencies, to provide funds to the Coordinating Committee or a State rural development council in order to carry out the purposes of this section, a Federal agency may make grants, gifts, or contributions to, provide technical assistance to, or enter into contracts or cooperative agreements with, the Coordinating Committee or a State rural development council.

''(B) ASSISTANCE.—Federal agencies are encouraged to use funds made available for programs that have an impact on rural areas to provide assistance to, and enter into contracts with, the Coordinating Committee or a State rural development council, as described in subparagraph (A).

''(3) CONTRIBUTIONS.—The Coordinating Committee and a State rural development council may accept private contributions.

''(h) TERMINATION.—The authority provided under this section shall terminate on the date that is 5 years after the date of enactment of this section.''.

SEC. 6022. RURAL TELEWORK.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6021) is amended by adding at the end the following:

''SEC. 379. RURAL TELEWORK.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means a nonprofit entity, an educational institution, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or any other organization, in a rural area (except for the institute), that meets the requirements of this section and such other requirements as are established by the Secretary.

''(2) INSTITUTE.—The term 'institute' means a rural telework institute established using a grant under subsection (b).

''(3) TELEWORK.—The term 'telework' means the use of telecommunications to perform work functions at a rural work center located outside the place of business of an employer.

''(b) RURAL TELEWORK INSTITUTE.—

''(1) IN GENERAL.—The Secretary shall make 1 or more grants to an eligible organization to pay the Federal share of the cost of establishing and operating a national rural telework institute to carry out projects described in paragraph (2).

''(2) PROJECTS.—The institute shall use grant funds received under this subsection to carry out a 5-year project—

''(A) to serve as a clearinghouse for telework research and development;

''(B) to conduct outreach to rural communities and rural workers;

''(C) to develop and share best practices in rural telework throughout the United States;

''(D) to develop innovative, market-driven telework projects and joint ventures with the private sector that employ workers in rural areas in jobs that promote economic self-sufficiency;

''(E) to share information about the design and implementation of telework arrangements;

''(F) to support private sector businesses that are transitioning to telework;

''(G) to support and assist telework projects and individuals at the State and local level; and

''(H) to perform such other functions as the Secretary considers appropriate.

''(3) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to—

''(i) during each of the first, second, and third years of a project, 30 percent of the amount of the grant; and

''(ii) during each of the fourth and fifth years of the project, 50 percent of the amount of the grant.

''(B) INDIAN TRIBES.—Notwithstanding subparagraph (A), an Indian tribe may use any Federal funds made available to the Indian tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

''(C) FORM.—The non-Federal contributions required under subparagraph (A) may be in the form of in-kind contributions, including office equipment, office space, computer software, consultant services, computer networking equipment, and related services.

''(c) TELEWORK GRANTS.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (5), the Secretary shall make grants to eligible organizations to pay the Federal share of the cost of—

''(A) obtaining equipment and facilities to establish or expand telework locations in rural areas; and

''(B) operating telework locations in rural areas.

''(2) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible organization shall submit to the Secretary, and receive the approval of the Secretary of, an application for the grant that demonstrates that the eligible organization has adequate resources and capabilities to establish or expand a telework location in a rural area.

''(3) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to 50 percent of the amount of the grant.

''(B) INDIAN TRIBES.—Notwithstanding subparagraph (A), an Indian tribe may use Federal funds made available to the tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

''(C) SOURCES.—The non-Federal contributions required under subparagraph (A)—

''(i) may be in the form of in-kind contributions, including office equipment, office space, computer software, consultant services, computer networking equipment, and related services; and

''(ii) may not be made from funds made available for community development block grants under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

''(4) DURATION.—The Secretary may not provide a grant under this subsection to expand or operate a telework location in a rural area after the date that is 3 years after the establishment of the telework location.

''(5) AMOUNT.—The amount of a grant provided to an eligible organization under this subsection shall be not less than $1,000,000 and not more than $2,000,000.

''(d) APPLICABILITY OF CERTAIN FEDERAL LAW.—An eligible organization that receives funds under this section shall be subject to the provisions of Federal law (including regulations) administered by the Secretary of Labor or the Equal Employment Opportunity Commission that govern the responsibilities of employers to employees.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

''(f) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2002 through 2007, of which $5,000,000 shall be provided to establish and support an institute under subsection (b).''.

SEC. 6023. HISTORIC BARN PRESERVATION.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6022) is amended by adding at the end the following:

"SEC. 379A. HISTORIC BARN PRESERVATION.

''(a) DEFINITIONS.—In this section:

''(1) BARN.—The term 'barn' means a building (other than a dwelling) on a farm, ranch, or other agricultural operation for—

''(A) housing animals;

''(B) storing or processing crops;

''(C) storing and maintaining agricultural equipment; or

''(D) serving an essential or useful purpose related to agricultural activities conducted on the adjacent land.

''(2) ELIGIBLE APPLICANT.—The term 'eligible applicant' means—

''(A) a State department of agriculture (or a designee);

''(B) a national or State nonprofit organization that—

''(i) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

''(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, preservation, or protection of historic barns; and

''(C) a State historic preservation office.

''(3) HISTORIC BARN.—The term 'historic barn' means a barn that—

''(A) is at least 50 years old;

''(B) retains sufficient integrity of design, materials, and construction to clearly identify the barn as an agricultural building; and

''(C) meets the criteria for listing on National, State, or local registers or inventories of historic structures.

''(4) SECRETARY.—The term 'Secretary' means the Secretary, acting through the Under Secretary of Rural Development.

''(b) PROGRAM.—The Secretary shall establish a historic barn preservation program—

''(1) to assist States in developing a list of historic barns;

''(2) to collect and disseminate information on historic barns;

''(3) to foster educational programs relating to the history, construction techniques, rehabilitation, and contribution to society of historic barns; and

''(4) to sponsor and conduct research on—

''(A) the history of barns; and

''(B) best practices to protect and rehabilitate historic barns from the effects of decay, fire, arson, and natural disasters.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to carry out an eligible project under paragraph (2).

''(2) ELIGIBLE PROJECTS.—A grant under this subsection may be made to an eligible applicant for a project—

''(A) to rehabilitate or repair a historic barn;

''(B) to preserve a historic barn through—

''(i) the installation of a fire protection system, including fireproofing or fire detection system and sprinklers; and

''(ii) the installation of a system to prevent vandalism; and

''(C) to identify, document, and conduct research on a historic barn to develop and evaluate appropriate techniques or best practices for protecting historic barns.

''(3) REQUIREMENTS.—An eligible applicant that receives a grant for a project under this subsection shall comply with any standards established by the Secretary of the Interior for historic preservation projects.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.''.

SEC. 6024. GRANTS FOR NOAA WEATHER RADIO TRANSMITTERS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6023)) is amended by adding at the end the following:

"SEC. 379B. GRANTS FOR NOAA WEATHER RADIO TRANSMITTERS.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Rural Utilities Service, may make grants to public and nonprofit entities, and borrowers of loans made by the Rural Utilities Service, for the Federal share of the cost of acquiring radio transmitters to increase coverage of rural areas by the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration.

''(b) ELIGIBILITY.—To be eligible for a grant under this section, an applicant shall provide to the Secretary—

''(1) a binding commitment from a tower owner to place the transmitter on a tower; and

''(2) a description of how the tower placement will increase coverage of a rural area by the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration.

''(c) FEDERAL SHARE.—A grant provided under this section shall be not more than 75 percent of the total cost of acquiring a radio transmitter, as described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.''.

SEC. 6025. GRANTS TO TRAIN FARM WORKERS IN NEW TECHNOLOGIES AND TO TRAIN FARM WORKERS IN SPECIALIZED SKILLS NECESSARY FOR HIGHER VALUE CROPS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6024) is amended by adding at the end the following:

"SEC. 379C. GRANTS TO TRAIN FARM WORKERS IN NEW TECHNOLOGIES AND TO TRAIN FARM WORKERS IN SPECIALIZED SKILLS NECESSARY FOR HIGHER VALUE CROPS.

''(a) IN GENERAL.—The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, agribusinesses, State and local governments, agricultural labor organizations, farmer or rancher cooperatives, and community-based organizations with the capacity to train farm workers.

''(b) USE OF FUNDS.—An entity to which a grant is made under this section shall use the grant to train farm workers to use new technologies and develop specialized skills for agricultural development.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2007.''.

SEC. 6026. RURAL COMMUNITY ADVANCEMENT PROGRAM.

(a) NATIONAL RESERVE PROGRAM.—Section 381E of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009d) is amended—

(1) in subsection (b)—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4);

(2) by striking subsection (e);

(3) by redesignating subsections (f) through (h) as subsections (e) through (g), respectively; and

(4) in subsection (g) (as so redesignated), by striking ''subsection (g) of this section'' and inserting ''subsection (f)''.

(b) RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM.—Section 381O of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009n) is repealed.

(c) CONFORMING AMENDMENTS.—Section 381G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009f(a)) is amended—

(1) in subsection (a), by striking ''section 381E(g)'' each place it appears and inserting ''section 381E(f)''; and

(2) in subsection (b)(1), by striking ''section 381E(h)'' and inserting ''section 381E(g)''.

SEC. 6027. DELTA REGIONAL AUTHORITY.

(a) VOTING.—Section 382B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–1(c)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—

''(A) TEMPORARY METHOD.—During the period beginning on the date of enactment of this subparagraph and ending on December 31, 2004, a decision by the Authority shall require the affirmative vote of the Federal cochairperson and a majority of the State members (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.

''(B) PERMANENT METHOD.—Effective beginning on January 1, 2005, a decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.''.

(b) AUTHORITY TO ISSUE REGULATIONS.—Section 382B(e)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–1(e)(4)) is amended by striking ''and rules'' and inserting '', rules, and regulations''.

(c) ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.—Section 382C(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–2(b)) is amended by striking paragraph (3).

(d) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 382D of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–3) is amended to read as follows:

"SEC. 382D. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

''(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

''(1) the States or communities lack the economic resources to provide the required matching share; or

''(2) there are insufficient funds available under the applicable Federal law authorizing the Federal grant program to meet pressing needs of the region.

''(b) FEDERAL GRANT PROGRAM FUNDING.—Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations of any Federal grant program, and in accordance with subsection (c), the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region—

''(1) may increase the Federal share of the costs of a project under the Federal grant program to not more than 90 percent (except as provided in section 382F(b)); and

''(2) shall use amounts made available to carry out this subtitle to pay the increased Federal share.

''(c) CERTIFICATIONS.—

''(1) IN GENERAL.—In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

''(A) meets (except as provided in subsection (b)) the applicable requirements of the applicable Federal grant program; and

''(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

''(2) CERTIFICATION BY AUTHORITY.—

''(A) IN GENERAL.—The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 382I—

''(i) shall be controlling; and

''(ii) shall be accepted by the Federal agencies.

''(B) ACCEPTANCE BY FEDERAL COCHAIRPERSON.—In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.''.

(e) GRANTS TO LOCAL DEVELOPMENT AGENCIES.—Section 382E(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–4(b)(1)) is amended by striking ''may'' and inserting ''shall''.

(f) APPROVAL OF DEVELOPMENT PLANS AND PROJECTS.—Section 382I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–8) is amended—

(1) in subsection (a), by inserting ''and approved'' after ''reviewed''; and

(2) in subsection (d), by striking ''VOTES FOR DECISIONS.—'' and inserting ''APPROVAL OF GRANT APPLICATIONS.—''.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 382M(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–12(a)) is amended by striking ''2002'' and inserting ''2007''.

(h) TERMINATION OF AUTHORITY.—Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–13) is amended by striking ''2002'' and inserting ''2007''.

(i) DELTA REGION AGRICULTURAL ECONOMIC DEVELOPMENT.—Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6025) is amended by adding at the end the following:

''SEC. 379D. DELTA REGION AGRICULTURAL ECONOMIC DEVELOPMENT.

''(a) IN GENERAL.—The Secretary may make grants to assist in the development of state-of-the-art technology in animal nutrition (including research and development of the technology) and value-added manufacturing to promote an economic platform for the Delta region (as defined in section 382A) to relieve severe economic conditions.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2002 through 2007.''.

(j) DEFINITION OF LOWER MISSISSIPPI.—Section 4(2)(I) of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460) is amended by inserting ''Butler, Conecuh, Escambia, Monroe,'' after ''Russell,''.

SEC. 6028. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

''Subtitle G—Northern Great Plains Regional Authority

''SEC. 383A. DEFINITIONS.

''In this subtitle:

''(1) AUTHORITY.—The term 'Authority' means the Northern Great Plains Regional Authority established by section 383B.

''(2) FEDERAL GRANT PROGRAM.—The term 'Federal grant program' means a Federal grant program to provide assistance in—

''(A) implementing the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great Plains Rural Development Act (7 U.S.C. 2661 note; Public Law 103–318);

''(B) acquiring or developing land;

''(C) constructing or equipping a highway, road, bridge, or facility;

''(D) carrying out other economic development activities; or

''(E) conducting research activities related to the activities described in subparagraphs (A) through (D).

''(3) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(4) REGION.—The term 'region' means the States of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

''SEC. 383B. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established the Northern Great Plains Regional Authority.

''(2) COMPOSITION.—The Authority shall be composed of—

''(A) a Federal member, to be appointed by the President, by and with the advice and consent of the Senate;

''(B) the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority; and

''(C) a member of an Indian tribe, who shall be a chairperson of an Indian tribe in the region or a designee of such a chairperson, to be appointed by the President, by and with the advice and consent of the Senate.

''(3) COCHAIRPERSONS.—The Authority shall be headed by—

''(A) the Federal member, who shall serve—

''(i) as the Federal cochairperson; and

''(ii) as a liaison between the Federal Government and the Authority;

''(B) a State cochairperson, who—

''(i) shall be a Governor of a participating State in the region; and

''(ii) shall be elected by the State members for a term of not less than 1 year; and

''(C) the member of an Indian tribe, who shall serve—

''(i) as the tribal cochairperson; and

''(ii) as a liaison between the governments of Indian tribes in the region and the Authority.

''(b) ALTERNATE MEMBERS.—

''(1) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal cochairperson.

''(2) STATE ALTERNATES.—

''(A) IN GENERAL.—The State member of a participating State may have a single alternate, who shall be—

''(i) a resident of that State; and

''(ii) appointed by the Governor of the State.

''(B) QUORUM.—A State alternate member shall not be counted toward the establishment of a quorum of the members of the Authority in any case in which a quorum of the State members is required to be present.

''(3) ALTERNATE TRIBAL COCHAIRPERSON.—The President shall appoint an alternate tribal cochairperson, by and with the advice and consent of the Senate.

''(4) DELEGATION OF POWER.—No power or responsibility of the Authority specified in paragraphs (2) and (3) of subsection (c), and no voting right of any member of the Authority, shall be delegated to any person who is not—

''(A) a member of the Authority; or

''(B) entitled to vote in Authority meetings.

''(c) VOTING.—

''(1) IN GENERAL.—A decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(D)) to be effective.

''(2) QUORUM.—A quorum of State members shall be required to be present for the Authority to make any policy decision, including—

''(A) a modification or revision of an Authority policy decision;

''(B) approval of a State or regional development plan; and

''(C) any allocation of funds among the States.

''(3) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals shall be—

''(A) a responsibility of the Authority; and

''(B) conducted in accordance with section 383I.

''(4) VOTING BY ALTERNATE MEMBERS.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal, State, or Indian tribe member for whom the alternate member is an alternate.

''(d) DUTIES.—The Authority shall—

''(1) develop, on a continuing basis, comprehensive and coordinated plans and programs to establish priorities and approve grants for the economic development of the region, giving due consideration to other Federal, State, tribal, and local planning and development activities in the region;

''(2) not later than 220 days after the date of enactment of this subtitle, establish priorities in a development plan for the region (including 5-year regional outcome targets);

''(3) assess the needs and assets of the region based on available research, demonstrations, investigations, assessments, and evaluations of the region prepared by Federal, State, tribal, and local agencies, universities, local development districts, and other nonprofit groups;

''(4) formulate and recommend to the Governors and legislatures of States that participate in the Authority forms of interstate cooperation;

''(5) work with State, tribal, and local agencies in developing appropriate model legislation;

''(6)(A) enhance the capacity of, and provide support for, local development districts in the region; or

''(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

''(7) encourage private investment in industrial, commercial, and other economic development projects in the region; and

''(8) cooperate with and assist State governments with economic development programs of participating States.

''(e) ADMINISTRATION.—In carrying out subsection (d), the Authority may—

''(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Authority as the Authority considers appropriate;

''(2) authorize, through the Federal, State, or tribal cochairperson or any other member of the Authority designated by the Authority, the administration of oaths if the Authority determines that testimony should be taken or evidence received under oath;

''(3) request from any Federal, State, tribal, or local agency such information as may be available to or procurable by the agency that may be of use to the Authority in carrying out the duties of the Authority;

''(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties of the Authority;

''(5) request the head of any Federal agency to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

''(6) request the head of any State agency, tribal government, or local government to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

''(7) provide for coverage of Authority employees in a suitable retirement and employee benefit system by—

''(A) making arrangements or entering into contracts with any participating State government or tribal government; or

''(B) otherwise providing retirement and other employee benefit coverage;

''(8) accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property;

''(9) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out Authority duties, including any contracts, leases, or cooperative agreements with—

''(A) any department, agency, or instrumentality of the United States;

''(B) any State (including a political subdivision, agency, or instrumentality of the State);

''(C) any Indian tribe in the region; or

''(D) any person, firm, association, or corporation; and

''(10) establish and maintain a central office and field offices at such locations as the Authority may select.

''(f) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

''(1) cooperate with the Authority; and

''(2) provide, on request of the Federal cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

''(g) ADMINISTRATIVE EXPENSES.—

''(1) FEDERAL SHARE.—The Federal share of the administrative expenses of the Authority shall be—

''(A) for fiscal year 2002, 100 percent;

''(B) for fiscal year 2003, 75 percent; and

''(C) for fiscal year 2004 and each fiscal year thereafter, 50 percent.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—The non-Federal share of the administrative expenses of the Authority shall be paid by non-Federal sources in the States that participate in the Authority.

''(B) SHARE PAID BY EACH STATE.—The share of administrative expenses of the Authority to be paid by non-Federal sources in each State shall be determined by the Authority.

''(C) NO FEDERAL PARTICIPATION.—The Federal cochairperson shall not participate or vote in any decision under subparagraph (B).

''(D) DELINQUENT STATES.—If a State is delinquent in payment of the State's share of administrative expenses of the Authority under this subsection—

''(i) no assistance under this subtitle shall be provided to the State (including assistance to a political subdivision or a resident of the State); and

''(ii) no member of the Authority from the State shall participate or vote in any action by the Authority.

''(h) COMPENSATION.—

''(1) FEDERAL AND TRIBAL COCHAIRPERSONS.—The Federal cochairperson and the tribal cochairperson shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level III of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

''(2) ALTERNATE FEDERAL AND TRIBAL COCHAIRPERSONS.—The alternate Federal cochairperson and the alternate tribal cochairperson—

''(A) shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level V of the Executive Schedule described in paragraph (1); and

''(B) when not actively serving as an alternate, shall perform such functions and duties as are delegated by the Federal cochairperson or the tribal cochairperson, respectively.

''(3) STATE MEMBERS AND ALTERNATES.—

''(A) IN GENERAL.—A State shall compensate each member and alternate representing the State on the Authority at the rate established by State law.

''(B) NO ADDITIONAL COMPENSATION.—No State member or alternate member shall receive any salary, or any contribution to or supplementation of salary from any source other than the State for services provided by the member or alternate member to the Authority.

''(4) DETAILED EMPLOYEES.—

''(A) IN GENERAL.—No person detailed to serve the Authority under subsection (e)(6) shall receive any salary or any contribution to or supplementation of salary for services provided to the Authority from—

''(i) any source other than the State, tribal, local, or intergovernmental agency from which the person was detailed; or

''(ii) the Authority.

''(B) VIOLATION.—Any person that violates this paragraph shall be fined not more than $5,000, imprisoned not more than 1 year, or both.

''(C) APPLICABLE LAW.—The Federal cochairperson, the alternate Federal cochairperson, and any Federal officer or employee detailed to duty on the Authority under subsection (e)(5) shall not be subject to subparagraph (A), but shall remain subject to sections 202 through 209 of title 18, United States Code.

''(5) ADDITIONAL PERSONNEL.—

''(A) COMPENSATION.—

''(i) IN GENERAL.—The Authority may appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Authority to carry out the duties of the Authority.

''(ii) EXCEPTION.—Compensation under clause (i) shall not exceed the maximum rate for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

''(B) EXECUTIVE DIRECTOR.—The executive director shall be responsible for—

''(i) the carrying out of the administrative duties of the Authority;

''(ii) direction of the Authority staff; and

''(iii) such other duties as the Authority may assign.

''(C) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of the Authority (except the Federal cochairperson of the Authority, the alternate and staff for the Federal cochairperson, and any Federal employee detailed to the Authority under subsection (e)(5)) shall be considered to be a Federal employee for any purpose.

''(i) CONFLICTS OF INTEREST.—

''(1) IN GENERAL.—Except as provided under paragraph (2), no State member, Indian tribe member, State alternate, officer, or employee of the Authority shall participate personally and substantially as a member, alternate, officer, or employee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other matter in which, to knowledge of the member, alternate, officer, or employee—

''(A) the member, alternate, officer, or employee;

''(B) the spouse, minor child, partner, or organization (other than a State or political subdivision of the State or the Indian tribe) of the member, alternate, officer, or employee, in which the member, alternate, officer, or employee is serving as officer, director, trustee, partner, or employee; or

''(C) any person or organization with whom the member, alternate, officer, or employee is negotiating or has any arrangement concerning prospective employment;

has a financial interest.

''(2) DISCLOSURE.—Paragraph (1) shall not apply if the State member, Indian tribe member, alternate, officer, or employee—

''(A) immediately advises the Authority of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter presenting a potential conflict of interest;

''(B) makes full disclosure of the financial interest; and

''(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the Authority that the interest is not so substantial as to be likely to affect the integrity of the services that the Authority may expect from the State member, Indian tribe member, alternate, officer, or employee.

''(3) VIOLATION.—Any person that violates this subsection shall be fined not more than $10,000, imprisoned not more than 2 years, or both.

''(j) VALIDITY OF CONTRACTS, LOANS, AND GRANTS.—The Authority may declare void any contract, loan, or grant of or by the Authority in relation to which the Authority determines that there has been a violation of any provision under subsection (h)(4) or subsection (i) of this subtitle, or sections 202 through 209 of title 18, United States Code.

''SEC. 383C. ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.

''(a) IN GENERAL.—The Authority may approve grants to States, Indian tribes, local governments, and public and nonprofit organizations for projects, approved in accordance with section 383I—

''(1) to develop the transportation and telecommunication infrastructure of the region for the purpose of facilitating economic development in the region (except that grants for this purpose may be made only to States, Indian tribes, local governments, and nonprofit organizations);

''(2) to assist the region in obtaining the job training, employment-related education, and business development (with an emphasis on entrepreneurship) that are needed to build and maintain strong local economies;

''(3) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for improving basic public services;

''(4) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for equipping industrial parks and related facilities; and

''(5) to otherwise achieve the purposes of this subtitle.

''(b) FUNDING.—

''(1) IN GENERAL.—Funds for grants under subsection (a) may be provided—

''(A) entirely from appropriations to carry out this section;

''(B) in combination with funds available under another Federal grant program; or

''(C) from any other source.

''(2) PRIORITY OF FUNDING.—To best build the foundations for long-term economic development and to complement other Federal, State, and tribal resources in the region, Federal funds available under this subtitle shall be focused on the activities in the following order or priority:

''(A) Basic public infrastructure in distressed counties and isolated areas of distress.

''(B) Transportation and telecommunication infrastructure for the purpose of facilitating economic development in the region.

''(C) Business development, with emphasis on entrepreneurship.

''(D) Job training or employment-related education, with emphasis on use of existing public educational institutions located in the region.

''SEC. 383D. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

''(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

''(1) they lack the economic resources to provide the required matching share; or

''(2) there are insufficient funds available under the applicable Federal law authorizing the Federal grant program to meet pressing needs of the region.

''(b) FEDERAL GRANT PROGRAM FUNDING.—Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations, under any Federal grant program, and in accordance with subsection (c), the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region—

''(1) may increase the Federal share of the costs of a project under any Federal grant program to not more than 90 percent (except as provided in section 383F(b)); and

''(2) shall use amounts made available to carry out this subtitle to pay the increased Federal share.

''(c) CERTIFICATIONS.—

''(1) IN GENERAL.—In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

''(A) meets (except as provided in subsection (b)) the applicable requirements of the applicable Federal grant program; and

''(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

''(2) CERTIFICATION BY AUTHORITY.—

''(A) IN GENERAL.—The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 383I—

''(i) shall be controlling; and

''(ii) shall be accepted by the Federal agencies.

''(B) ACCEPTANCE BY FEDERAL COCHAIRPERSON.—In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.

''SEC. 383E. LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.

''(a) DEFINITION OF LOCAL DEVELOPMENT DISTRICT.—In this section, the term 'local development district' means an entity—

''(1) that—

''(A) is a planning district in existence on the date of enactment of this subtitle that is recognized by the Economic Development Administration of the Department of Commerce; or

''(B) is—

''(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

''(ii) governed by a policy board with at least a simple majority of members consisting of—

''(I) elected officials or employees of a general purpose unit of local government who have been appointed to represent the government; or

''(II) individuals appointed by the general purpose unit of local government to represent the government;

''(iii) certified to the Authority as having a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region—

''(I) by the Governor of each State in which the entity is located; or

''(II) by the State officer designated by the appropriate State law to make the certification; and

''(iv)(I) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

''(II) a nonprofit agency or instrumentality of a State or local government;

''(III) a public organization established before the date of enactment of this subtitle under State law for creation of multi-jurisdictional, area-wide planning organizations; or

''(IV) a nonprofit association or combination of bodies, agencies, and instrumentalities described in subclauses (I) through (III); and

''(2) that has not, as certified by the Federal cochairperson—

''(A) inappropriately used Federal grant funds from any Federal source; or

''(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

''(b) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—

''(1) IN GENERAL.—The Authority may make grants for administrative expenses under this section.

''(2) CONDITIONS FOR GRANTS.—

''(A) MAXIMUM AMOUNT.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the local development district receiving the grant.

''(B) MAXIMUM PERIOD.—No grant described in paragraph (1) shall be awarded to a State agency certified as a local development district for a period greater than 3 years.

''(C) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

''(c) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—

''(1) operate as a lead organization serving multicounty areas in the region at the local level; and

''(2) serve as a liaison between State, tribal, and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens that—

''(A) are involved in multijurisdictional planning;

''(B) provide technical assistance to local jurisdictions and potential grantees; and

''(C) provide leadership and civic development assistance.

''(d) NORTHERN GREAT PLAINS INC.—Northern Great Plains Inc., a nonprofit corporation incorporated in the State of Minnesota to implement the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great Plains Rural Development Act (7 U.S.C. 2661 note; Public Law 103–318)—

''(1) shall serve as an independent, primary resource for the Authority on issues of concern to the region;

''(2) shall advise the Authority on development of international trade;

''(3) may provide research, education, training, and other support to the Authority; and

''(4) may carry out other activities on its own behalf or on behalf of other entities.

''SEC. 383F. DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.

''(a) DESIGNATIONS.—Not later than 90 days after the date of enactment of this subtitle, and annually thereafter, the Authority, in accordance with such criteria as the Authority may establish, shall designate—

''(1) as distressed counties, counties in the region that are the most severely and persistently distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration;

''(2) as nondistressed counties, counties in the region that are not designated as distressed counties under paragraph (1); and

''(3) as isolated areas of distress, areas located in nondistressed counties (as designated under paragraph (2)) that have high rates of poverty, unemployment, or outmigration.

''(b) DISTRESSED COUNTIES.—

''(1) IN GENERAL.—The Authority shall allocate at least 75 percent of the appropriations made available under section 383M for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

''(2) FUNDING LIMITATIONS.—The funding limitations under section 383D(b) shall not apply to a project to provide transportation or telecommunication or basic public services to residents of 1 or more distressed counties or isolated areas of distress in the region.

''(c) NONDISTRESSED COUNTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no funds shall be provided under this subtitle for a project located in a county designated as a nondistressed county under subsection (a)(2).

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 383E(b).

''(B) MULTICOUNTY PROJECTS.—The Authority may waive the application of the funding prohibition under paragraph (1) to—

''(i) a multicounty project that includes participation by a nondistressed county; or

''(ii) any other type of project;

if the Authority determines that the project could bring significant benefits to areas of the region outside a nondistressed county.

''(C) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress for assistance to be effective, the designation shall be supported—

''(i) by the most recent Federal data available; or

''(ii) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

''(d) TRANSPORTATION, TELECOMMUNICATION, AND BASIC PUBLIC INFRASTRUCTURE.—The Authority shall allocate at least 50 percent of any funds made available under section 383M for transportation, telecommunication, and basic public infrastructure projects authorized under paragraphs (1) and (3) of section 383C(a).

''SEC. 383G. DEVELOPMENT PLANNING PROCESS.

''(a) STATE DEVELOPMENT PLAN.—In accordance with policies established by the Authority, each State member shall submit a development plan for the area of the region represented by the State member.

''(b) CONTENT OF PLAN.—A State development plan submitted under subsection (a) shall reflect the goals, objectives, and priorities identified in the regional development plan developed under section 383B(d)(2).

''(c) CONSULTATION WITH INTERESTED LOCAL PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State may—

''(1) consult with—

''(A) local development districts; and

''(B) local units of government; and

''(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

''(d) PUBLIC PARTICIPATION.—

''(1) IN GENERAL.—The Authority and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.

''(2) REGULATIONS.—The Authority shall develop guidelines for providing public participation described in paragraph (1), including public hearings.

''SEC. 383H. PROGRAM DEVELOPMENT CRITERIA.

''(a) IN GENERAL.—In considering programs and projects to be provided assistance under this subtitle, and in establishing a priority ranking of the requests for assistance provided to the Authority, the Authority shall follow procedures that ensure, to the maximum extent practicable, consideration of—

''(1) the relationship of the project or class of projects to overall regional development;

''(2) the per capita income and poverty and unemployment and outmigration rates in an area;

''(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

''(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same funds;

''(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and

''(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

''(b) NO RELOCATION ASSISTANCE.—No financial assistance authorized by this subtitle shall be used to assist a person or entity in relocating from one area to another, except that financial assistance may be used as otherwise authorized by this title to attract businesses from outside the region to the region.

''(c) MAINTENANCE OF EFFORT.—Funds may be provided for a program or project in a State under this subtitle only if the Authority determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within the region, will not be reduced as a result of funds made available by this subtitle.

''SEC. 383I. APPROVAL OF DEVELOPMENT PLANS AND PROJECTS.

''(a) IN GENERAL.—A State or regional development plan or any multistate subregional plan that is proposed for development under this subtitle shall be reviewed by the Authority.

''(b) EVALUATION BY STATE MEMBER.—An application for a grant or any other assistance for a project under this subtitle shall be made through and evaluated for approval by the State member of the Authority representing the applicant.

''(c) CERTIFICATION.—An application for a grant or other assistance for a project shall be approved only on certification by the State member that the application for the project—

''(1) describes ways in which the project complies with any applicable State development plan;

''(2) meets applicable criteria under section 383H;

''(3) provides adequate assurance that the proposed project will be properly administered, operated, and maintained; and

''(4) otherwise meets the requirements of this subtitle.

''(d) VOTES FOR DECISIONS.—On certification by a State member of the Authority of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Authority under section 383B(c) shall be required for approval of the application.

''SEC. 383J. CONSENT OF STATES.

''Nothing in this subtitle requires any State to engage in or accept any program under this subtitle without the consent of the State.

''SEC. 383K. RECORDS.

''(a) RECORDS OF THE AUTHORITY.—

''(1) IN GENERAL.—The Authority shall maintain accurate and complete records of all transactions and activities of the Authority.

''(2) AVAILABILITY.—All records of the Authority shall be available for audit and examination by the Comptroller General of the United States and the Inspector General of the Department of Agriculture (including authorized representatives of the Comptroller General and the Inspector General of the Department of Agriculture).

''(b) RECORDS OF RECIPIENTS OF FEDERAL ASSISTANCE.—

''(1) IN GENERAL.—A recipient of Federal funds under this subtitle shall, as required by the Authority, maintain accurate and complete records of transactions and activities financed with Federal funds and report to the Authority on the transactions and activities to the Authority.

''(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Comptroller General of the United States, the Inspector General of the Department of Agriculture, and the Authority (including authorized representatives of the Comptroller General, the Inspector General of the Department of Agriculture, and the Authority).

''(c) ANNUAL AUDIT.—The Inspector General of the Department of Agriculture shall audit the activities, transactions, and records of the Authority on an annual basis.

''SEC. 383L. ANNUAL REPORT.

''Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subtitle.

''SEC. 383M. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to the Authority to carry out this subtitle $30,000,000 for each of fiscal years 2002 through 2007, to remain available until expended.

''(b) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount appropriated under subsection (a) for a fiscal year shall be used for administrative expenses of the Authority.

''(c) MINIMUM STATE SHARE OF GRANTS.—Notwithstanding any other provision of this subtitle, for any fiscal year, the aggregate amount of grants received by a State and all persons or entities in the State under this subtitle shall be not less than ⅓ of the product obtained by multiplying—

''(1) the aggregate amount of grants under this subtitle for the fiscal year; and

''(2) the ratio that—

''(A) the population of the State (as determined by the Secretary of Commerce based on the most recent decennial census for which data are available); bears to

''(B) the population of the region (as so determined).

''SEC. 383N. TERMINATION OF AUTHORITY.

''The authority provided by this subtitle terminates effective October 1, 2007.''.

SEC. 6029. RURAL BUSINESS INVESTMENT PROGRAM.

The Consolidated Farm and Rural Development Act (as amended by section 6028) is amended by adding at the end the following:

''Subtitle H—Rural Business Investment Program

''SEC. 384A. DEFINITIONS.

''In this subtitle:

''(1) ARTICLES.—The term 'articles' means articles of incorporation for an incorporated body or the functional equivalent or other similar documents specified by the Secretary for other business entities.

''(2) DEVELOPMENTAL VENTURE CAPITAL.—The term 'developmental venture capital' means capital in the form of equity capital investments in rural business investment companies with an objective of fostering economic development in rural areas.

''(3) EMPLOYEE WELFARE BENEFIT PLAN; PENSION PLAN.—

''(A) IN GENERAL.—The terms 'employee welfare benefit plan' and 'pension plan' have the meanings given the terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

''(B) INCLUSIONS.—The terms 'employee welfare benefit plan' and 'pension plan' include—

''(i) public and private pension or retirement plans subject to this subtitle; and

''(ii) similar plans not covered by this subtitle that have been established, and that are maintained, by the Federal Government or any State (including by a political subdivision, agency, or instrumentality of the Federal Government or a State) for the benefit of employees.

''(4) EQUITY CAPITAL.—The term 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features.

''(5) LEVERAGE.—The term 'leverage' includes—

''(A) debentures purchased or guaranteed by the Secretary;

''(B) participating securities purchased or guaranteed by the Secretary; and

''(C) preferred securities outstanding as of the date of enactment of this subtitle.

''(6) LICENSE.—The term 'license' means a license issued by the Secretary as provided in section 384D(e).

''(7) LIMITED LIABILITY COMPANY.—The term 'limited liability company' means a business entity that is organized and operating in accordance with a State limited liability company law approved by the Secretary.

''(8) MEMBER.—The term 'member' means, with respect to a rural business investment company that is a limited liability company, a holder of an ownership interest or a person otherwise admitted to membership in the limited liability company.

''(9) OPERATIONAL ASSISTANCE.—The term 'operational assistance' means management, marketing, and other technical assistance that assists a rural business concern with business development.

''(10) PARTICIPATION AGREEMENT.—The term 'participation agreement' means an agreement, between the Secretary and a rural business investment company granted final approval under section 384D(e), that requires the rural business investment company to make investments in smaller enterprises in rural areas.

''(11) PRIVATE CAPITAL.—

''(A) IN GENERAL.—The term 'private capital' means the total of—

''(i)(I) the paid-in capital and paid-in surplus of a corporate rural business investment company;

''(II) the contributed capital of the partners of a partnership rural business investment company; or

''(III) the equity investment of the members of a limited liability company rural business investment company; and

''(ii) unfunded binding commitments from investors that meet criteria established by the Secretary to contribute capital to the rural business investment company, except that—

''(I) unfunded commitments may be counted as private capital for purposes of approval by the Secretary of any request for leverage; but

''(II) leverage shall not be funded based on the commitments.

''(B) EXCLUSIONS.—The term 'private capital' does not include—

''(i) any funds borrowed by a rural business investment company from any source;

''(ii) any funds obtained through the issuance of leverage; or

''(iii) any funds obtained directly or indirectly from the Federal Government or any State (including by a political subdivision, agency, or instrumentality of the Federal Government or a State), except for—

''(I) funds obtained from the business revenues (excluding any governmental appropriation) of any federally chartered or government-sponsored enterprise established prior to the date of enactment of this subtitle;

''(II) funds invested by an employee welfare benefit plan or pension plan; and

''(III) any qualified nonprivate funds (if the investors of the qualified nonprivate funds do not control, directly or indirectly, the management, board of directors, general partners, or members of the rural business investment company).

''(12) QUALIFIED NONPRIVATE FUNDS.—The term 'qualified nonprivate funds' means any—

''(A) funds directly or indirectly invested in any applicant or rural business investment company on or before the date of enactment of this subtitle, by any Federal agency, other than the Department of Agriculture, under a provision of law explicitly mandating the inclusion of those funds in the definition of the term 'private capital'; and

''(B) funds invested in any applicant or rural business investment company by 1 or more entities of any State (including by a political subdivision, agency, or instrumentality of the State and including any guarantee extended by those entities) in an aggregate amount that does not exceed 33 percent of the private capital of the applicant or rural business investment company.

''(13) RURAL BUSINESS CONCERN.—The term 'rural business concern' means—

''(A) a public, private, or cooperative for-profit or nonprofit organization;

''(B) a for-profit or nonprofit business controlled by an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group; or

''(C) any other person or entity;

that primarily operates in a rural area, as determined by the Secretary.

''(14) RURAL BUSINESS INVESTMENT COMPANY.—The term 'rural business investment company' means a company that—

''(A) has been granted final approval by the Secretary under section 384D(e); and

''(B) has entered into a participation agreement with the Secretary.

''(15) SMALLER ENTERPRISE.—The term 'smaller enterprise' means any rural business concern that, together with its affiliates—

''(A) has—

''(i) a net financial worth of not more than $6,000,000, as of the date on which assistance is provided under this subtitle to the rural business concern; and

''(ii) an average net income for the 2-year period preceding the date on which assistance is provided under this subtitle to the rural business concern, of not more than $2,000,000, after Federal income taxes (excluding any carryover losses), except that, for purposes of this clause, if the rural business concern is not required by law to pay Federal income taxes at the enterprise level, but is required to pass income through to the shareholders, partners, beneficiaries, or other equitable owners of the business concern, the net income of the business concern shall be determined by allowing a deduction in an amount equal to the total of—

''(I) if the rural business concern is not required by law to pay State (and local, if any) income taxes at the enterprise level, the net income (determined without regard to this clause), multiplied by the marginal State income tax rate (or by the combined State and local income tax rates, as applicable) that would have applied if the business concern were a corporation; and

''(II) the net income (so determined) less any deduction for State (and local) income taxes calculated under subclause (I), multiplied by the marginal Federal income tax rate that would have applied if the rural business concern were a corporation; or

''(B) satisfies the standard industrial classification size standards established by the Administrator of the Small Business Administration for the industry in which the rural business concern is primarily engaged.

''SEC. 384B. PURPOSES.

''The purposes of the Rural Business Investment Program established under this subtitle are—

''(1) to promote economic development and the creation of wealth and job opportunities in rural areas and among individuals living in those areas by encouraging developmental venture capital investments in smaller enterprises primarily located in rural areas; and

''(2) to establish a developmental venture capital program, with the mission of addressing the unmet equity investment needs of small enterprises located in rural areas, by authorizing the Secretary—

''(A) to enter into participation agreements with rural business investment companies;

''(B) to guarantee debentures of rural business investment companies to enable each rural business investment company to make developmental venture capital investments in smaller enterprises in rural areas; and

''(C) to make grants to rural business investment companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by rural business investment companies.

''SEC. 384C. ESTABLISHMENT.

''In accordance with this subtitle, the Secretary shall establish a Rural Business Investment Program, under which the Secretary may—

''(1) enter into participation agreements with companies granted final approval under section 384D(e) for the purposes set forth in section 384B;

''(2) guarantee the debentures issued by rural business investment companies as provided in section 384E; and

''(3) make grants to rural business investment companies, and to other entities, under section 384H.

''SEC. 384D. SELECTION OF RURAL BUSINESS INVESTMENT COMPANIES.

''(a) ELIGIBILITY.—A company shall be eligible to apply to participate, as a rural business investment company, in the program established under this subtitle if—

''(1) the company is a newly formed for-profit entity or a newly formed for-profit subsidiary of such an entity;

''(2) the company has a management team with experience in community development financing or relevant venture capital financing; and

''(3) the company will invest in enterprises that will create wealth and job opportunities in rural areas, with an emphasis on smaller enterprises.

''(b) APPLICATION.—To participate, as a rural business investment company, in the program established under this subtitle, a company meeting the eligibility requirements of subsection (a) shall submit an application to the Secretary that includes—

''(1) a business plan describing how the company intends to make successful developmental venture capital investments in identified rural areas;

''(2) information regarding the community development finance or relevant venture capital qualifications and general reputation of the management of the company;

''(3) a description of how the company intends to work with community-based organizations and local entities (including local economic development companies, local lenders, and local investors) and to seek to address the unmet equity capital needs of the communities served;

''(4) a proposal describing how the company intends to use the grant funds provided under this subtitle to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company intends to use licensed professionals, as necessary, on the staff of the company or from an outside entity;

''(5) with respect to binding commitments to be made to the company under this subtitle, an estimate of the ratio of cash to in-kind contributions;

''(6) a description of the criteria to be used to evaluate whether and to what extent the company meets the purposes of the program established under this subtitle;

''(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the business plan of the company; and

''(8) such other information as the Secretary may require.

''(c) STATUS.—Not later than 90 days after the initial receipt by the Secretary of an application under this section, the Secretary shall provide to the applicant a written report describing the status of the application and any requirements remaining for completion of the application.

''(d) MATTERS CONSIDERED.—In reviewing and processing any application under this section, the Secretary—

''(1) shall determine whether—

''(A) the applicant meets the requirements of subsection (e); and

''(B) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this subtitle;

''(2) shall take into consideration—

''(A) the need for and availability of financing for rural business concerns in the geographic area in which the applicant is to commence business;

''(B) the general business reputation of the owners and management of the applicant; and

''(C) the probability of successful operations of the applicant, including adequate profitability and financial soundness; and

''(3) shall not take into consideration any projected shortage or unavailability of grant funds or leverage.

''(e) APPROVAL; LICENSE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may approve an applicant to operate as a rural business investment company under this subtitle and license the applicant as a rural business investment company, if—

''(A) the Secretary determines that the application satisfies the requirements of subsection (b);

''(B) the area in which the rural business investment company is to conduct its operations, and establishment of branch offices or agencies (if authorized by the articles), are approved by the Secretary; and

''(C) the applicant enters into a participation agreement with the Secretary.

''(2) CAPITAL REQUIREMENTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, the Secretary may approve an applicant to operate as a rural business investment company under this subtitle and designate the applicant as a rural business investment company, if the Secretary determines that the applicant—

''(i) has private capital of more than $2,500,000;

''(ii) would otherwise be approved under this subtitle, except that the applicant does not satisfy the requirements of section 384I(c); and

''(iii) has a viable business plan that—

''(I) reasonably projects profitable operations; and

''(II) has a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 384I(c).

''(B) LEVERAGE.—An applicant approved under subparagraph (A) shall not be eligible to receive leverage under this subtitle until the applicant satisfies the requirements of section 384I(c).

''(C) GRANTS.—An applicant approved under subparagraph (A) shall be eligible for grants under section 384H in proportion to the private capital of the applicant, as determined by the Secretary.

''SEC. 384E. DEBENTURES.

''(a) IN GENERAL.—The Secretary may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any rural business investment company.

''(b) TERMS AND CONDITIONS.—The Secretary may make guarantees under this section on such terms and conditions as the Secretary considers appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

''(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—Section 381H(i) shall apply to any guarantee under this section.

''(d) MAXIMUM GUARANTEE.—Under this section, the Secretary may—

''(1) guarantee the debentures issued by a rural business investment company only to the

extent that the total face amount of outstanding guaranteed debentures of the rural business investment company does not exceed the lesser of—

''(A) 300 percent of the private capital of the rural business investment company; or

''(B) $105,000,000; and

''(2) provide for the use of discounted debentures.

''SEC. 384F. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

''(a) ISSUANCE.—The Secretary may issue trust certificates representing ownership of all or a fractional part of debentures issued by a rural business investment company and guaranteed by the Secretary under this subtitle, if the certificates are based on and backed by a trust or pool approved by the Secretary and composed solely of guaranteed debentures.

''(b) GUARANTEE.—

''(1) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Secretary or agents of the Secretary for purposes of this section.

''(2) LIMITATION.—Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

''(3) PREPAYMENT OR DEFAULT.—

''(A) IN GENERAL.—In the event a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest the prepaid debenture represents in the trust or pool.

''(B) INTEREST.—Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Secretary only through the date of payment of the guarantee.

''(C) REDEMPTION.—At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

''(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—Section 381H(i) shall apply to any guarantee of a trust certificate issued by the Secretary under this section.

''(d) SUBROGATION AND OWNERSHIP RIGHTS.—

''(1) SUBROGATION.—If the Secretary pays a claim under a guarantee issued under this section, the claim shall be subrogated fully to the rights satisfied by the payment.

''(2) OWNERSHIP RIGHTS.—No Federal, State, or local law shall preclude or limit the exercise by the Secretary of the ownership rights of the Secretary in a debenture residing in a trust or pool against which 1 or more trust certificates are issued under this section.

''(e) MANAGEMENT AND ADMINISTRATION.—

''(1) REGISTRATION.—The Secretary shall provide for a central registration of all trust certificates issued under this section.

''(2) CREATION OF POOLS.—The Secretary may—

''(A) maintain such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this subtitle; and

''(B) issue trust certificates to facilitate the creation of those trusts or pools.

''(3) FIDELITY BOND OR INSURANCE REQUIREMENT.—Any agent performing functions on behalf of the Secretary under this paragraph shall provide a fidelity bond or insurance in such amount as the Secretary considers to be necessary to fully protect the interests of the United States.

''(4) REGULATION OF BROKERS AND DEALERS.—The Secretary may regulate brokers and dealers in trust certificates issued under this section.

''(5) ELECTRONIC REGISTRATION.—Nothing in this subsection prohibits the use of a book-entry or other electronic form of registration for trust certificates issued under this section.

''SEC. 384G. FEES.

''(a) IN GENERAL.—The Secretary may charge such fees as the Secretary considers appropriate with respect to any guarantee or grant issued under this subtitle.

''(b) TRUST CERTIFICATE.—Notwithstanding subsection (a), the Secretary shall not collect a fee for any guarantee of a trust certificate under section 384F, except that any agent of the Secretary may collect a fee approved by the Secretary for the functions described in section 384F(e)(2).

''(c) LICENSE.—

''(1) IN GENERAL.—The Secretary may prescribe fees to be paid by each applicant for a license to operate as a rural business investment company under this subtitle.

''(2) USE OF AMOUNTS.—Fees collected under this subsection—

''(A) shall be deposited in the account for salaries and expenses of the Secretary; and

''(B) are authorized to be appropriated solely to cover the costs of licensing examinations.

''SEC. 384H. OPERATIONAL ASSISTANCE GRANTS.

''(a) IN GENERAL.—In accordance with this section, the Secretary may make grants to rural business investment companies and to other entities, as authorized by this subtitle, to provide operational assistance to smaller enterprises financed, or expected to be financed, by the entities.

''(b) TERMS.—Grants made under this section shall be made over a multiyear period (not to exceed 10 years) under such terms as the Secretary may require.

''(c) USE OF FUNDS.—The proceeds of a grant made under this section may be used by the rural business investment company receiving the grant only to provide operational assistance in connection with an equity or prospective equity investment in a business located in a rural area.

''(d) SUBMISSION OF PLANS.—A rural business investment company shall be eligible for a grant under this section only if the rural business investment company submits to the Secretary, in such form and manner as the Secretary may require, a plan for use of the grant.

''(e) GRANT AMOUNT.—

''(1) RURAL BUSINESS INVESTMENT COMPANIES.—The amount of a grant made under this section to a rural business investment company shall be equal to the lesser of—

''(A) 10 percent of the private capital raised by the rural business investment company; or

''(B) $1,000,000.

''(2) OTHER ENTITIES.—The amount of a grant made under this section to any entity other than a rural business investment company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to rural business investment companies under this subtitle.

''SEC. 384I. RURAL BUSINESS INVESTMENT COMPANIES.

''(a) ORGANIZATION.—For the purpose of this subtitle, a rural business investment company shall—

''(1) be an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities authorized by this subtitle;

''(2)(A) if incorporated, have succession for a period of not less than 30 years unless earlier dissolved by the shareholders of the rural business investment company; and

''(B) if a limited partnership or a limited liability company, have succession for a period of not less than 10 years; and

''(3) possess the powers reasonably necessary to perform the functions and conduct the activities.

''(b) ARTICLES.—The articles of any rural business investment company—

''(1) shall specify in general terms—

''(A) the purposes for which the rural business investment company is formed;

''(B) the name of the rural business investment company;

''(C) the area or areas in which the operations of the rural business investment company are to be carried out;

''(D) the place where the principal office of the rural business investment company is to be located; and

''(E) the amount and classes of the shares of capital stock of the rural business investment company;

''(2) may contain any other provisions consistent with this subtitle that the rural business investment company may determine appropriate to adopt for the regulation of the business of the rural business investment company and the conduct of the affairs of the rural business investment company; and

''(3) shall be subject to the approval of the Secretary.

''(c) CAPITAL REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the private capital of each rural business investment company shall be not less than—

''(A) $5,000,000; or

''(B) $10,000,000, with respect to each rural business investment company authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Secretary under this subtitle.

''(2) EXCEPTION.—The Secretary may, in the discretion of the Secretary and based on a showing of special circumstances and good cause, permit the private capital of a rural business investment company described in paragraph (1)(B) to be less than $10,000,000, but not less than $5,000,000, if the Secretary determines that the action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

''(3) ADEQUACY.—In addition to the requirements of paragraph (1), the Secretary shall—

''(A) determine whether the private capital of each rural business investment company is adequate to ensure a reasonable prospect that the rural business investment company will be operated soundly and profitably, and managed actively and prudently in accordance with the articles of the rural business investment company;

''(B) determine that the rural business investment company will be able to comply with the requirements of this subtitle;

''(C) require that at least 75 percent of the capital of each rural business investment company is invested in rural business concerns and not more than 10 percent of the investments shall be made in an area containing a city of over 150,000 in the last decennial census and the Census Bureau defined urbanized area containing or adjacent to that city;

''(D) ensure that the rural business investment company is designed primarily to meet equity capital needs of the businesses in which the rural business investment company invests and not to compete with traditional small business financing by commercial lenders; and

''(E) require that the rural business investment company makes short-term non-equity investments of less than 5 years only to the extent necessary to preserve an existing investment.

''(d) DIVERSIFICATION OF OWNERSHIP.—The Secretary shall ensure that the management of each rural business investment company licensed after the date of enactment of this subtitle is sufficiently diversified from and unaffiliated with the ownership of the rural business investment company so as to ensure independence and objectivity in the financial management and oversight of the investments and operations of the rural business investment company.

''SEC. 384J. FINANCIAL INSTITUTION INVESTMENTS.

''(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding any other provision of law, the following banks, associations, and institutions are eligible both to

establish and invest in any rural business investment company or in any entity established to invest solely in rural business investment companies:

''(1) Any bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.).

''(2) Any Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)).

''(b) LIMITATION.—No bank, association, or institution described in subsection (a) may make investments described in subsection (a) that are greater than 5 percent of the capital and surplus of the bank, association, or institution.

''(c) LIMITATION ON RURAL BUSINESS INVESTMENT COMPANIES CONTROLLED BY FARM CREDIT SYSTEM INSTITUTIONS.—If a Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)) holds more than 15 percent of the shares of a rural business investment company, either alone or in conjunction with other System institutions (or affiliates), the rural business investment company shall not provide equity investments in, or provide other financial assistance to, entities that are not otherwise eligible to receive financing from the Farm Credit System under that Act (12 U.S.C. 2001 et seq.).

''SEC. 384K. REPORTING REQUIREMENTS.

''(a) RURAL BUSINESS INVESTMENT COMPANIES.—Each rural business investment company that participates in the program established under this subtitle shall provide to the Secretary such information as the Secretary may require, including—

''(1) information relating to the measurement criteria that the rural business investment company proposed in the program application of the rural business investment company; and

''(2) in each case in which the rural business investment company under this subtitle makes an investment in, or a loan or grant to, a business that is not located in a rural area, a report on the number and percentage of employees of the business who reside in those areas.

''(b) PUBLIC REPORTS.—

''(1) IN GENERAL.—The Secretary shall prepare and make available to the public an annual report on the program established under this subtitle, including detailed information on—

''(A) the number of rural business investment companies licensed by the Secretary during the previous fiscal year;

''(B) the aggregate amount of leverage that rural business investment companies have received from the Federal Government during the previous fiscal year;

''(C) the aggregate number of each type of leveraged instruments used by rural business investment companies during the previous fiscal year and how each number compares to previous fiscal years;

''(D) the number of rural business investment company licenses surrendered and the number of rural business investment companies placed in liquidation during the previous fiscal year, identifying the amount of leverage each rural business investment company has received from the Federal Government and the type of leverage instruments each rural business investment company has used;

''(E) the amount of losses sustained by the Federal Government as a result of operations under this subtitle during the previous fiscal year and an estimate of the total losses that the Federal Government can reasonably expect to incur as a result of the operations during the current fiscal year;

''(F) actions taken by the Secretary to maximize recoupment of funds of the Federal Government expended to implement and administer the Rural Business Investment Program under this subtitle during the previous fiscal year and to ensure compliance with the requirements of this subtitle (including regulations);

''(G) the amount of Federal Government leverage that each licensee received in the previous fiscal year and the types of leverage instruments each licensee used;

''(H) for each type of financing instrument, the sizes, types of geographic locations, and other characteristics of the small business investment companies using the instrument during the previous fiscal year, including the extent to which the investment companies have used the leverage from each instrument to make loans or equity investments in rural areas; and

''(I) the actions of the Secretary to carry out this subtitle.

''(2) PROHIBITION.—In compiling the report required under paragraph (1), the Secretary may not—

''(A) compile the report in a manner that permits identification of any particular type of investment by an individual rural business investment company or small business concern in which a rural business investment company invests; and

''(B) may not release any information that is prohibited under section 1905 of title 18, United States Code.

''SEC. 384L. EXAMINATIONS.

''(a) IN GENERAL.—Each rural business investment company that participates in the program established under this subtitle shall be subject to examinations made at the direction of the Secretary in accordance with this section.

''(b) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—An examination under this section may be conducted with the assistance of a private sector entity that has the qualifications and the expertise necessary to conduct such an examination.

''(c) COSTS.—

''(1) IN GENERAL.—The Secretary may assess the cost of an examination under this section, including compensation of the examiners, against the rural business investment company examined.

''(2) PAYMENT.—Any rural business investment company against which the Secretary assesses costs under this paragraph shall pay the costs.

''(d) DEPOSIT OF FUNDS.—Funds collected under this section shall—

''(1) be deposited in the account that incurred the costs for carrying out this section;

''(2) be made available to the Secretary to carry out this section, without further appropriation; and

''(3) remain available until expended.

''SEC. 384M. INJUNCTIONS AND OTHER ORDERS.

''(a) IN GENERAL.—

''(1) APPLICATION BY SECRETARY.—Whenever, in the judgment of the Secretary, a rural business investment company or any other person has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of a provision of this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), the Secretary may apply to the appropriate district court of the United States for an order enjoining the act or practice, or for an order enforcing compliance with the provision, rule, regulation, order, or participation agreement.

''(2) JURISDICTION; RELIEF.—The court shall have jurisdiction over the action and, on a showing by the Secretary that the rural business investment company or other person has engaged or is about to engage in an act or practice described in paragraph (1), a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

''(b) JURISDICTION.—

''(1) IN GENERAL.—In any proceeding under subsection (a), the court as a court of equity may, to such extent as the court considers necessary, take exclusive jurisdiction over the rural business investment company and the assets of the rural business investment company, wherever located.

''(2) TRUSTEE OR RECEIVER.—The court shall have jurisdiction in any proceeding described in paragraph (1) to appoint a trustee or receiver to hold or administer the assets.

''(c) SECRETARY AS TRUSTEE OR RECEIVER.—

''(1) AUTHORITY.—The Secretary may act as trustee or receiver of a rural business investment company.

''(2) APPOINTMENT.—On the request of the Secretary, the court shall appoint the Secretary to act as a trustee or receiver of a rural business investment company unless the court considers the appointment inequitable or otherwise inappropriate by reason of any special circumstances involved.

''SEC. 384N. ADDITIONAL PENALTIES FOR NONCOMPLIANCE.

''(a) IN GENERAL.—With respect to any rural business investment company that violates or fails to comply with this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), the Secretary may, in accordance with this section—

''(1) void the participation agreement between the Secretary and the rural business investment company; and

''(2) cause the rural business investment company to forfeit all of the rights and privileges derived by the rural business investment company under this subtitle.

''(b) ADJUDICATION OF NONCOMPLIANCE.—

''(1) IN GENERAL.—Before the Secretary may cause a rural business investment company to forfeit rights or privileges under subsection (a), a court of the United States of competent jurisdiction must find that the rural business investment company committed a violation, or failed to comply, in a cause of action brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of the rural business investment company is located.

''(2) PARTIES AUTHORIZED TO FILE CAUSES OF ACTION.—Each cause of action brought by the United States under this subsection shall be brought by the Secretary or by the Attorney General.

''SEC. 384O. UNLAWFUL ACTS AND OMISSIONS; BREACH OF FIDUCIARY DUTY.

''(a) PARTIES DEEMED TO COMMIT A VIOLATION.—Whenever any rural business investment company violates this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), by reason of the failure of the rural business investment company to comply with this subtitle or by reason of its engaging in any act or practice that constitutes or will constitute a violation of this subtitle, the violation shall also be deemed to be a violation and an unlawful act committed by any person that, directly or indirectly, authorizes, orders, participates in, causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions that constitute or will constitute, in whole or in part, the violation.

''(b) FIDUCIARY DUTIES.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of a rural business investment company to engage in any act or practice, or to omit any act or practice, in breach of the fiduciary duty of the officer, director, employee, agent, or participant if, as a result of the act or practice, the rural business investment company suffers or is in imminent danger of suffering financial loss or other damage.

''(c) UNLAWFUL ACTS.—Except with the written consent of the Secretary, it shall be unlawful—

''(1) for any person to take office as an officer, director, or employee of any rural business investment company, or to become an agent or participant in the conduct of the affairs or management of a rural business investment company, if the person—

''(A) has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

''(B) has been found liable in a civil action for damages, or has been permanently or temporarily enjoined by an order, judgment, or decree

of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust; and

''(2) for any person to continue to serve in any of the capacities described in paragraph (1), if—

''(A) the person is convicted of a felony or any other criminal offense involving dishonesty or breach of trust; or

''(B) the person is found liable in a civil action for damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

''SEC. 384P. REMOVAL OR SUSPENSION OF DIRECTORS OR OFFICERS.

''Using the procedures established by the Secretary for removing or suspending a director or an officer of a rural business investment company, the Secretary may remove or suspend any director or officer of any rural business investment company.

''SEC. 384Q. CONTRACTING OF FUNCTIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, to carry out the day-to-day management and operation of the program authorized by this subtitle on behalf of the Secretary, the Secretary shall enter into an interagency agreement under section 1535 of title 31, United States Code, with another Federal agency that has considerable expertise in operating a program under which capital is provided for equity investments in private sector companies.

''(b) FUNDING.—The costs incurred by a Federal agency entering into an agreement under subsection (a) shall be reimbursed in accordance with section 1535 of title 31, United States Code, from amounts made available under section 384S(a)(2).

''SEC. 384R. REGULATIONS.

''The Secretary may promulgate such regulations as the Secretary considers necessary to carry out this subtitle.

''SEC. 384S. FUNDING.

''(a) IN GENERAL.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall make available—

''(1) such sums as may be necessary for the cost of guaranteeing $280,000,000 of debentures under this subtitle; and

''(2) $44,000,000 to make grants under this subtitle.

''(b) AVAILABILITY OF FUNDS.—Funds transferred under subsection (a) shall remain available until expended.''.

SEC. 6030. RURAL STRATEGIC INVESTMENT PROGRAM.

The Consolidated Farm and Rural Development Act (as amended by section 6029) is amended by adding at the end the following:

''Subtitle I—Rural Strategic Investment Program

''SEC. 385A. PURPOSE.

''The purpose of this subtitle is to establish a rural strategic investment program—

''(1) to provide rural communities with flexible resources to develop comprehensive, collaborative, and locally-based strategic planning processes; and

''(2) to implement innovative community and economic development strategies that optimize regional competitive advantages.

''SEC. 385B. DEFINITIONS.

''In this subtitle:

''(1) BENCHMARK.—The term 'benchmark' means an annual set of strategies and goals of a Regional Board established for the purpose of measuring performance in meeting the regional plan of the Regional Board.

''(2) CONFERENCE.—The term ''Conference'' means the National Conference on Rural America conducted under section 385H.

''(3) ELIGIBLE AREA.—

''(A) IN GENERAL.—The term 'eligible area' means a nonmetropolitan county (as defined by the Secretary) that has a population of 50,000 inhabitants or less.

''(B) INCLUSION.—

''(i) IN GENERAL.—Subject to clause (ii), the term 'eligible area' includes an unincorporated or other area of a county that has a population of more than 50,000 inhabitants if the unincorporated area or other area is adjacent to an eligible rural area described in subparagraph (A).

''(ii) PARTICIPATION.—An area described in clause (i) may be represented on a Regional Board.

''(C) EXCLUSION.—The term 'eligible area' does not include any area designated by the Secretary as a rural empowerment zone or rural enterprise community.

''(4) INNOVATION GRANT.—The term 'innovation grant' means an innovation grant made by the National Board to a Regional Board under section 385G.

''(5) NATIONAL BOARD.—The term 'National Board' means the National Board on Rural America established under section 385D(a).

''(6) NATIONAL PLAN.—The term 'national plan' means a national strategic investment plan of the National Board developed under section 385D(d)(3).

''(7) PLANNING GRANT.—The term 'planning grant' means a regional strategic investment planning grant made by the National Board to a Regional Board under section 385F.

''(8) PROGRAM.—The term 'program' means the rural strategic investment program established under this subtitle.

''(9) REGION.—The term 'region' means the eligible areas that—

''(A) are under the jurisdiction of a Regional Board; and

''(B) meet criteria established by the National Board not later than 1 year after the date of enactment of this subtitle.

''(10) REGIONAL BOARD.—The term 'Regional Board' means a Regional Investment Board certified under section 385C(a).

''(11) REGIONAL PLAN.—The term 'regional plan' means a regional strategic investment plan of a Regional Board developed under section 385C(b)(3)(B).

''SEC. 385C. REGIONAL INVESTMENT BOARDS.

''(a) IN GENERAL.—The National Board may certify a group representing the interests described in subsection (b)(2)(A) as a Regional Investment Board created to develop and implement a regional strategic investment plan for grants made under this subtitle to promote investment in eligible areas.

''(b) REQUIREMENTS FOR CERTIFICATION.—

''(1) IN GENERAL.—A Regional Board shall meet the requirements of this subsection for certification.

''(2) COMPOSITION.—

''(A) IN GENERAL.—A Regional Board shall be composed of residents of the region that broadly represent diverse public, nonprofit, and private sector interests in investment in the region, including (to the maximum extent practicable) representatives of—

''(i) units of local government (including multijurisdictional units of local government);

''(ii) in the case of regions with Indian populations, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

''(iii) private nonprofit community-based development organizations;

''(iv) regional development organizations;

''(v) private business organizations;

''(vi) other entities and organizations, as determined by the Regional Board; and

''(vii) consortia of entities and organizations described in clauses (i) through (vii).

''(B) LOCAL PUBLIC-PRIVATE REPRESENTATION.—Of the members of a Regional Board, to the maximum extent practicable—

''(i) ½ of the members shall be representatives of units of local government and Indian tribes described in subparagraph (A); and

''(ii) ½ of the members shall be representatives of nonprofit, regional, private, and other entities and organizations described in subparagraph (A).

''(C) EX-OFFICIO MEMBERS.—

''(i) IN GENERAL.—An officer or employee of a Federal or State agency may serve as an ex-officio, non-voting member of a Regional Board representing the agency.

''(ii) CONFLICTS.—Participation by a Federal officer or employee in activities of the Regional Board shall not constitute a violation of section 205 or 208 of title 18, United States Code.

''(D) CERTIFICATION.—To be certified by the National Board, a Regional Board shall demonstrate to the National Board that the Regional Board is broadly representative of the interests described in subparagraph (A).

''(E) APPEALS.—

''(i) IN GENERAL.—Prior to certification of the Regional Board by the National Board, representatives of interests described in subparagraph (A) that participated in the development of a Regional Board may appeal the composition of the Regional Board to the National Board on the ground that—

''(I) the composition of the Regional Board does not adequately reflect the purposes of the program; or

''(II) the selection process for the Regional Board unfairly disadvantaged those interests.

''(ii) ACTION BY NATIONAL BOARD.—The National Board shall act on any appeal of the composition of a Regional Board before taking action on the certification of the Regional Board.

''(3) DUTIES AND PURPOSE.—The organizational documents of the proposed Regional Board shall demonstrate that, on certification, the Regional Board shall—

''(A) create a collaborative, inclusive public-private planning process;

''(B) develop, and submit to the National Board for approval, a regional strategic investment plan that meets the requirements of section 385F, with benchmarks, to promote investment in eligible areas through the use of grants made available under this subtitle;

''(C) implement the approved regional plan;

''(D) provide annual reports to the Secretary and the National Board on progress made in achieving the benchmarks of the regional plan, including an annual financial statement; and

''(E) select a non-Federal organization (such as a regional development organization) in the local area served by the Regional Board that has previous experience in the management of Federal funds to serve as fiscal manager of any funds of the Regional Board.

''SEC. 385D. NATIONAL BOARD ON RURAL AMERICA.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish a National Board on Rural America to carry out the rural strategic investment program established under this subtitle.

''(2) SUPERVISION AND DIRECTION.—Except as otherwise provided in this subtitle, the National Board shall be subject to the general supervision and direction of the Secretary.

''(b) COMPOSITION.—

''(1) IN GENERAL.—

''(A) APPOINTMENT.—In addition to the Secretary or the designee of the Secretary, the National Board shall consist of 14 members appointed by the Secretary from among—

''(i) representatives of nationally recognized entrepreneurship organizations;

''(ii) representatives of regional planning and development organizations;

''(iii) representatives of community-based organizations;

''(iv) elected members of county governments;

''(v) elected members of State legislatures;

''(vi) representatives of the rural philanthropic community; and

''(vii) representatives of Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

''(B) RECOMMENDATIONS.—In appointing the members of the National Board under subparagraph (A), the Secretary shall consider recommendations made by—

''(i) the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

''(ii) the Majority Leader of the Senate; and

''(iii) the Speaker of the House of Representatives.

''(3) TERM OF OFFICE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a member of the National Board appointed under paragraph (1)(A) shall be 4 years.

''(B) STAGGERED INITIAL TERMS.—Of the initial members of the National Board appointed under paragraph (1)(A), the term of office of—

''(i) 5 members shall be 4 years;

''(ii) 5 members shall be 3 years; and

''(iii) 4 members shall be 2 years.

''(4) INITIAL APPOINTMENTS.—Not later than 90 days after the date of enactment of this subtitle, the Secretary shall appoint the initial members of the National Board under paragraph (1)(A).

''(5) EX-OFFICIO MEMBERS.—

''(A) SPECIAL ASSISTANT TO THE PRESIDENT FOR RURAL POLICY.—If appointed by the President under section 6406(1) of the Farm Security and Rural Investment Act of 2002, the Special Assistant to the President for Rural Policy shall serve as an ex-officio, non-voting member of the National Board.

''(B) OTHER MEMBERS.—In consultation with the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary may appoint not more than 3 other officers or employees of the Executive Branch to serve as ex-officio, non-voting members of the National Board.

''(6) VACANCIES.—A vacancy on the National Board shall be filled in the same manner as the original appointment.

''(7) COMPENSATION.—A member of the National Board shall receive no compensation for service on the National Board, but shall be reimbursed for travel and other expenses incurred in carrying out the duties of the member of the National Board in accordance with section 5702 and 5703 of title 5, United States Code.

''(8) CHAIRPERSON.—The National Board shall select a chairperson from among the members of the National Board.

''(9) MEETINGS.—

''(A) TIME AND PLACE.—The National Board shall meet at the call of the chairperson.

''(B) QUORUM.—A quorum of the National Board shall consist of a majority of the members.

''(C) MAJORITY VOTE.—A decision of the National Board shall be made by majority vote.

''(10) FEDERAL STATUS.—For purposes of Federal law, a member of the National Board shall be considered a special Government employee (as defined in section 202(a) of title 18, United States Code).

''(11) CONFLICT OF INTEREST.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), no member of the National Board shall vote on any matter respecting any application for a grant or other particular matter pending before the National Board in which, to the knowledge of the member, the member, spouse, or child of the member, partner, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

''(B) VIOLATIONS.—A violation of subparagraph (A) by a member of the National Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the National Board in which the member participated.

''(C) EXCEPTION.—Subparagraph (A) shall not apply to the extent a member of the National Board advises the National Board of the nature of the particular matter in which the member proposes to participate, if—

''(i) the member makes a full disclosure of the financial interest; and

''(ii) prior to any participation by the member, the National Board determines, by majority vote of the other members of the National Board, that the financial interest is too remote or too inconsequential to affect the integrity of the services of the member to the National Board in that matter.

''(c) ADMINISTRATIVE SUPPORT.—The Secretary, on a reimbursable basis, may provide such administrative support to the National Board as the Secretary determines is necessary to carry out the duties of the National Board.

''(d) DUTIES.—The National Board shall—

''(1) certify Regional Boards in accordance with section 385C, with the initial certification of Regional Boards occurring not later than 540 days after the date of enactment of this subtitle;

''(2) approve, negotiate, or disapprove each regional plan that is submitted by a Regional Board to the National Board under section 385C;

''(3) develop, and submit to the Secretary for approval, a national strategic investment plan;

''(4) use the amount received from the Secretary under section 385E to make planning grants and innovation grants to Regional Boards and to otherwise carry out the program;

''(5) provide leadership and advice to Regional Boards on issues, best practices, and emerging trends relating to rural development;

''(6) evaluate the progress of each Regional Board in achieving the benchmarks of the regional plan using annual reports submitted under section 385C(b)(3)(D) and any other information that is available to the Regional Board; and

''(7) submit an annual report on the performance of Regional Boards and the program to—

''(A) the Committee on Agriculture of the House of Representatives;

''(B) the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

''(C) the Secretary.

"SEC. 385E. RURAL STRATEGIC INVESTMENT PROGRAM.

''(a) IN GENERAL.—If the Secretary approves a national strategic investment plan submitted by the National Board, of the funds of the Commodity Credit Corporation, the Secretary shall transfer to the National Board $100,000,000, to remain available until expended, for the Board to use to make planning grants and innovation grants to Regional Boards and to otherwise carry out this subtitle.

''(b) USE BY NATIONAL BOARD.—Of the amount transferred by the Secretary to the National Board under subsection (a), the National Board shall use—

''(1) not less than $8,000,000 to make planning grants to Regional Boards under section 385F;

''(2) not less than $87,000,000 to make innovation grants to Regional Boards under section 385G; and

''(3) the remainder of the funds to carry out section 385H and administer this subtitle (other than section 385H).

"SEC. 385F. REGIONAL STRATEGIC INVESTMENT PLANNING GRANTS.

''(a) IN GENERAL.—The National Board shall use amounts made available under section 385E(b)(1) to make not fewer than 80 planning grants, on a competitive basis, to applicant Regional Boards to develop, maintain, evaluate, and report progress on regional strategic investment plans in accordance with section 385C and this section.

''(b) REGIONAL PLANS.—A regional plan for a region covered by a Regional Board shall, to the maximum extent practicable, cover—

''(1) basic infrastructure needs of the region;

''(2) basic services within the region;

''(3) opportunities for economic diversification and innovation within the region, with particular attention to entrepreneurial support and innovation;

''(4) the current and future human resource capacity of the region;

''(5) access to market-based financing and venture and equity capital in the region;

''(6) the development of innovative public and private collaborations for investments in the region; and

''(7) other appropriate matters, as determined by the National Board and the Secretary.

''(c) PREFERENCES.—In awarding planning grants, the National Board shall give a preference to planning grants that will be used to address community capacity building and community sustainability.

''(d) AMOUNT.—The total amount of a planning grant made to a Regional Board shall not exceed $100,000.

''(e) COST SHARING.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the share of the costs of developing, maintaining, evaluating, and reporting on a regional plan funded by a grant under this section shall not exceed 50 percent.

''(2) FORM.—

''(A) IN GENERAL. Except as provided in subparagraph (B), a Regional Board shall pay the grantee share of the costs described in paragraph (1) in the form of cash, services, materials, or other in-kind contributions.

''(B) LIMITATION.—A grantee shall not pay more than 50 percent of the grantee share in the form of services, materials, or other in-kind contributions.

''(3) INCREASED SHARE.—The National Board may increase the share of the costs covered by a planning grant made to a Regional Board under this section if a limited ability of the Regional Board to pay would otherwise create a barrier to full participation in the program.

"SEC. 385G. INNOVATION GRANTS.

''(a) IN GENERAL.—The National Board shall use amounts made available under section 385E(b)(2) to make innovation grants, on a competitive basis, to Regional Boards to implement projects that are identified in the regional plans of the Regional Boards.

''(b) ELIGIBILITY.—

''(1) IN GENERAL.—For a Regional Board to be eligible to receive an innovation grant, the National Board shall determine that—

''(A) the regional plan of a Regional Board meets the requirements of this subtitle;

''(B) the management and organizational structure of the Regional Board is sufficient to oversee grant projects;

''(C) the Regional Board will be able to provide the grantee share required under this section; and

''(D) the Regional Board agrees to achieve, to the maximum extent practicable, the performance-based benchmarks of the regional plan.

''(2) RELATIONSHIP TO PLANNING GRANTS.—A Regional Board that meets the requirements of paragraph (1) shall be eligible to receive an innovation grant, regardless of whether the Regional Board receives a planning grant.

''(c) SELECTION.—Subject to subsection (d), of the applications submitted by Regional Boards for innovation grants, the National Board shall, to the maximum extent practicable, select not fewer than 30 regional boards to receive innovation grants.

''(d) PREFERENCES.—In awarding innovation grants, the National Board shall give a preference (in order of priority) to Regional Boards that—

''(1) exhibit collaborative innovation and entrepreneurship, particularly within a public-private partnership;

''(2) represent a broad coalition of interests described in section 385C(b)(2)(A);

''(3) demonstrate a plan to leverage public (Federal and non-federal) and private funds and existing assets, including natural assets and public infrastructure;

''(4) address gaps in existing basic services within a region;

''(5) address economic diversification, including agricultural and non-agriculturally based economies, within a regional framework;

''(6) demonstrate a plan to achieve multijurisdictional regional planning and development, with particular evidence of economic development successes within diverse stakeholder frameworks; or

''(7) meet other community development needs identified by a Regional Board.

''(e) USES.—

''(1) LEVERAGE.—A Regional Board shall prioritize projects, in part, on the degree to which the Regional Board is able to leverage additional funds for the implementation of the projects.

''(2) PURPOSES.—A Regional Board may use an innovation grant provided for a region—

''(A) to support the development of critical infrastructure necessary to facilitate economic development in the region;

''(B) to provide assistance to entities within the region that provide basic public services;

''(C) to assist with job training, workforce development, or other needs related to the development and maintenance of strong local and regional economies;

''(D) to assist in the development of unique new collaborations that link public, private, and philanthropic resources to achieve collaboratively designed regional advancement; and

''(E) to provide support to business investment.

''(3) OTHER DEPARTMENT PROGRAMS.—A Regional Board may not use an innovation grant provided for a region for any purpose for which funding may be obtained under any other rural development program of the Department of Agriculture unless—

''(A) the Regional Board—

''(i) has submitted an application for the funding under the other program; and

''(ii) withdraws the application; and

''(B) the National Board approves use of the innovation grant for that purpose.

''(4) OPERATING EXPENSES.—A Regional Board may use for administrative costs in carrying out programs and activities related to the grant the greater of—

''(A) $100,000; or

''(B) 5 percent of the amount of an innovation grant provided.

''(f) AMOUNT.—

''(1) IN GENERAL.—The amount of an innovation grant made to a Regional Board shall not exceed $3,000,000.

''(2) AVAILABILITY.—The amount of an innovation grant made to a Regional Board shall remain available until expended.

''(g) COST SHARING.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the share of the costs of projects covered by an innovation grant made to a Regional Board under this section shall not exceed 75 percent, as determined by the National Board.

''(2) FORM.—A Regional Board may pay the grantee share of the costs of projects covered by an innovation grant in the form of cash or services, materials, or other in-kind contributions.

''(3) WAIVER OF GRANTEE SHARE.—The National Board may waive the grantee share of the costs of projects covered by an innovation grant made to a Regional Board under this section if the National Board determines that such a waiver is appropriate.

''(4) OTHER FEDERAL PROGRAMS.—For the purpose of determining grantee share requirements for any other Federal programs, funds provided for innovation grants shall be considered to be non-Federal funds.

''(h) NEGOTIATION.—The National Board may—

''(1) negotiate with a Regional Board on the substance, size, and scope of a regional plan; and

''(2) approve an innovation grant for an amount that is lower than the amount requested by the Regional Board.

''(i) NONCOMPLIANCE.—If a Regional Board fails to comply with the requirements of this section, the National Board may take such actions as are necessary to obtain reimbursement of unused grant funds.

''(j) OTHER USES.—The National Board may use not more than 5 percent of the amounts made available for innovation grants—

''(1) to provide assistance to interests described in section 385C(b)(2)(A) to obtain certification of a Regional Board;

''(2) to provide assistance for emergent innovative opportunities that are not covered by existing regional plans;

''(3) to provide technical assistance, research, organizational support, and other capacity building infrastructure to support existing Regional Boards;

''(4) to provide assistance for other entrepreneurial opportunities to advance the goals of the program; or

''(5) to advance a more integrative rural policy framework for the United States.

''(k) TRANSFERS.—To ensure maximum use of funds provided under this subtitle, the National Board may transfer not more than 10 percent of the amount of funds made available between planning grants and innovation grants.

''SEC. 385H. NATIONAL CONFERENCE ON RURAL AMERICA.

''(a) IN GENERAL.—The President shall call and conduct a National Conference on Rural America, which shall be held not earlier than November 1, 2002, and not later than October 30, 2004.

''(b) PURPOSE.—The purpose of the Conference shall be to bring together the resources of governmental agencies and the private and nonprofit sectors to develop—

''(1) policy recommendations and integrative strategies for addressing the unique challenges facing rural areas of the United States; and

''(2) an implementation plan, with outcome-based measurements, for addressing the challenges.

''(c) COMPOSITION.—

''(1) IN GENERAL.—The Conference shall be comprised of—

''(A) representatives of organizations devoted to rural development;

''(B) Members of Congress, including the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

''(C) representatives of the Department of Agriculture and other Federal agencies;

''(D) State, local, and tribal elected officials and representatives;

''(E) representatives of colleges and universities, State and tribal extension services, and State rural development councils; and

''(F) individuals with specialized knowledge of and expertise in rural and community development, cooperative business, agricultural credit, venture capital, health care, and rural demography.

''(2) SELECTION.—Of the participants in the Conference described in paragraph (1)—

''(A) ⅓ of the members shall be selected by the President;

''(B) ⅓ of the members shall be selected by the Chairman and the ranking member of the Committee on Agriculture of the House of Representatives; and

''(C) ⅓ of the members shall be selected by the Chairman and the ranking member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

''(3) REPRESENTATION.—In selecting the participants of the Conference, the President and the Chairman of each Committee referred to in paragraph (2) shall ensure, to the maximum extent practicable, that the participants are representative of the ethnic, racial, and linguistic diversity of rural areas of the United States.

''(d) REPORT.—

''(1) REPORT TO PRESIDENT.—Not later than 120 days after the termination of the Conference, the Conference shall submit to the President a report that contains the findings and recommendations of the Conference, including findings and recommendations to address needs related to—

''(A) telecommunications;

''(B) rural health issues;

''(C) transportation;

''(D) opportunities for economic diversification and innovation within rural America, with particular attention to entrepreneurial support and innovation;

''(E) the current and future human resource capacity of rural America;

''(F) access to market-based financing and venture and equity capital in rural America; and

''(G) the development of innovative public and private collaborations for investments in rural America.

''(2) REPORT MADE PUBLIC AND TO CONGRESS.—Not later than 90 days after receipt by the President, the President shall—

''(A) make the report public; and

''(B) transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the report and a statement of the President containing recommendations for implementing the report.

''(3) PUBLICATION AND DISTRIBUTION.—

''(A) IN GENERAL.—The Conference shall publish and distribute the report described in paragraph (1).

''(B) MANDATORY DISTRIBUTION.—The Conference shall provide a copy of a report published under subparagraph (A), at no cost, to—

''(i) each Federal depository library; and

''(ii) on request, each State, tribal, and local elected official in a rural area of the United States.

''(e) FUNDING.—Not later than 180 days after the establishment of the National Board, the National Board shall transfer not more than $2,000,000 to the Office of the President to carry out this section, to remain available until expended.''.

SEC. 6031. FUNDING OF PENDING RURAL DEVELOPMENT LOAN AND GRANT APPLICATIONS.

(a) DEFINITION OF APPLICATION.—In this section, the term ''application'' does not include an application for a loan or grant that, as of the date of enactment of this Act, is in the preapplication phase of consideration under regulations of the Secretary of Agriculture in effect on the date of enactment of this Act.

(b) USE OF FUNDS.—Subject to subsection (c), the Secretary of Agriculture shall use funds made available under subsection (d) to provide funds for applications that are pending on the date of enactment of this Act for—

(1) water or waste disposal grants or direct loans under paragraph (1) or (2) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)); and

(2) emergency community water assistance grants under section 306A of that Act (7 U.S.C. 1926a).

(c) LIMITATIONS.—

(1) APPROPRIATED AMOUNTS.—Funds made available under this section shall be available to the Secretary to provide funds for applications for loans and grants described in subsection (b) that are pending on the date of enactment of this Act only to the extent that funds for the loans and grants appropriated in the annual appropriations Act for fiscal year 2002 have been exhausted.

(2) PROGRAM REQUIREMENTS.—The Secretary may use funds made available under this section

to provide funds for a pending application for a loan or grant described in subsection (b) only if the Secretary processes, reviews, and approves the application in accordance with regulations in effect on the date of enactment of this Act.

(3) PRIORITY.—In providing funding under this section for pending applications for loans or grants described in subsection (b), the Secretary shall provide funding in the following order of priority (until funds made available under this section are exhausted):

(A) Pending applications for water systems.

(B) Pending applications for waste disposal systems.

(d) FUNDING.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall use $360,000,000 to carry out this section, to remain available until expended.

Subtitle B—Rural Electrification Act of 1936

SEC. 6101. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.

(a) IN GENERAL.—The Rural Electrification Act of 1936 is amended by inserting after section 313 (7 U.S.C. 940c) the following:

"SEC. 313A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.

''(a) IN GENERAL.—Subject to subsection (b), the Secretary shall guarantee payments on bonds or notes issued by cooperative or other lenders organized on a not-for-profit basis if the proceeds of the bonds or notes are used to make loans for any electrification or telephone purpose eligible for assistance under this Act, including section 4 or 201 or to refinance bonds or notes issued for such purposes.

''(b) LIMITATIONS.—

''(1) OUTSTANDING LOANS.—A lender shall not receive a guarantee under this section for a bond or note if, at the time of the guarantee, the total principal amount of such guaranteed bonds or notes outstanding of the lender would exceed the principal amount of outstanding loans of the lender for electrification or telephone purposes that have been made concurrently with loans approved for such purposes under this Act.

''(2) GENERATION OF ELECTRICITY.—The Secretary shall not guarantee payment on a bond or note issued by a lender, the proceeds of which are used for the generation of electricity.

''(3) QUALIFICATIONS.—The Secretary may deny the request of a lender for the guarantee of a bond or note under this section if the Secretary determines that—

''(A) the lender does not have appropriate expertise or experience or is otherwise not qualified to make loans for electrification or telephone purposes;

''(B) the bond or note issued by the lender would not be investment grade quality without a guarantee; or

''(C) the lender has not provided to the Secretary a list of loan amounts approved by the lender that the lender certifies are for eligible purposes described in subsection (a).

''(4) INTEREST RATE REDUCTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a lender may not use any amount obtained from the reduction in funding costs as a result of the guarantee of a bond or note under this section to reduce the interest rate on a new or outstanding loan.

''(B) CONCURRENT LOANS.—A lender may use any amount described in subparagraph (A) to reduce the interest rate on a loan if the loan is—

''(i) made by the lender for electrification or telephone projects that are eligible for assistance under this Act; and

''(ii) made concurrently with a loan approved by the Secretary under this Act for such a project, as provided in section 307.

''(c) FEES.—

''(1) IN GENERAL.—A lender that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary.

''(2) AMOUNT.—The amount of an annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

''(3) PAYMENT.—A lender shall pay the fees required under this subsection on a semiannual basis.

''(4) RURAL ECONOMIC DEVELOPMENT SUBACCOUNT.—Subject to subsection (e)(2), fees collected under this subsection shall be—

''(A) deposited into the rural economic development subaccount maintained under section 313(b)(2)(A), to remain available until expended; and

''(B) used for the purposes described in section 313(b)(2)(B).

''(d) GUARANTEES.—

''(1) IN GENERAL.—A guarantee issued under this section shall—

''(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

''(B) be fully assignable and transferable; and

''(C) represent the full faith and credit of the United States.

''(2) LIMITATION.—To ensure that the Secretary has the resources necessary to properly examine the proposed guarantees, the Secretary may limit the number of guarantees issued under this section to 5 per year.

''(3) DEPARTMENT OPINION.—On the timely request of a lender, the General Counsel of the Department of Agriculture shall provide the Secretary with an opinion regarding the validity and authority of a guarantee issued to the lender under this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

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

''(2) FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use up to ⅓ of the fees collected under subsection (c) for the cost of providing guarantees of bonds and notes under this section before depositing the remainder of the fees into the rural economic development subaccount maintained under section 313(b)(2)(A).

''(f) TERMINATION.—The authority provided under this section shall terminate on September 30, 2007.''.

(b) ADMINISTRATION.—

(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to carry out the amendments made by this section.

(2) IMPLEMENTATION.—Not later than 240 days after the date of enactment of this Act, the Secretary shall implement the amendment made by this section.

SEC. 6102. EXPANSION OF 911 ACCESS.

Title III of the Rural Electrification Act of 1936 (7 U.S.C. 931 et seq.) is amended by adding at the end the following:

"SEC. 315. EXPANSION OF 911 ACCESS.

''(a) IN GENERAL.—Subject to such terms and conditions as the Secretary may prescribe, the Secretary may make telephone loans under this title to borrowers of loans made by the Rural Utilities Service, State or local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or other public entities for facilities and equipment to expand or improve 911 access and integrated emergency communications systems in rural areas.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.''.

SEC. 6103. ENHANCEMENT OF ACCESS TO BROADBAND SERVICE IN RURAL AREAS.

(a) IN GENERAL.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

"TITLE VI—RURAL BROADBAND ACCESS

"SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

''(a) PURPOSE.—The purpose of this section is to provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities.

''(b) DEFINITIONS.—In this section:

''(1) BROADBAND SERVICE.—The term 'broadband service' means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video.

''(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any incorporated or unincorporated place that—

''(A) has not more than 20,000 inhabitants, based on the most recent available population statistics of the Bureau of the Census; and

''(B) is not located in an area designated as a standard metropolitan statistical area.

''(c) LOANS AND LOAN GUARANTEES.—

''(1) IN GENERAL.—The Secretary shall make or guarantee loans to eligible entities described in subsection (d) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities.

''(2) PRIORITY.—In making or guaranteeing loans under paragraph (1), the Secretary shall give priority to eligible rural communities in which broadband service is not available to residential customers.

''(d) ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—To be eligible to obtain a loan or loan guarantee under this section, an entity shall—

''(A) have the ability to furnish, improve, or extend a broadband service to an eligible rural community; and

''(B) submit to the Secretary a proposal for a project that meets the requirements of this section.

''(2) STATE AND LOCAL GOVERNMENTS.—A State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) shall be eligible for a loan or loan guarantee under this section to provide broadband services to an eligible rural community only if, not later than 90 days after the Administrator has promulgated regulations to carry out this section, no other eligible entity is already offering, or has committed to offer, broadband services to the eligible rural community.

''(3) SUBSCRIBER LINES.—An entity shall not be eligible to obtain a loan or loan guarantee under this section if the entity serves more than 2 percent of the telephone subscriber lines installed in the aggregate in the United States.

''(e) BROADBAND SERVICE.—The Secretary shall, from time to time as advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).

''(f) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether or not to make a loan or loan guarantee for a project under this section, the Secretary shall use criteria that are technologically neutral.

''(g) TERMS AND CONDITIONS FOR LOANS AND LOAN GUARANTEES.—Notwithstanding any other provision of law, a loan or loan guarantee under subsection (c) shall—

''(1) bear interest at an annual rate of, as determined by the Secretary—

''(A) in the case of a direct loan—

''(i) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or

''(ii) 4 percent; and

''(B) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and

''(2) have a term not to exceed the useful life of the assets constructed, improved, or acquired with the proceeds of the loan or extension of credit.

''(h) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this Act, the proceeds of any loan made or guaranteed by the Secretary under this Act may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this Act if the use of the proceeds for that purpose will further the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities.

''(i) REPORTS.—Not later than 1 year after the date of enactment of this section, and biennially thereafter, the Administrator shall submit to Congress a report that—

''(1) describes how the Administrator determines under subsection (a)(1) that a service enables a subscriber to originate and receive high-quality voice, data, graphics, and video; and

''(2) provides a detailed list of services that have been granted assistance under this section.

''(j) FUNDING.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

''(A) $20,000,000 for each of fiscal years 2002 through 2005, to remain available until expended; and

''(B) $10,000,000 for each of fiscal years 2006 and 2007, to remain available until expended.

''(2) TELEVISION FUNDS.—

''(A) IN GENERAL.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section, without further appropriation any funds made available under section 1011(a)(2)(B) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1109(a)(2)(B)).

''(B) USE OF TELEVISION FUNDS.—The Secretary shall use any funds received under subparagraph (A) in equal amounts for each remaining fiscal year on receipt of the funds (including the fiscal year of receipt) through fiscal year 2007.

''(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise made available under this subsection, there are authorized to be appropriated such sums as necessary to carry out this section for each of fiscal years 2003 through 2007.

''(4) ALLOCATION OF FUNDS.—

''(A) IN GENERAL.—From amounts made available for each fiscal year under this subsection, the Secretary shall—

''(i) establish a national reserve for loans and loan guarantees to eligible entities in States under this section; and

''(ii) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

''(B) AMOUNT.—The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as the number of communities with a population of 2,500 inhabitants or less in the State bears to the number of communities with a population of 2,500 inhabitants or less in all States, as determined on the basis of the latest available census.

''(C) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

''(k) TERMINATION OF AUTHORITY.—No loan or loan guarantee may be made under this section after September 30, 2007.''.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to implement the amendment made by subsection (a).

(2) PROCEDURE.—The promulgation of the regulations shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

Subtitle C—Food, Agriculture, Conservation, and Trade Act of 1990

SEC. 6201. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

(a) REPEAL OF CORPORATION AUTHORIZATION.—Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.) is repealed.

(b) DISPOSITION OF ASSETS.—On the date of enactment of this Act—

(1) the assets, both tangible and intangible, of the Alternative Agricultural Research and Commercialization Corporation (referred to in this section as the ''Corporation''), including the funds in the Alternative Agricultural Research and Commercialization Revolving Fund as of the date of enactment of this Act, are transferred to the Secretary of Agriculture; and

(2) notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and any other law that prescribes procedures for procurement, use, and disposal of property by a Federal agency, the Secretary shall have authority to manage and dispose of the assets transferred under paragraph (1) in a manner that, to the maximum extent practicable, provides the best value to the Federal Government.

(c) USE OF ASSETS.—

(1) IN GENERAL.—Funds transferred under subsection (b), and any income from assets or proceeds from the sale of assets transferred under subsection (b), shall be deposited in an account in the Treasury, and shall remain available to the Secretary until expended, without further appropriation, to pay—

(A) any claims against, or obligations of, the Corporation; and

(B) the costs incurred by the Secretary in carrying out this section.

(2) FINAL DISPOSITION.—On final disposition of all assets transferred under subsection (b), any funds remaining in the account described in paragraph (1) shall be transferred into miscellaneous receipts in the Treasury.

(d) CONFORMING AMENDMENTS.—

(1) Section 5315 of title 5, United States Code, is amended by striking ''Executive Director of the Alternative Agricultural Research and Commercialization Corporation''.

(2) Section 730 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 5902 note; Public Law 104–127) is repealed.

(3) Section 211(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6911(b)) is amended by striking paragraph (5).

(4) Section 404(d) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(d)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(5) The Herger-Feinstein Quincy Library Group Forest Recovery Act (16 U.S.C. 2104; Public Law 105–277; 112 Stat. 2681–305) is amended by striking subsection (m).

(6) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (Q).

SEC. 6202. RURAL ELECTRONIC COMMERCE EXTENSION PROGRAM.

Subtitle H of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 1669 (7 U.S.C. 5922) the following:

''SEC. 1670. RURAL ELECTRONIC COMMERCE EXTENSION PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) DEVELOPMENT CENTER.—The term 'development center' means—

''(A) the North Central Regional Center for Rural Development;

''(B) the Northeast Regional Center for Rural Development or its designee;

''(C) the Southern Rural Development Center; and

''(D) the Western Rural Development Center or its designee.

''(2) EXTENSION PROGRAM.—The term 'extension program' means the rural electronic commerce extension program established under subsection (b).

''(3) MICROENTERPRISE.—The term 'microenterprise' means a commercial enterprise that has 5 or fewer employees, 1 or more of whom own the enterprise.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Administrator of the Cooperative State Research, Education, and Extension Service.

''(5) SMALL BUSINESS.—The term 'small business' has the meaning given the term 'small-business concern' by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

''(b) ESTABLISHMENT.—The Secretary shall establish a rural electronic commerce extension program to expand and enhance electronic commerce practices and technology to be used by small businesses and microenterprises in rural areas.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary shall carry out the program established under subsection (b) by making—

''(A) grants to each of the development centers; and

''(B) competitive grants to land-grant colleges and universities (or consortia of land-grant colleges and universities) and to colleges and universities (including community colleges) with agricultural or rural development programs—

''(i) to develop and facilitate innovative rural electronic commerce business strategies; and

''(ii) to assist small businesses and microenterprises in identifying, adapting, implementing, and using electronic commerce business practices and technologies.

''(2) ELIGIBILITY.—The selection criteria established for grants awarded under paragraph (1)(B) shall include—

''(A) the ability of an applicant to provide training and education on best practices, technology transfer, adoption, and use of electronic commerce in rural communities by small businesses and microenterprises;

''(B) the extent and geographic diversity of the area served by the proposed project or activity under the extension program;

''(C) in the case of a land-grant college or university, the extent of participation of the land-grant college or university in the extension program (including any economic benefits that would result from that participation);

''(D) the percentage of funding and in-kind commitments from non-Federal sources that would be needed by and available for a proposed project or activity under the extension program; and

''(E) the extent of participation of low-income and minority businesses or microenterprises in a proposed project or activity under the extension program.

''(3) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—As a condition of the receipt of funds under this section, a development

center or grant applicant shall agree to obtain from non-Federal sources (including State, local, nonprofit, or private sector sources) contributions of an amount equal to 50 percent of the grant amount.

''(B) FORM.—The non-Federal share required under subparagraph (A) may be provided in the form of in-kind contributions.

''(C) EXCEPTION.—The non-Federal share required under subparagraph (A) may be reduced to 25 percent if the grant recipient serves low-income or minority-owned businesses or microenterprises, as determined by the Secretary.

''(d) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary 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 that describes—

''(1) the policies, practices, and procedures used to assist rural communities in efforts to adopt and use electronic commerce techniques; and

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $60,000,000 for each of fiscal years 2002 through 2007, of which not less than ⅓ of the amount made available for each fiscal year shall be used to carry out activities under subsection (c)(1)(A).''.

SEC. 6203. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

(a) IN GENERAL.—Section 2335A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa–5) is amended by striking ''2002'' and inserting ''2007''.

(b) CONFORMING AMENDMENT.—Section 1(b) of Public Law 102–551 (7 U.S.C. 950aaa note) is amended by striking ''1997'' and inserting ''2007''.

Subtitle D—SEARCH Grants for Small Communities

SEC. 6301. DEFINITIONS.

In this subtitle:

(1) COUNCIL.—The term ''council'' means an independent citizens' council established by a State rural development director under section 6302(c).

(2) ENVIRONMENTAL PROJECT.—

(A) IN GENERAL.—The term ''environmental project'' means a project that—

(i) improves environmental quality; and

(ii) is necessary to comply with an applicable environmental law (including a regulation).

(B) INCLUSION.—The term ''environmental project'' includes an initial feasibility study of a project.

(3) REGION.—The term ''region'' means a geographic area of a State, as determined by the State rural development director, in coordination with the environmental protection director of the State.

(4) SEARCH GRANT.—The term ''SEARCH grant'' means a grant awarded under section 6302(f).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(6) SMALL COMMUNITY.—The term ''small community'' means an incorporated or unincorporated rural community with a population of 2,500 inhabitants or less.

(7) STATE.—The term ''State'' has the meaning given the term in section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009).

SEC. 6302. SEARCH GRANT PROGRAM.

(a) IN GENERAL.—The Secretary, in coordination with the Administrator of the Environmental Protection Agency, may establish the SEARCH grant program.

(b) ALLOCATION TO STATE RURAL DEVELOPMENT DIRECTORS.—

(1) IN GENERAL.—Subject to paragraph (2) and section 6304(a)(2), not later than 60 days after the date on which the Director of the Office of Management and Budget apportions any amounts made available under this subtitle for any of fiscal years 2002 through 2007, the Secretary, on request of a State rural development director (in coordination with the environmental protection director of the State), shall allocate to the State rural development director an amount not to exceed $1,000,000, to be used by the State rural development director to award SEARCH grants under subsection (d).

(2) GRANTS TO STATES.—The total amount of funds allocated to State rural development directors in all States other than Alaska, Hawaii, or the 48 contiguous States for a fiscal year under this subsection shall not exceed $1,000,000.

(c) INDEPENDENT CITIZENS' COUNCIL.—

(1) ESTABLISHMENT.—The State rural development director of a State shall establish an independent citizens' council to carry out the duties described in this section.

(2) COMPOSITION.—

(A) IN GENERAL.—A council shall be composed of 9 members, appointed by the State rural development director, in coordination with the environmental protection director of the State.

(B) REPRESENTATION; RESIDENCE.—Each member of a council shall—

(i) represent an individual region of the State, as determined by the State rural development director; and

(ii) reside in a small community in the State.

(d) ELIGIBILITY.—A SEARCH grant shall be awarded under this section only to a small community for 1 or more environmental projects for which the small community—

(1) needs funds to carry out initial feasibility or environmental studies as required by Federal or State law before applying to traditional funding sources; and

(2) demonstrates that the small community has been unable to obtain sufficient funding from traditional funding sources.

(e) APPLICATIONS.—To be eligible to receive a SEARCH grant, a small community in a State shall submit to the State rural development director of the State an application that includes—

(1) a description of the proposed environmental project (including an explanation of how the project would assist the small community in complying with a Federal or State environmental law (including a regulation);

(2) an explanation of why the project is important to the small community;

(3) a description of all actions taken with respect to the project as of the date of the application, including any attempt to secure funding; and

(4) a description of demonstrated need for funding for the project.

(f) AWARDS.—

(1) IN GENERAL.—Not later than May 1 of each fiscal year, a State rural development director, in coordination with the council and the environmental protection director of the State, shall—

(A) review all applications received by the State rural development director under subsection (e); and

(B) award SEARCH grants to small communities based on—

(i) an evaluation of whether the proposed project meets the eligibility criteria under subsection (d); and

(ii) the content of the application.

(2) ADMINISTRATION.—In awarding a SEARCH grant, a State rural development director—

(A) shall award the funds for any recommended environmental project in a timely and expeditious manner; and

(B) shall not award a SEARCH grant to a grantee or project in violation of any Federal or State law (including a regulation).

(3) MATCHING REQUIREMENT.—A small community that receives a SEARCH grant under this section may be required to provide matching funds.

(g) UNEXPENDED FUNDS.—

(1) IN GENERAL.—If, for any fiscal year, any unexpended funds remain after SEARCH grants are awarded by a State rural development director under subsection (f), the State rural development director, in coordination with the environmental protection director of the State, may repeat the application and review process so that any remaining funds are recommended for award, and awarded, not later than July 30 of the fiscal year.

(2) RETENTION OF FUNDS.—

(A) IN GENERAL.—Any unexpended funds that are not awarded under subsection (f) or paragraph (1) shall be retained by the State rural development director for award during the following fiscal year.

(B) LIMITATION.—A State SEARCH account that accumulates a balance of unexpended funds described in subparagraph (A) in excess of $2,000,000 shall be ineligible to receive additional funds for SEARCH grants until such time as the State rural development director awards grants in the amount of the excess.

SEC. 6303. REPORT.

Not later than 30 days after the end of the first fiscal year for which SEARCH grants are awarded, and annually thereafter, the Secretary shall submit to the Committee on Energy and Commerce and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the number of SEARCH grants awarded during the fiscal year;

(2) identifies each small community that received a SEARCH grant during the fiscal year;

(3) describes the project or purpose for which each SEARCH grant was awarded, including a statement of the benefit to public health or the environment of the environmental project receiving the grant funds; and

(4) describes the status of each project or portion of a project for which a SEARCH grant was awarded, including a project or portion of a project for which a SEARCH grant was awarded for any previous fiscal year.

SEC. 6304. FUNDING.

(a) ALLOCATION TO STATE RURAL DEVELOPMENT DIRECTORS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 6302(b) $51,000,000 for each of fiscal years 2002 through 2007, of which not to exceed $1,000,000 shall be used to make grants under section 6302(b)(2).

(2) ACTUAL APPROPRIATION.—If funds to carry out section 6302(b) are made available for a fiscal year in an amount that is less than the amount authorized under paragraph (1) for the fiscal year, the Secretary shall divide the appropriated funds for the fiscal year equally among the 50 States.

(b) OTHER EXPENSES.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle (other than section 6302(b)).

Subtitle E—Miscellaneous

SEC. 6401. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

(a) IN GENERAL.—Section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively;

(2) by striking subsection (a) and inserting the following:

''(a) DEFINITION OF VALUE-ADDED AGRICULTURAL PRODUCT.—

''(1) IN GENERAL.—The term 'value-added agricultural product' means any agricultural commodity or product that—

''(A)(i) has undergone a change in physical state;

''(ii) was produced in a manner that enhances the value of the agricultural commodity or product, as demonstrated through a business plan that shows the enhanced value, as determined by the Secretary; or

''(iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural commodity or product; and

''(B) as a result of the change in physical state or the manner in which the agricultural commodity or product was produced or segregated—

''(i) the customer base for the agricultural commodity or product has been expanded; and

''(ii) a greater portion of the revenue derived from the marketing, processing, or physical segregation of the agricultural commodity or product is available to the producer of the commodity or product.

''(2) INCLUSION.—The term 'value-added agricultural product' includes farm- or ranch-based renewable energy.

''(b) GRANT PROGRAM.—

''(1) IN GENERAL.—From amounts made available under paragraph (4), the Secretary shall award competitive grants—

''(A) to an eligible independent producer (as determined by the Secretary) of a value-added agricultural product to assist the producer—

''(i) in developing a business plan for viable marketing opportunities for the value-added agricultural product; or

''(ii) in developing strategies that are intended to create marketing opportunities for the producer; and

''(B) to an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture (as determined by the Secretary) to assist the entity—

''(i) in developing a business plan for viable marketing opportunities in emerging markets for a value-added agricultural product; or

''(ii) in developing strategies that are intended to create marketing opportunities in emerging markets for the value-added agricultural product.

''(2) AMOUNT OF GRANT.—

''(A) IN GENERAL.—The total amount provided under this subsection to a grant recipient shall not exceed $500,000.

''(B) MAJORITY-CONTROLLED PRODUCER-BASED BUSINESS VENTURES.—The amount of grants provided to majority-controlled producer-based business ventures under paragraph (1)(B) for a fiscal year may not exceed 10 percent of the amount of funds that are used to make grants for the fiscal year under this subsection.

''(3) GRANTEE STRATEGIES.—A grantee under paragraph (1) shall use the grant—

''(A) to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a value-added agricultural product; or

''(B) to provide capital to establish alliances or business ventures that allow the producer of the value-added agricultural product to better compete in domestic or international markets.

''(4) FUNDING.—Not later than 30 days after the date of enactment of this paragraph, on October 1, 2002, and on each October 1 thereafter through October 1, 2006, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $40,000,000, to remain available until expended.'';

(3) in subsection (c)(1) (as redesignated by paragraph (1))—

(A) by striking ''subsection (a)(2)'' and inserting ''subsection (b)(2)'';

(B) by striking ''$5,000,000'' and inserting ''5 percent''; and

(C) by striking ''subsection (a)'' and inserting ''subsection (b)''; and

(4) in subsection (d) (as redesignated by paragraph (1)), by striking ''subsections (a) and (b)'' and inserting ''subsections (b) and (c)''.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) apply beginning on October 1, 2002.

(2) FUNDING.—Funds made available under section 231(b)(4)(A)(i) of the Agricultural Risk Protection Act of 2000 (as amended by subsection (a)(2)) shall be made available not later than 30 days after the date of enactment of this Act.

SEC. 6402. AGRICULTURE INNOVATION CENTER DEMONSTRATION PROGRAM.

(a) PURPOSE.—The purpose of this section is to direct the Secretary of Agriculture to establish a demonstration program under which agricultural producers are provided—

(1) technical assistance, consisting of engineering services, applied research, scale production, and similar services, to enable the agricultural producers to establish businesses to produce value-added agricultural commodities or products;

(2) assistance in marketing, market development, and business planning; and

(3) organizational, outreach, and development assistance to increase the viability, growth, and sustainability of businesses that produce value-added agricultural commodities or products.

(b) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''Program'' means the Agriculture Innovation Center Demonstration Program established under subsection (c).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(c) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a demonstration program, to be known as the ''Agriculture Innovation Center Demonstration Program'' under which the Secretary shall—

(1) make grants to assist eligible entities in establishing Agriculture Innovation Centers to enable agricultural producers to obtain the assistance described in subsection (a); and

(2) provide assistance to eligible entities in establishing Agriculture Innovation Centers through the research and technical services of the Department of Agriculture.

(d) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—An entity shall be eligible for a grant and assistance described in subsection (c) to establish an Agriculture Innovation Center if—

(A) the entity—

(i) has provided services similar to the services described in subsection (a); or

(ii) demonstrates the capability of providing such services;

(B) the application of the entity for the grant and assistance includes a plan, in accordance with regulations promulgated by the Secretary, that outlines—

(i) the support for the entity in the agricultural community;

(ii) the technical and other expertise of the entity; and

(iii) the goals of the entity for increasing and improving the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products;

(C) the entity demonstrates that adequate resources (in cash or in kind) are available, or have been committed to be made available, to the entity, to increase and improve the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products; and

(D) the Agriculture Innovation Center of the entity has a board of directors established in accordance with paragraph (2).

(2) BOARD OF DIRECTORS.—Each Agriculture Innovation Center of an eligible entity shall have a board of directors composed of representatives of each of the following groups:

(A) The 2 general agricultural organizations with the greatest number of members in the State in which the eligible entity is located.

(B) The department of agriculture, or similar State department or agency, of the State in which the eligible entity is located.

(C) Entities representing the 4 highest grossing commodities produced in the State, determined on the basis of annual gross cash sales.

(e) GRANTS AND ASSISTANCE.—

(1) IN GENERAL.—Subject to subsection (i), under the Program, the Secretary shall make, on a competitive basis, annual grants to eligible entities.

(2) MAXIMUM AMOUNT OF GRANTS.—A grant under paragraph (1) shall be in an amount that does not exceed the lesser of—

(A) $1,000,000; or

(B) twice the dollar amount of the resources (in cash or in kind) that the eligible entity demonstrates are available, or have been committed to be made available, to the eligible entity in accordance with subsection (d)(1)(C).

(3) MAXIMUM NUMBER OF GRANTS.—

(A) FIRST FISCAL YEAR OF PROGRAM.—In the first fiscal year of the Program, the Secretary shall make grants to not more than 5 eligible entities.

(B) SECOND FISCAL YEAR OF PROGRAM.—In the second fiscal year of the Program, the Secretary may make grants to—

(i) the eligible entities to which grants were made under subparagraph (A); and

(ii) not more than 10 additional eligible entities.

(4) STATE LIMITATION.—

(A) IN GENERAL.—Subject to subparagraph (B), in the first 3 fiscal years of the Program, the Secretary shall not make a grant under the Program to more than 1 entity in any 1 State.

(B) COLLABORATION.—Nothing in subparagraph (A) precludes a recipient of a grant under the Program from collaborating with any other institution with respect to activities conducted using the grant.

(f) USE OF FUNDS.—An eligible entity to which a grant is made under the Program may use the grant only for the following purposes (but only to the extent that the use is not described in section 231(d) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224)):

(1) Applied research.

(2) Consulting services.

(3) Hiring of employees, at the discretion of the board of directors of the Agriculture Innovation Center of the eligible entity.

(4) The making of matching grants, each of which shall be in an amount not to exceed $5,000, to agricultural producers, except that the aggregate amount of all such matching grants made by the eligible entity shall be not more than $50,000.

(5) Legal services.

(6) Any other related cost, as determined by the Secretary.

(g) RESEARCH ON EFFECTS ON THE AGRICULTURAL SECTOR.—

(1) IN GENERAL.—Of the amount made available under subsection (i) for each fiscal year, the Secretary shall use $300,000 to support research at a university concerning the effects of projects for value-added agricultural commodities or products on agricultural producers and the commodity markets.

(2) RESEARCH ELEMENTS.—Research under paragraph (1) shall systematically examine, using linked, long-term, global projections of the agricultural sector, the potential effects of projects described in subparagraph (A) on—

(A) demand for agricultural commodities;

(B) market prices;

(C) farm income; and

(D) Federal outlays on commodity programs.

(h) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 3 years after the date on which the last of the first 10 grants is made under the Program, the Secretary 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—

(A) the effectiveness of the Program in improving and expanding the production of value-added agricultural commodities or products; and

(B) the effects of the Program on the economic viability of agricultural producers.

(2) REQUIRED ELEMENTS.—The report under paragraph (1) shall—

(A) include a description of the best practices and innovations found at each of the Agriculture Innovation Centers established under the Program; and

(B) specify the number and type of activities assisted, and the type of assistance provided, under the Program.

(i) FUNDING.—Of the amount made available under section 231(a)(1) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) for each fiscal year, the Secretary shall use to carry out this section—

(1) not less than $3,000,000 for fiscal year 2002; and

(2) not less than $6,000,000 for each of fiscal years 2003 and 2004.

SEC. 6403. FUND FOR RURAL AMERICA.

(a) IN GENERAL.—Section 793 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f) is repealed.

(b) CONFORMING AMENDMENT.—Section 2(b)(8)(B) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(8)(B)) is amended in the second sentence by striking ''smaller college or university (as described in section 793(c)(2)(ii) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f(c)(2)(ii))'' and inserting ''college, university, or research foundation maintained by a college or university that ranks in the lowest ⅓ of such colleges, universities, and research foundations on the basis of Federal research funds received''.

SEC. 6404. RURAL LOCAL TELEVISION BROADCAST SIGNAL LOAN GUARANTEES.

(a) IN GENERAL.—Section 1011(a) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1109(a)) is amended—

(1) by striking ''For'' and inserting the following:

''(1) AUTHORIZATION OF APPROPRIATIONS.—For''; and

(2) by adding at the end the following:

''(2) COMMODITY CREDIT CORPORATION FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, subject to subparagraph (B), in addition to amounts made available under paragraph (1), of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available for loan guarantees to carry out this title $80,000,000 for the period beginning on the date of enactment of this paragraph and ending on December 31, 2006, to remain available until expended.

''(B) BROADBAND LOANS AND LOAN GUARANTEES.—

''(i) IN GENERAL.—Amounts made available under subparagraph (A) that are not obligated as of the release date described in clause (ii) shall be available to the Secretary to make loans and loan guarantees under section 601 of the Rural Electrification Act of 1936.

''(ii) RELEASE DATE.—For purposes of clause (i), the release date is the date that is the earlier of—

''(I) the date the Secretary determines that at least 75 percent of the designated market areas (as defined in section 122(j) of title 17, United States Code) not in the top 40 designated market areas described in section 1004(e)(1)(C)(i) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1103(e)(1)(C)(i)) have access to local television broadcast signals for virtually all households (as determined by the Secretary); or

''(II) December 31, 2006.

''(C) ADVANCED APPROPRIATIONS.—Subsections (c) and (h)(1)(B) of section 1004 and section 1005(n)(3)(B) shall not apply to amounts made available under this paragraph.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) APPROVAL OF LOAN GUARANTEES.—Section 1004 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1103) is amended—

(A) in subsection (b)(1)—

(i) by striking ''section 5'' and inserting ''section 1005''; and

(ii) by striking ''section 11'' and inserting ''section 1011'';

(B) in subsection (d)(1), by striking ''section 3'' and inserting ''section 1003''; and

(C) in the first sentence of subsection (h)(2)(D), by striking ''section 5'' and inserting ''section 1005''.

(2) ADMINISTRATION OF LOAN GUARANTEES.—Section 1005 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1104) is amended—

(A) in subsection (a), by striking ''sections 3 and 4'' and inserting ''sections 1003 and 1004'';

(B) in subsection (b)—

(i) in paragraph (1)(D), by striking ''section 6(a)(2)'' and inserting ''section 1006(a)(2)''; and

(ii) in paragraph (3), by striking ''section 4(d)(3)(B)(iii)'' and inserting ''section 1004(d)(3)(B)(iii)''; and

(C) in subsection (e)(3), by striking ''section 4(g)'' and inserting ''section 1004(g)''.

SEC. 6405. RURAL FIREFIGHTERS AND EMERGENCY PERSONNEL GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture may make grants to units of general local government and Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) to pay the cost of training firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous materials and bioagents in rural areas.

(b) USE OF FUNDS.—

(1) SCHOLARSHIPS.—

(A) IN GENERAL.—Not less than 60 percent of the amounts made available for competitively-awarded grants under this section shall be used to provide grants to fund partial scholarships for training of individuals at training centers approved by the Secretary.

(B) PRIORITY.—In awarding grants under this paragraph, the Secretary shall give priority to grant applicants that provide for training within the region (or locality) of the applicant.

(2) GRANTS FOR TRAINING CENTERS.—

(A) IN GENERAL.—A grant under subsection (a) may be used to provide financial assistance to State and regional centers that provide training for firefighters and emergency medical personnel for improvements to the training facility, equipment, curricula, and personnel.

(B) LIMITATION.—Not more than $750,000 shall be provided to any single training center for any fiscal year under this paragraph.

(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section $10,000,000 for each of fiscal years 2003 through 2007, to remain available until expended.

SEC. 6406. SENSE OF CONGRESS ON RURAL POLICY COORDINATION.

It is the sense of Congress that the President should—

(1) appoint a Special Assistant to the President for Rural Policy;

(2) designate within each Federal agency with jurisdiction over rural programs or activities 1 or more senior officers or employees to provide rural policy leadership for the agency; and

(3) create an intergovernmental rural policy working group comprised of—

(A) the Special Assistant to the President for Rural Policy, who should serve as Chairperson; and

(B) the senior officers and employees designated under paragraph (2).

TITLE VII—RESEARCH AND RELATED MATTERS

Subtitle A—Extensions

SEC. 7101. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7102. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) in subsection (a)—

(A) by striking ''and'' after ''economics,''; and

(B) by inserting '', and rural economic, community, and business development'' before the period;

(2) in subsection (b)—

(A) in paragraph (1), by inserting '', or in rural economic, community, and business development'' before the semicolon;

(B) in paragraph (2), by inserting '', or in rural economic, community, and business development'' before the semicolon;

(C) in paragraph (3), by inserting '', or teaching programs emphasizing rural economic, community, and business development'' before the semicolon;

(D) in paragraph (4), by inserting '', or programs emphasizing rural economic, community, and business development,'' after ''programs''; and

(E) in paragraph (5), by inserting '', or professionals in rural economic, community, and business development'' before the semicolon;

(3) in subsection (d)—

(A) in paragraph (1), by inserting '', or in rural economic, community, and business development,'' after ''sciences''; and

(B) in paragraph (2), by inserting '', or in the rural economic, community, and business development workforce,'' after ''workforce''; and

(4) in subsection (l), by striking ''2002'' and inserting ''2007''.

SEC. 7103. POLICY RESEARCH CENTERS.

Section 1419A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(d)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7104. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

Section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7105. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.

Section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7106. NUTRITION EDUCATION PROGRAM.

Section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7107. CONTINUING ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS.

Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7108. APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS.

Section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7109. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking ''$15,000,000 for each of fiscal years 1996 through 2002'' and inserting ''$25,000,000 for each of fiscal years 2002 through 2007''.

SEC. 7110. NATIONAL RESEARCH AND TRAINING VIRTUAL CENTERS.

(a) AUTHORIZATION.—Section 1448 of the National Agricultural Research, Extension, and

Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended by striking ''2002'' each place it appears in subsections (a)(1) and (f) and inserting ''2007''.

(b) REDESIGNATION.—Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended—

*(1) in the section heading, by striking ''**CENTENNIAL**'' and inserting ''**VIRTUAL**''; and*

(2) by striking ''centennial'' each place it appears and inserting ''virtual''.

SEC. 7111. HISPANIC-SERVING INSTITUTIONS.

Section 1455(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241(c)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7112. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.

Section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b(c)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7113. UNIVERSITY RESEARCH.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended—

(1) in subsection (a), by striking ''$850,000,000 for each of the fiscal years 1991 through 2002'' and inserting ''such sums as may be necessary for each of fiscal years 1991 through 2007''; and

(2) in subsection (b), by striking ''$310,000,000 for each of the fiscal years 1991 through 2002'' and inserting ''such sums as may be necessary for each of fiscal years 1991 through 2007''.

SEC. 7114. EXTENSION SERVICE.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking ''$420,000,000 for fiscal year 1991, $430,000,000 for fiscal year 1992, $440,000,000 for fiscal year 1993, $450,000,000 for fiscal year 1994, and $460,000,000 for each of fiscal years 1995 through 2002'' and inserting ''such sums as may be necessary for each of fiscal years 1991 through 2007''.

SEC. 7115. SUPPLEMENTAL AND ALTERNATIVE CROPS.

Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7116. AQUACULTURE RESEARCH FACILITIES.

The first sentence of section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7117. RANGELAND RESEARCH.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7118. NATIONAL GENETICS RESOURCES PROGRAM.

Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7119. HIGH-PRIORITY RESEARCH AND EXTENSION INITIATIVES.

Section 1672(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(h)) is amended by striking ''2002'' and inserting ''2007.

SEC. 7120. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.

Section 1672A(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a(g)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7121. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7122. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7123. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.

Section 402(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622(g)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7124. BIOBASED PRODUCTS.

(a) PILOT PROJECT.—Section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) is amended by striking ''2001'' and inserting ''2007''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 404(h) of such Act (7 U.S.C. 7624(h)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7125. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.

Section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626) is amended—

(1) by redesignating subsection (e) as subsection (f);

(2) by inserting after subsection (d) the following:

''(e) TERM OF GRANT.—A grant under this section shall have a term of not more than 5 years.''; and

(3) in subsection (f) (as so redesignated), by striking ''2002'' and inserting ''2007''.

SEC. 7126. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(f) INSTITUTIONAL CAPACITY BUILDING GRANTS.—Section 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) in subsection (b)(1), by striking ''2002'' and inserting ''2007''; and

(2) in subsection (c), by striking ''$1,700,000 for each of fiscal years 1996 through 2002'' and inserting ''such sums as are necessary for each of fiscal years 2002 through 2007''.

SEC. 7127. 1994 INSTITUTION RESEARCH GRANTS.

Section 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7128. ENDOWMENT FOR 1994 INSTITUTIONS.

The first sentence of section 533(b) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking ''$4,600,000'' and all that follows through the period and inserting ''such sums as are necessary to carry out this section for each of fiscal years 1996 through 2007.''.

SEC. 7129. PRECISION AGRICULTURE.

Section 403(i) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623(i)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7130. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.

Section 405(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(h)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7131. SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT, TRITICALE, AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM OR BY TILLETIA INDICA.

Section 408(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(e)) is amended—

(1) by striking ''$5,200,000'' and inserting ''such sums as may be necessary''; and

(2) by striking ''2002'' and inserting ''2007''.

SEC. 7132. OFFICE OF PEST MANAGEMENT POLICY.

Section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7133. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

Section 1408(h) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(h)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7134. GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7135. AGRICULTURAL EXPERIMENT STATIONS RESEARCH FACILITIES.

Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7136. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS NATIONAL RESEARCH INITIATIVE.

Section 2(b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7137. FEDERAL AGRICULTURAL RESEARCH FACILITIES AUTHORIZATION OF APPROPRIATIONS.

Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7138. CRITICAL AGRICULTURAL MATERIALS RESEARCH.

Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking ''2002'' and inserting ''2007''.

SEC. 7139. AQUACULTURE.

Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking ''2002'' each place it appears and inserting ''2007''.

Subtitle B—Modifications

SEC. 7201. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 534(a)(1)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking ''$50,000'' and inserting ''$100,000''.

(b) CHANGE OF INDIAN STUDENT COUNT FORMULA.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking ''(as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day preceding the date of enactment of the Carl. D. Perkins Vocational and Applied Technology Education Amendments of 1998 (Oct. 31, 1998)) for each 1994 Institution for the fiscal year'' and inserting ''(as defined in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)))''.

(c) ACCREDITATION REQUIREMENT FOR RESEARCH GRANTS.—Section 533(a)(3) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking ''sections 534 and 535'' and inserting ''sections 534, 535, and 536''.

(d) TECHNICAL AMENDMENT TO REFLECT NAME CHANGES.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking paragraphs (1) through (30) and inserting the following:

''(1) Bay Mills Community College.
''(2) Blackfeet Community College.
''(3) Cankdeska Cikana Community College.
''(4) College of Menominee Nation.
''(5) Crownpoint Institute of Technology.
''(6) D-Q University.
''(7) Dine College.
''(8) Chief Dull Knife Memorial College.
''(9) Fond du Lac Tribal and Community College.
''(10) Fort Belknap College.
''(11) Fort Berthold Community College.
''(12) Fort Peck Community College.
''(13) Haskell Indian Nations University.
''(14) Institute of American Indian and Alaska Native Culture and Arts Development.
''(15) Lac Courte Oreilles Ojibwa Community College.
''(16) Leech Lake Tribal College.
''(17) Little Big Horn College.
''(18) Little Priest Tribal College.
''(19) Nebraska Indian Community College.
''(20) Northwest Indian College.
''(21) Oglala Lakota College.
''(22) Salish Kootenai College.
''(23) Sinte Gleska University.
''(24) Sisseton Wahpeton Community College.
''(25) Si Tanka/Huron University.
''(26) Sitting Bull College.
''(27) Southwestern Indian Polytechnic Institute.
''(28) Stone Child College.
''(29) Turtle Mountain Community College.
''(30) United Tribes Technical College.
''(31) White Earth Tribal and Community College.''.

(e) REPORT RECOMMENDING CRITERIA FOR ADDITIONAL ELIGIBLE ENTITIES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit a report containing recommended criteria for designating additional 1994 Institutions to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 7202. CARRYOVER FOR EXPERIMENT STATIONS.

Section 7 of the Hatch Act of 1887 (7 U.S.C. 361g) is amended by striking subsection (c) and inserting the following:

''(c) CARRYOVER.—

''(1) IN GENERAL.—The balance of any annual funds provided under this Act to a State agricultural experiment station for a fiscal year that remains unexpended at the end of the fiscal year may be carried over for use during the following fiscal year.

''(2) FAILURE TO EXPEND FULL ALLOTMENT.—

''(A) IN GENERAL.—If any unexpended balance carried over by a State is not expended by the end of the second fiscal year, an amount equal to the unexpended balance shall be deducted from the next succeeding annual allotment to the State.

''(B) REDISTRIBUTION.—Federal funds that are deducted under subparagraph (A) for a fiscal year shall be redistributed by the Secretary in accordance with the formula set forth in section 3(c) to those States for which no deduction under subparagraph (A) has been taken for that fiscal year.''.

SEC. 7203. AUTHORIZATION PERCENTAGES FOR RESEARCH AND EXTENSION FORMULA FUNDS.

(a) EXTENSION.—Section 1444(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)) is amended—

(1) by striking ''(a) There'' and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There'';

(2) by striking the second sentence; and

(3) in the third sentence, by striking ''Beginning'' through ''6 per centum'' and inserting the following:

''(2) MINIMUM AMOUNT.—Beginning with fiscal year 2003, there shall be appropriated under this section for each fiscal year an amount that is not less than 15 percent'';

(3) by striking ''Funds appropriated'' and inserting the following:

''(3) USES.—Funds appropriated''; and

(4) by striking ''No more'' and inserting the following:

''(4) CARRYOVER.—No more''.

(b) RESEARCH.—Section 1445(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)) is amended—

(1) by striking ''(a) There'' and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There'';

(2) by striking the second sentence and inserting the following:

''(2) MINIMUM AMOUNT.—Beginning with fiscal year 2003, there shall be appropriated under this section for each fiscal year an amount that is not less than 25 percent of the total appropriations for the fiscal year under section 3 of the Hatch Act of 1887 (7 U.S.C. 361c).'';

(3) by striking ''Funds appropriated'' and inserting the following:

''(3) USES.—Funds appropriated'';

(4) by striking ''The eligible'' and inserting the following:

''(4) COORDINATION.—The eligible''; and

(5) by striking ''No more'' and inserting the following:

''(5) CARRYOVER.—No more''.

SEC. 7204. CARRYOVER FOR ELIGIBLE INSTITUTIONS.

Section 1445(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)) (as amended by section 7203 of this Act) is further amended by striking paragraph (5) and inserting the following:

''(5) CARRYOVER.—

''(A) IN GENERAL.—The balance of any annual funds provided to an eligible institution for a fiscal year under this section that remains unexpended at the end of the fiscal year may be carried over for use during the following fiscal year.

''(B) FAILURE TO EXPEND FULL AMOUNT.—

''(i) IN GENERAL.—If any unexpended balance carried over by an eligible institution is not expended by the end of the second fiscal year, an amount equal to the unexpended balance shall be deducted from the next succeeding annual allotment to the eligible institution.

''(ii) REDISTRIBUTION.—Federal funds that are deducted under clause (i) for a fiscal year shall be redistributed by the Secretary in accordance with the formula set forth in subsection (b)(2)(B) to those eligible institutions for which no deduction under clause (i) has been taken for that fiscal year.''.

SEC. 7205. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

(a) FUNDING.—Section 401(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)) is amended—

(1) in paragraph (1), by striking ''2002'' and inserting ''2001''; and

(2) by adding at the end the following:

''(3) OTHER FUNDING.—Out of funds in the Commodity Credit Corporation, the Secretary shall transfer to the Account—

''(A) on October 1, 2003, $120,000,000;

''(B) on October 1, 2004, $140,000,000;

''(C) on October 1, 2005, $160,000,000; and

''(D) on October 1, 2006, and each October 1 thereafter, $200,000,000.''.

(2) by amending subsection (c)(1) to read as follows:

''(1) CRITICAL EMERGING AGRICULTURAL AND RURAL ISSUES.—The Secretary shall use the funds in the Account for research, extension, and education grants (referred to in this section as 'grants') to address critical emerging agricultural and rural issues related to—

''(A) future food production;

''(B) environmental quality and natural resource management;

''(C) farm income; or

''(D) rural economic and business and community development policy.''; and

(3) in subsection (e)(1), by striking ''small and mid-sized'' and inserting ''small, mid-sized, and minority-serving''.

SEC. 7206. ELIGIBILITY FOR INTEGRATED GRANTS PROGRAM.

Section 406(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(b)) is amended by inserting ''and 1994 Institutions'' before ''on a competitive basis''.

SEC. 7207. AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998.

(a) PRECISION AGRICULTURE.—Section 403 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623) is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) in subparagraph (A), inserting '', horticultural,'' following ''agronomic'' the second place it appears; and

(ii) in subparagraph (C), by striking ''or'' at the end;

(iii) in subparagraph (D), by striking the period at the end and inserting ''; or''; and

(iv) by adding at the end the following:

''(E) using such information to enable intelligent mechanized harvesting and sorting systems for horticultural crops.'';

(B) in paragraph (4)—

(i) in subparagraph (C), by striking ''or'' at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

''(E) robotic and other intelligent machines for use in horticultural cropping systems.''; and

(C) in paragraph (5)(F), by inserting ''(including improved use of energy inputs)'' after ''farm production efficiencies'';

(2) in subsection (c)(2)—

(A) by inserting ''or horticultural'' after ''agronomic''; and

(B) by striking ''and meteorological variability'' and inserting ''product variability, and meteorological variability'';

(3) in subsection (d)—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following:

''(4) Improve farm energy use efficiencies.''.

(b) THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.—Section 405(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(a)) is amended by striking ''and marketing'' and inserting '', marketing, and efficient use''.

(c) COORDINATED PROGRAM OF RESEARCH, EXTENSION, AND EDUCATION TO IMPROVE VIABILITY OF SMALL- AND MEDIUM-SIZE DAIRY, LIVESTOCK, AND POULTRY OPERATIONS.—Section 407(b)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627(b)(3)) is amended by inserting ''(including improved use of energy inputs)'' after ''poultry systems that increase efficiencies''.

(d) SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT, TRITICALE, AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM OR BY TILLETIA INDICA.—

(1) RESEARCH GRANT AUTHORIZED.—Section 408(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(a)) is amended to read as follows:

''(a) RESEARCH GRANT AUTHORIZED.—The Secretary of Agriculture may make grants to consortia of land-grant colleges and universities to enhance the ability of the consortia to carry out multi-State research projects aimed at understanding and combating diseases of wheat, triticale, and barley caused by Fusarium graminearum and related fungi (referred to in this section as 'wheat scab') or by Tilletia indica

and related fungi (referred to in this section as 'Karnal bunt').''.

(2) RESEARCH COMPONENTS.—Section 408(b) of such Act (7 U.S.C. 7628(b)) is amended—

(A) in paragraph (1), by inserting ''or of Karnal bunt,'' after ''epidemiology of wheat scab'';

(B) in paragraph (1), by inserting '', triticale,'' after ''occurring in wheat'';

(C) in paragraph (2), by inserting ''or Karnal bunt'' after ''wheat scab'';

(D) in paragraph (3)(A), by striking ''and barley for the presence of'' and inserting '', triticale, and barley for the presence of Karnal bunt or of'';

(E) in paragraph (3)(B), by striking ''and barley infected with wheat scab'' and inserting '', triticale, and barley infected with wheat scab or with Karnal bunt'';

(F) in paragraph (3)(C), by inserting ''wheat scab'' after ''to render'';

(G) in paragraph (4), by striking ''and barley to wheat scab'' and inserting '', triticale, and barley to wheat scab and to Karnal bunt''; and

(H) in paragraph (5)—

(i) by inserting ''and Karnal bunt'' after ''wheat scab''; and

(ii) by inserting '', triticale,'' after ''resistant wheat''.

(3) COMMUNICATIONS NETWORKS.—Section 408(c) of such Act (7 U.S.C. 7628(c)) is amended by inserting ''or Karnal bunt'' after ''wheat scab''.

*(4) TECHNICAL AMENDMENTS.—(A) The section heading for section 408 of such Act is amended by striking ''**AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM**'' and inserting ''**, TRITICALE, AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM OR BY TILLETIA INDICA**''.*

(B) The table of sections for such Act is amended by striking ''and barley caused by fusarium graminearum'' in the item relating to section 408 and inserting '', triticale, and barley caused by Fusarium graminearum or by Tilletia indica''.

(e) PROGRAM TO CONTROL JOHNE'S DISEASE.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following new section:

"SEC. 409. BOVINE JOHNE'S DISEASE CONTROL PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of Agriculture, in coordination with State veterinarians and other appropriate State animal health professionals, may establish a program to conduct research, testing, and evaluation of programs for the control and management of Johne's disease in livestock.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for each of fiscal years 2003 through 2007.''.

SEC. 7208. FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AGRICULTURAL GENOME INITIATIVE.—Section 1671(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(b)) is amended—

(1) in paragraph (3), by inserting ''pathogens and'' before ''diseases causing economic hardship'';

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

(3) by redesignating paragraph (7) as paragraph (8); and

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

''(7) reducing the economic impact of plant pathogens on commercially important crop plants; and''.

(b) HIGH-PRIORITY RESEARCH AND EXTENSION INITIATIVES.—Section 1672(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended by adding at the end the following new paragraphs:

''(25) GENETICALLY MODIFIED AGRICULTURE PRODUCTS (GMAP) RESEARCH.—Research grants may be made under this section for the purposes of providing unbiased, science-based evaluation of the risks and benefits to the public and the environment of specific genetically modified plant and animal products. Grants may be used to form interdisciplinary teams to review and conduct research on scientific, social, economic, and ethical issues during the review process, to answer questions raised by the release of new genetically modified agriculture products, to conduct fundamental studies on the health and environmental safety of genetically modified agriculture products (including quantitative risk assessment, the effect of specific genetically modified agriculture products on human health, and gene flow studies), to communicate the risk of genetically modified agriculture products through extension and education programs, and to engage the public and industry in relevant issues.

''(26) WIND EROSION RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of validating wind erosion models.

''(27) CROP LOSS RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of validating crop loss models.

''(28) LAND USE MANAGEMENT RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purposes of evaluating the environmental benefits of land use management tools such as those provided in the Farmland Protection Program.

''(29) WATER AND AIR QUALITY RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of better understanding agricultural impacts to air and water quality and means to address them.

''(30) REVENUE AND INSURANCE TOOLS RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purposes of better understanding the impact of revenue and insurance tools on farm income.

''(31) AGROTOURISM RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of better understanding the economic, environmental, and food systems impacts of agrotourism.

''(32) HARVESTING PRODUCTIVITY FOR FRUITS AND VEGETABLES.—Research and extension grants may be made under this section for the purpose of improving harvesting productivity for fruits and vegetables (including citrus), including the development of mechanical harvesting technologies and effective, economical, and safe abscission compounds.

''(33) NITROGEN-FIXATION BY PLANTS.—Research and extension grants may be made under this section for the purpose of enhancing the nitrogen-fixing ability and efficiency of legumes, developing new varieties of legumes that fix nitrogen more efficiently, and developing new varieties of other commercially important crops that potentially are able to fix nitrogen.

''(34) AGRICULTURAL MARKETING.—Extension grants may be made under this section for the purpose of providing education materials, information, and outreach programs regarding commodity and livestock marketing strategies for agricultural producers and for cooperatives and other marketers of any agricultural commodity, including livestock.

''(35) ENVIRONMENT AND PRIVATE LANDS RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of researching the use of computer models to aid in assessment of best management practices on a watershed basis, working with government, industry, and private landowners to help craft industry-led solutions to identified environmental issues, researching and monitoring water, air, or soil environmental quality to aid in the development of new approaches to local environmental concerns, and working with local, State, and federal officials to help craft effective environmental solutions that respect private property rights and agricultural production realities.

''(36) LIVESTOCK DISEASE RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of identifying possible livestock disease threats, educating the public regarding livestock disease threats, training persons to deal with such threats, and conducting related research.

''(37) PLANT GENE EXPRESSION.—Research grants may be made under this section for the purpose of plant gene expression research to accelerate the application of basic plant genomic science to the development and testing of new varieties of enhanced food crops, crops that can be used as renewable energy sources, and other alternative uses of agricultural crops.

''(38) ANIMAL INFECTIOUS DISEASES RESEARCH.—Research and extension grants may be made under this section for the purpose of developing prevention and control methodologies for animal infectious diseases (including evaluation under field conditions in countries in which an animal disease occurs) such as laboratory tests for quicker detection of infected animals and presence of disease, prevention strategies (including vaccination programs), and rapid diagnostic techniques for animal disease agents considered to be risks for agricultural bioterrorism attack.

''(39) PROGRAM TO COMBAT CHILDHOOD OBESITY.—Research and extension grants may be made under this section to institutions of higher education with demonstrated capacity in basic and clinical obesity research, nutrition research, and community health education research to develop and evaluate community-wide strategies that catalyze partnerships between families and health care, education, recreation, mass media, and other community resources to reduce the incidence of childhood obesity.

''(40) INTEGRATED PEST MANAGEMENT.—Research and extension grants may be made under this section to coordinate and improve research, education, and outreach on, and implementation on farms of, integrated pest management.

''(41) BEEF CATTLE GENETICS.—Research and extension grants for beef cattle genetics evaluation research may be made under this section to consortia of institutions of higher education that have expertise in beef cattle genetic evaluation research and technology and that have been actively involved for at least 20 years in the estimation and prediction of progeny differences for publication and use by seed stock producer breed associations.

''(42) DAIRY PIPELINE CLEANER.—Research and extension grants may be made under this section for the purpose of preventing and eliminating the dangers of dairy pipeline cleaner, including development of safer packaging and transfer mechanisms, outlining accident causes and potential prevention measures, and other means of improving efforts to prevent ingestion of dairy pipeline cleaner.

''(43) DEVELOPMENT OF PUBLICLY HELD PLANTS AND ANIMAL VARIETIES.—Research and extension grants may be made under this section for the purpose of development of publicly held plants and animal varieties (including germplasm for identity-preserved markets) and genetic resource conservation activities.

''(44) SUGARCANE GENETICS.—Research grants may be made under this section for the purpose of maintaining acceptable yields under reduced production inputs, implementing marker-assisted breeding strategies and other basic plant genomic technologies to screen for improved plant resistance to diseases, weeds, and insects toward minimizing pesticide use, enhancing food, fiber and energy production, and developing varieties for maximum performance under prevailing conditions, including management for improved soil and water conservation.''.

(c) ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.—Section 1680(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(a)) is amended by adding at the end the following new paragraph:

''(6) CONSIDERATION FOR GRANTS FOR NEW PROGRAMS.—For each fiscal year that amounts are made available for grants under this subsection, the Secretary may make grants in a manner that ensures that eligible entities who apply for grants, but have not previously received a grant under this subsection, are given full consideration.''.

SEC. 7209. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

(a) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMIC ADVISORY BOARD.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) in subsection (b)(1), by striking ''30 members'' and inserting ''31 members'';

(2) in subsection (b)(3)—

(A) by redesignating subparagraphs (R) through (DD) as subparagraphs (S) through (EE), respectively; and

(B) by inserting after subparagraph (Q) the following new subparagraph:

''(R) 1 member representing a non-land grant college or university with a historic commitment to research in the food and agricultural sciences.'';

(3) in subsection (c)(1), by striking ''and land-grant colleges and universities'' and inserting '', land-grant colleges and universities, and the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations of the House of Representatives, and the Subcommittee on Agriculture, Rural Development and Related Agencies of the Committee on Appropriations of the Senate''; and

(4) in subsection (d)(1), inserting ''consult with any appropriate agencies of the Department of Agriculture and'' after ''the Advisory Board shall''.

(b) GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended—

(1) in subsection (a)(2), by inserting ''and animal fats and oils'' after ''industrial oilseed crops''; and

(2) in subsection (a)(4), by inserting ''or triglycerides'' after ''other industrial hydrocarbons''.

(c) FAS OVERSEAS INTERN PROGRAM.—Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) 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) establish a program, to be coordinated by the Cooperative State Research, Education, and Extension Service and the Foreign Agricultural Service, to place interns from United States colleges and universities at Foreign Agricultural Service field offices overseas.''.

(d) RANGELAND RESEARCH GRANTS.—Section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3333) is amended to read as follows:

''SEC. 1480. RANGELAND RESEARCH GRANTS.

''(a) IN GENERAL.—The Secretary may make grants to—

''(1) land-grant colleges and universities, State agricultural experiment stations, and colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research, as determined by the Secretary, to carry out rangeland research; and

''(2) the Joe Skeen Institute for Rangeland Restoration for the purposes of facilitating and expanding ongoing State-Federal range management, animal husbandry, and agricultural research, education, and extension programs to meet the targeted, emerging, and future needs of western United States rangelands and associated natural resources.

''(b) MATCHING REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this grant program shall be based on a matching formula of 50 percent Federal and 50 percent non-Federal funding.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a grant to a Federal laboratory or a grant under subsection (a)(2).''.

SEC. 7210. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH.

Section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921) is amended to read as follows:

''SEC. 1668. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH.

''(a) PURPOSE.—It is the purpose of this section—

''(1) to authorize and support environmental assessment research to help identify and analyze environmental effects of biotechnology; and

''(2) to authorize research to help regulators develop long-term policies concerning the introduction of such technology.

''(b) GRANT PROGRAM.—The Secretary of Agriculture shall establish a grant program within the Cooperative State Research, Education, and Extension Service and the Agricultural Research Service to provide the necessary funding for environmental assessment research concerning the introduction of genetically engineered animals, plants, and microorganisms into the environment.

''(c) RESEARCH PRIORITIES.— The following types of research shall be given priority for funding:

''(1) Research designed to identify and develop appropriate management practices to minimize physical and biological risks associated with genetically engineered animals, plants, and microorganisms.

''(2) Research designed to develop methods to monitor the dispersal of genetically engineered animals, plants, and microorganisms.

''(3) Research designed to further existing knowledge with respect to the characteristics, rates, and methods of gene transfer that may occur between genetically engineered animals, plants, and microorganisms and related wild and agricultural organisms.

''(4) Environmental assessment research designed to provide analysis which compares the relative impacts of animals, plants, and microorganisms modified through genetic engineering to other types of production systems.

''(5) Other areas of research designed to further the purposes of this section.

''(d) ELIGIBILITY REQUIREMENTS.—Grants under this section shall be—

''(1) made on the basis of the quality of the proposed research project; and

''(2) available to any public or private research or educational institution or organization.

''(e) CONSULTATION.— In considering specific areas of research for funding under this section, the Secretary of Agriculture shall consult with the Administrator of the Animal and Plant Health Inspection Service and the National Agricultural Research, Extension, Education, and Economics Advisory Board.

''(f) PROGRAM COORDINATION.— The Secretary of Agriculture shall coordinate research funded under this section with the Office of Research and Development of the Environmental Protection Agency in order to avoid duplication of research activities.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

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

''(2) WITHHOLDINGS FROM BIOTECHNOLOGY OUTLAYS.—The Secretary of Agriculture shall withhold from outlays of the Department of Agriculture for research on biotechnology, as defined and determined by the Secretary, at least 2 percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment.

''(3) APPLICATION OF FUNDS.—Funds made available under this subsection shall be applied, to the maximum extent practicable, to risk assessment research on all categories identified in subsection (c).''.

SEC. 7211. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

Section 2(b)(2) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(2)) is amended by striking ''in—'' and inserting the following: ''in the areas described in subparagraphs (A) through (F). Such needs shall be determined by the Secretary, in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board, not later than July 1 of each fiscal year for the purposes of the following fiscal year.''.

SEC. 7212. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES OF 1890 INSTITUTIONS.

Section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) is amended—

(1) by amending subsection (c) to read as follows:

''(c) MATCHING FORMULA.—Notwithstanding any other provision of this subtitle, for each of fiscal years 2003 through 2007, the State shall provide matching funds from non-Federal sources. Such matching funds shall be for an amount equal to not less than—

''(1) 60 percent of the formula funds to be distributed to the eligible institution for fiscal year 2003;

''(2) 70 percent of the formula funds to be distributed to the eligible institution for fiscal year 2004;

''(3) 80 percent of the formula funds to be distributed to the eligible institution for fiscal year 2005;

''(4) 90 percent of the formula funds to be distributed to the eligible institution for fiscal year 2006; and

''(5) 100 percent of the formula funds to be distributed to the eligible institution for fiscal year 2007 and each fiscal year thereafter.''; and

(2) by amending subsection (d) to read as follows:

''(d) WAIVER AUTHORITY.—Notwithstanding subsection (f), the Secretary may waive the matching funds requirement under subsection (c) above the 50 percent level for any fiscal year for an eligible institution of a State if the Secretary determines that the State will be unlikely to satisfy the matching requirement.''.

SEC. 7213. MATCHING REQUIREMENTS FOR RESEARCH AND EXTENSION FORMULA FUNDS FOR INSULAR AREA LAND-GRANT INSTITUTIONS.

(a) EXPERIMENT STATIONS.—Section 3(d) of the Hatch Act of 1887 (7 U.S.C. 361c(d)) is amended by striking paragraph (4) and inserting the following:

''(4) EXCEPTION FOR INSULAR AREAS.—

''(A) IN GENERAL.—Effective beginning for fiscal year 2003, in lieu of the matching funds requirement of paragraph (1), the insular areas of the Commonwealth of Puerto Rico, Guam, and the Virgin Islands of the United States shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds distributed by the Secretary to each of the insular areas, respectively, under this section.

''(B) WAIVERS.—The Secretary may waive the matching fund requirement of subparagraph (A) for any fiscal year if the Secretary determines that the government of the insular area will be unlikely to meet the matching requirement for the fiscal year.''.

(b) COOPERATIVE AGRICULTURAL EXTENSION.—Section 3(e) of the Smith-Lever Act (7 U.S.C. 343(e)) is amended by striking paragraph (4) and inserting the following:

''(4) EXCEPTION FOR INSULAR AREAS.—

''(A) IN GENERAL.—Effective beginning for fiscal year 2003, in lieu of the matching funds requirement of paragraph (1), the insular areas of the Commonwealth of Puerto Rico, Guam, and the Virgin Islands of the United States shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds distributed by the Secretary to each of the insular areas, respectively, under this section.

''(B) WAIVERS.—The Secretary may waive the matching fund requirement of subparagraph (A) for any fiscal year if the Secretary determines that the government of the insular area will be unlikely to meet the matching requirement for the fiscal year.''.

SEC. 7214. DEFINITION OF FOOD AND AGRICULTURAL SCIENCES.

Section 2(3) of the Research Facilities Act (7 U.S.C. 390(2)(3)) is amended to read as follows:

''(3) FOOD AND AGRICULTURAL SCIENCES.—The term 'food and agricultural sciences' has the meaning given that term in section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8)).''.

SEC. 7215. FEDERAL EXTENSION SERVICE.

Section 3(b)(3) of the Smith-Lever Act (7 U.S.C. 343(b)(3)) is amended—

(1) by striking ''$5,000,000'' and inserting ''such sums as are necessary''; and

(2) by adding after the first sentence the following new sentence: ''The balance of any annual funds provided under the preceding sentence for a fiscal year that remains unexpended at the end of that fiscal year shall remain available without fiscal year limitation.''.

SEC. 7216. POLICY RESEARCH CENTERS.

Section 1419A(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(c)(3)) is amended by striking ''collect and analyze'' and inserting ''collect, analyze, and disseminate''.

SEC. 7217. AVAILABILITY OF COMPETITIVE GRANT FUNDS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1469 (7 U.S.C. 3315) the following:

''SEC. 1469A. AVAILABILITY OF COMPETITIVE GRANT FUNDS.

''Except as otherwise provided by law, funds made available to the Secretary to carry out a competitive agricultural research, education, or extension grant program under this or any other Act shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.''.

SEC. 7218. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.

Section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', breeding,'' after ''production'';

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

(C) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(4) determining desirable traits for organic commodities;

''(5) identifying marketing and policy constraints on the expansion of organic agriculture; and

''(6) conducting advanced on-farm research and development that emphasizes observation of, experimentation with, and innovation for working organic farms, including research relating to production and marketing and to socioeconomic conditions.''; and

(2) by amending subsection (e) to read as follows:

''(e) FUNDING.—On October 1, 2003, and each October 1 thereafter through October 1, 2007, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer $3,000,000 to the Secretary of Agriculture for this section.''.

SEC. 7219. SENIOR SCIENTIFIC RESEARCH SERVICE.

Subtitle B of title VI of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7651 et seq.) is amended by adding at the end the following:

''SEC. 620. SENIOR SCIENTIFIC RESEARCH SERVICE.

''(a) IN GENERAL.—There is established in the Department of Agriculture the Senior Scientific Research Service (referred to in this section as the 'Service').

''(b) MEMBERS.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Secretary shall appoint the members of the Service.

''(2) QUALIFICATIONS.—To be eligible for appointment to the Service, an individual shall—

''(A) have conducted outstanding research in the field of agriculture or forestry;

''(B) have earned a doctoral level degree at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); and

''(C) meet qualification standards prescribed by the Director of the Office of Personnel Management for appointment to a position at level GS–15 of the General Schedule.

''(3) NUMBER.—Not more than 100 individuals may serve as members of the Service at any 1 time.

''(4) OTHER REQUIREMENTS.—

''(A) IN GENERAL.—Subject to subparagraph (B) and subsection (d)(2), the Secretary may appoint and employ a member of the Service without regard to—

''(i) the provisions of title 5, United States Code, governing appointments in the competitive service;

''(ii) the provisions of subchapter I of chapter 35 of title 5, United States Code, relating to retention preference;

''(iii) the provisions of chapter 43 of title 5, United States Code, relating to performance appraisal and performance actions;

''(iv) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates; and

''(v) the provisions of chapter 75 of title 5, United States Code, relating to adverse actions.

''(B) EXCEPTION.—A member of the Service appointed and employed by the Secretary under subparagraph (A) shall have the same right of appeal to the Merit Systems Protection Board and the same right to file a complaint with the Office of Special Counsel as an employee appointed to a position at level GS–15 of the General Schedule.

''(c) PERFORMANCE APPRAISAL SYSTEM.—The Secretary shall develop a performance appraisal system for members of the Service that is designed to—

''(1) provide for the systematic appraisal of the employment performance of the members; and

''(2) encourage excellence in employment performance by the members.

''(d) COMPENSATION.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall determine the compensation of members of the Service.

''(2) LIMITATIONS.—The rate of pay for a member of the Service shall—

''(A) not be less than the minimum rate payable for a position at level GS–15 of the General Schedule; and

''(B) not be more than the rate payable for a position at level I of the Executive Schedule, unless the rate is approved by the President under section 5377(d)(2) of title 5, United States Code.

''(e) RETIREMENT CONTRIBUTIONS.—

''(1) IN GENERAL.—On the request of a member of the Service who was an employee of an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) immediately prior to appointment as a member of the Service and who retains the right to continue to make contributions to the retirement system of the institution, the Secretary may contribute an amount not to exceed 10 percent of the basic pay of the member to the retirement system of the institution on behalf of the member.

''(2) FEDERAL RETIREMENT SYSTEM.—

''(A) IN GENERAL.—Subject to subparagraph (B), a member for whom a contribution is made under paragraph (1) shall not, as a result of serving as a member of the Service, be covered by, or earn service credit under, chapter 83 or 84 of title 5, United States Code.

''(B) ANNUAL LEAVE.—Service of a member of the Service described in subparagraph (A) shall be creditable for determining years of service under section 6303(a) of title 5, United States Code.

''(f) INVOLUNTARY SEPARATION.—

''(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding the provisions of title 5, United States Code, governing appointment in the competitive service, in the case of an individual who is separated from the Service involuntarily and without cause—

''(A) the Secretary may appoint the individual to a position in the competitive civil service at level GS–15 of the General Schedule; and

''(B) the appointment shall be a career appointment.

''(2) EXCEPTED CIVIL SERVICE.—In the case of an individual described in paragraph (1) who immediately prior to appointment as a member of the Service was not a career appointee in the civil service or the Senior Executive Service, the appointment of the individual under paragraph (1)—

''(A) shall be to the excepted civil service; and

''(B) may not exceed a period of 2 years.''.

SEC. 7220. TERMINATION OF CERTAIN SCHEDULE A APPOINTMENTS.

(a) TERMINATION.—Not later than January 31, 2003, the Secretary of Agriculture shall terminate each appointment listed as an excepted position under schedule A of the General Schedule made by the Secretary to the Federal civil service of an individual who holds dual government appointments, and who carries out agricultural extension work in a program at a college or university eligible to receive funds, under—

(1) the Smith-Lever Act (7 U.S.C. 341 et seq.);

(2) section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221); or

(3) section 208(e) of the District of Columbia Public Postsecondary Education Reorganization Act (88 Stat. 1428).

(b) CONTINUATION OF CERTAIN FEDERAL BENEFITS.—

(1) IN GENERAL.—Notwithstanding title 5, United States Code, and subject to paragraph (2), an individual described in subsection (a), during the period the individual is employed in an agricultural extension program described in subsection (a) without a break in service, shall continue to—

(A) be eligible to participate, to the same extent that the individual was eligible to participate (on the day before the date of enactment of this Act), in—

(i) the Federal Employee Health Benefits Program;

(ii) the Federal Employee Group Life Insurance Program;

(iii) the Civil Service Retirement System;

(iv) the Federal Employee Retirement System;

(v) the Thrift Savings Plan; and

(vi) the Federal Long Term Care Insurance Program; and

(B) receive Federal Civil Service employment credit to the same extent that the individual was

receiving such credit on the day before the date of enactment of this Act.

(2) LIMITATIONS.—An individual may continue to be eligible for the benefits described in paragraph (1) if—

(A) in the case of an individual who remains employed in the agricultural extension program described in subsection (a) on the date of enactment of this Act, the employing college or university continues to fulfill the administrative and financial responsibilities (including making agency contributions) associated with providing those benefits, as determined by the Secretary of Agriculture; and

(B) in the case of an individual who changes employment to a second college or university described in subsection (a)—

(i) the individual continues to work in an agricultural extension program described in subsection (a), as determined by the Secretary of Agriculture;

(ii) the second college or university—

(I) fulfills the administrative and financial responsibilities (including making agency contributions) associated with providing those benefits, as determined by the Secretary of Agriculture; and

(II) within 1 year before the date of the employment of the individual, had employed a different individual described in subsection (a) who had performed the same duties of employment; and

(iii) the individual was eligible for those benefits on the day before the date of enactment of this Act.

SEC. 7221. BIOSECURITY PLANNING AND RESPONSE PROGRAMS.

(a) BIOSECURITY.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"Subtitle N—Biosecurity

"SEC. 1484. SPECIAL AUTHORIZATION FOR BIOSECURITY PLANNING AND RESPONSE.

''(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts for agricultural research, extension, and education under this Act, there are authorized to be appropriated for agricultural research, education, and extension activities for biosecurity planning and response such sums as are necessary for each of fiscal years 2002 through 2007.

''(b) USE OF FUNDS.—Using any authority available to the Secretary, the Secretary shall use funds made available under this section to carry out agricultural research, education, and extension activities (including through competitive grants) for the following:

''(1) To reduce the vulnerability of the United States food and agricultural system to chemical or biological attack.

''(2) To continue partnerships with institutions of higher education and other institutions to help form stable, long-term programs to enhance the biosecurity of the United States, including the coordination of the development, implementation, and enhancement of diverse capabilities for addressing threats to the Nation's agricultural economy and food supply with special emphasis on planning, training, outreach, and research activities related to vulnerability analyses, incident response, and detection and prevention technologies.

''(3) To make competitive grants to universities and qualified research institutions for research on counterbioterrorism.

''(4) To counter or otherwise respond to chemical or biological attack.

"SEC. 1485. AGRICULTURE RESEARCH FACILITY EXPANSION AND SECURITY UPGRADES.

''(a) IN GENERAL.—To enhance the security of agriculture in the United States against threats posed by bioterrorism, the Secretary shall make expansion or security upgrade grants on a competitive basis to colleges and universities (as defined in section 1404(4)).

''(b) LIMITATION ON GRANTS.—Grants to a recipient under this section shall not exceed $10,000,000 in any fiscal year.

''(c) REQUIREMENTS FOR GRANTS.—The Secretary shall make a grant under this section only if the grant applicant provides satisfactory assurances to the Secretary that—

''(1) sufficient funds are available to pay the non-Federal share of the cost of the proposed expansion or security upgrades; and

''(2) the proposed expansion or security upgrades meet such reasonable qualifications as may be established by the Secretary with respect to biosafety and biosecurity requirements necessary to protect facility staff, members of the public, and the food supply.

''(d) ADDITIONAL REQUIREMENTS FOR GRANTS FOR FACILITY EXPANSION.—The Secretary shall make a grant under this section for the expansion, renovation, remodeling, or alteration (collectively referred to in this section as ''expansion'') of a facility only if the grant applicant provides such assurances as the Secretary determines to be satisfactory to ensure the following:

''(1) For not less than 20 years after the grant is awarded, the facility shall be used for the purposes of the research for which the facility was expanded, as described in the grant application.

''(2) Sufficient funds will be available, as of the date of completion of the expansion, for the effective use of the facility for the purposes of the research for which the facility was expanded.

''(3) The proposed expansion—

''(A) will increase the capability of the applicant to conduct research for which the facility was expanded; or

''(B) is necessary to improve the quality of the research of the applicant.

''(e) AMOUNT OF GRANT.—The amount of a grant awarded under this section shall be determined by the Secretary.

''(f) FEDERAL SHARE.—The Federal share of the cost of any expansion or security upgrade carried out using funds from a grant provided under this section shall not exceed 50 percent.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each fiscal year.''.

(b) SENSE OF CONGRESS ON INCREASING CAPACITY FOR RESEARCH ON BIOSECURITY AND ANIMAL AND PLANT HEALTH DISEASES.—It is the sense of Congress that funding for the Agricultural Research Service, the Animal and Plant Health Inspection Service, and other agencies of the Department of Agriculture with responsibilities for biosecurity should be increased as necessary to improve the capacity of the agencies to conduct research and analysis of, and respond to, bioterrorism and animal and plant diseases.

SEC. 7222. INDIRECT COSTS FOR SMALL BUSINESS INNOVATION RESEARCH GRANTS.

Section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Except''; and

(2) by adding at the end the following:

''(b) EXCEPTION.—Subsection (a) shall not apply to a grant awarded competitively under section 9 of the Small Business Act (15 U.S.C. 638).''.

SEC. 7223. CARBON CYCLE RESEARCH.

Section 221 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 114 Stat. 407), as amended by section 9009 of this Act, is amended—

(1) in subsection (a), by striking ''Of the amount'' and all that follows through ''to provide'' and inserting ''To the extent funds are made available for this purpose, the Secretary shall provide'';

(2) in subsection (f), by striking ''under subsection (a)'' and inserting ''for this section''; and

(3) by adding at the end the following new subsection:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2002 through 2007 such sums as may be necessary to carry out this section.''.

Subtitle C—Repeal of Certain Activities and Authorities

SEC. 7301. FOOD SAFETY RESEARCH INFORMATION OFFICE AND NATIONAL CONFERENCE.

(a) REPEAL.—Subsections (b) and (c) of section 615 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7654(b) and (c)) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) GENERALLY.—Section 615 of such Act is amended—

(A) in the section heading, by striking ***"AND NATIONAL CONFERENCE"****;*

(B) by striking ''(a) FOOD SAFETY RESEARCH INFORMATION OFFICE.—'';

(C) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively, and moving the margins 2 ems to the left;

(D) in subsection (b) (as so redesignated), by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and moving the margins 2 ems to the left; and

(E) in subsection (c) (as so redesignated), by striking ''this subsection'' and inserting ''this section''.

(2) TABLE OF SECTIONS.—The table of sections for such Act is amended by striking ''and National Conference'' in the item relating to section 615.

SEC. 7302. REIMBURSEMENT OF EXPENSES UNDER SHEEP PROMOTION, RESEARCH, AND INFORMATION ACT OF 1994.

Section 617 of the Agricultural Research, Extension, and Education Reform Act of 1998 (Public Law 105–185; 112 Stat. 607) is repealed.

SEC. 7303. MARKET EXPANSION RESEARCH.

Section 1436 of the Food Security Act of 1985 (7 U.S.C. 1632) is repealed.

SEC. 7304. NATIONAL ADVISORY BOARD ON AGRICULTURAL WEATHER.

(a) REPEAL.—Section 1639 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5853) is repealed.

(b) CONFORMING AMENDMENT.—Section 1640(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5854(b)) is amended by striking ''take into'' and all that follows through ''Weather and''.

SEC. 7305. AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND.

Section 1420 of the National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1551) is repealed.

SEC. 7306. PESTICIDE RESISTANCE STUDY.

Section 1437 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1558) is repealed.

SEC. 7307. EXPANSION OF EDUCATION STUDY.

Section 1438 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1559) is repealed.

SEC. 7308. TASK FORCE ON 10-YEAR STRATEGIC PLAN FOR AGRICULTURAL RESEARCH FACILITIES.

(a) REPEAL.—Section 4 of the Research Facilities Act (7 U.S.C. 390b) is repealed.

(b) CONFORMING AMENDMENT.—Section 2 of such Act (7 U.S.C. 390) is amended by striking paragraph (5).

Subtitle D—New Authorities

SEC. 7401. SUBTITLE DEFINITIONS.

In this subtitle:

(1) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 7402. RESEARCH EQUIPMENT GRANTS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1462 (7 U.S.C. 3310) the following:

''SEC. 1462A. RESEARCH EQUIPMENT GRANTS.

''(a) IN GENERAL.—The Secretary may make competitive grants for the acquisition of special purpose scientific research equipment for use in the food and agricultural sciences programs of eligible institutions described in subsection (b).

''(b) ELIGIBLE INSTITUTIONS.—The Secretary may make a grant under this section to—

''(1) a college or university; or

''(2) a State cooperative institution.

''(c) MAXIMUM AMOUNT.—The amount of a grant made to an eligible institution under this section may not exceed $500,000.

''(d) PROHIBITION ON CHARGE OF EQUIPMENT AS INDIRECT COSTS.—The cost of acquisition or depreciation of equipment purchased with a grant under this section shall not be—

''(1) charged as an indirect cost against another Federal grant; or

''(2) included as part of the indirect cost pool for purposes of calculating the indirect cost rate of an eligible institution.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.''.

SEC. 7403. JOINT REQUESTS FOR PROPOSALS.

(a) PURPOSES.—The purposes of this section are—

(1) to reduce the duplication of administrative functions relating to grant awards and administration among Federal agencies conducting similar types of research, education, and extension programs;

(2) to maximize the use of peer review resources in research, education, and extension programs; and

(3) to reduce the burden on potential recipients that may offer similar proposals to receive competitive grants under different Federal programs in overlapping subject areas.

(b) AUTHORITY.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473A (7 U.S.C. 3319a) the following:

''SEC. 1473B. JOINT REQUESTS FOR PROPOSALS.

''(a) IN GENERAL.—In carrying out any competitive agricultural research, education, or extension grant program authorized under this or any other Act, the Secretary may cooperate with 1 or more other Federal agencies (including the National Science Foundation) in issuing joint requests for proposals, awarding grants, and administering grants, for similar or related research, education, or extension projects or activities.

''(b) ADMINISTRATION.—

''(1) SECRETARY.—The Secretary may delegate authority to issue requests for proposals, make grant awards, or administer grants, in whole or in part, to a cooperating Federal agency.

''(2) COOPERATING FEDERAL AGENCY.—The cooperating Federal agency may delegate to the Secretary authority to issue requests for proposals, make grant awards, or administer grants, in whole or in part.

''(c) REGULATIONS.—The Secretary and a cooperating Federal agency may agree to make applicable to recipients of grants—

''(1) the post-award grant administration regulations applicable to recipients of grants from the Secretary; or

''(2) the post-award grant administration regulations applicable to recipients of grants from the cooperating Federal agency.

''(d) JOINT PEER REVIEW PANELS.—Subject to section 1413B, the Secretary and a cooperating Federal agency may establish joint peer review panels for the purpose of evaluating grant proposals.''.

SEC. 7404. REVIEW OF AGRICULTURAL RESEARCH SERVICE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force to—

(1) conduct a review of the Agricultural Research Service; and

(2) evaluate the merits of establishing one or more National Institutes focused on disciplines important to the progress of food and agricultural science.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall consist of 8 members, appointed by the Secretary, that—

(A) have a broad-based background in plant, animal, and agricultural sciences research, food, nutrition, biotechnology, crop production methods, environmental science, or related disciplines; and

(B) are familiar with the role and infrastructure used to conduct Federal and private research, including—

(i) the Agricultural Research Service;

(ii) the National Institutes of Health;

(iii) the National Science Foundation;

(iv) the National Aeronautics and Space Administration;

(v) the Department of Energy laboratory system; or

(vi) the Cooperative State Research, Education, and Extension Service.

(2) PRIVATE SECTOR.—Of the members appointed under paragraph (1), the Secretary shall appoint at least 6 members that are members of the private sector or come from institutions of higher education.

(3) PLANT AND AGRICULTURAL SCIENCES RESEARCH.—Of the members appointed under paragraph (1), the Secretary shall appoint at least 3 members that have an extensive background and preeminence in the field of plant, animal, and agricultural sciences research.

(4) CHAIRPERSON.—Of the members appointed under paragraph (1), the Secretary shall designate a Chairperson that has significant leadership experience in educational and research institutions and indepth knowledge of the research enterprises of the United States.

(5) CONSULTATION.—Before appointing members of the Task Force under this subsection, the Secretary shall consult with the National Academy of Sciences and the Office of Science and Technology Policy.

(c) DUTIES.—The Task Force shall—

(1) conduct a review of the purpose, efficiency, effectiveness, and impact on agricultural research of the Agricultural Research Service;

(2) conduct a review and evaluation of the merits of establishing one or more National Institutes (such as National Institutes for Plant and Agricultural Sciences) focused on disciplines important to the progress of food and agricultural sciences, and, if establishment of one or more National Institutes is recommended, provide further recommendations to the Secretary, including the structure for establishing each Institute, the multistate area location of each Institute, and the amount of funding necessary to establish each Institute; and

(3) submit the reports required by subsection (d).

(d) REPORTS.—Not later than 12 months after the date of enactment of this Act, the Task Force shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary—

(1) a report on the review and evaluation required under subsection (c)(1); and

(2) a report on the review and evaluation required under subsection (c)(2).

(e) FUNDING.—The Secretary shall use to carry out this section not more than 0.1 percent of the amount of appropriations available to the Agricultural Research Service for fiscal year 2003.

SEC. 7405. BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.

(a) DEFINITION OF BEGINNING FARMER OR RANCHER.—In this section, the term ''beginning farmer or rancher'' means a person that—

(1)(A) has not operated a farm or ranch; or

(B) has operated a farm or ranch for not more than 10 years; and

(2) meets such other criteria as the Secretary may establish.

(b) PROGRAM.—The Secretary shall establish a beginning farmer and rancher development program to provide training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers.

(c) GRANTS.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall make competitive grants to support new and established local and regional training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers, including programs and services (as appropriate) relating to—

(A) mentoring, apprenticeships, and internships;

(B) resources and referral;

(C) assisting beginning farmers or ranchers in acquiring land from retiring farmers and ranchers;

(D) innovative farm and ranch transfer strategies;

(E) entrepreneurship and business training;

(F) model land leasing contracts;

(G) financial management training;

(H) whole farm planning;

(I) conservation assistance;

(J) risk management education;

(K) diversification and marketing strategies;

(L) curriculum development;

(M) understanding the impact of concentration and globalization;

(N) basic livestock and crop farming practices;

(O) the acquisition and management of agricultural credit;

(P) environmental compliance;

(Q) information processing; and

(R) other similar subject areas of use to beginning farmers or ranchers.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, the recipient shall be a collaborative State, tribal, local, or regionally-based network or partnership of public or private entities, which may include—

(A) a State cooperative extension service;

(B) a Federal, State, or tribal agency;

(C) a community-based and nongovernmental organization;

(D) a college or university (including an institution awarding an associate's degree) or foundation maintained by a college or university; or

(E) any other appropriate partner, as determined by the Secretary.

(3) TERM OF GRANT.—The term of a grant under this subsection shall not exceed 3 years.

(4) MATCHING REQUIREMENT.—To be eligible to receive a grant under this subsection, a recipient shall provide a match in the form of cash or in-kind contributions in an amount equal to 25 percent of the funds provided by the grant.

(5) SET-ASIDE.—Not less than 25 percent of funds used to carry out this subsection for a fiscal year shall be used to support programs and services that address the needs of—

(A) limited resource beginning farmers or ranchers (as defined by the Secretary);

(B) socially disadvantaged beginning farmers or ranchers (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); and

(C) farmworkers desiring to become farmers or ranchers.

(6) PROHIBITION.—A grant made under this subsection may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(7) ADMINISTRATIVE COSTS.—The Secretary shall use not more than 4 percent of the funds made available to carry out this subsection for

administrative costs incurred by the Secretary in carrying out this section.

(d) EDUCATION TEAMS.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall establish beginning farmer and rancher education teams to develop curricula and conduct educational programs and workshops for beginning farmers or ranchers in diverse geographical areas of the United States.

(2) CURRICULUM.—In promoting the development of curricula, the Secretary shall, to the maximum extent practicable, include modules tailored to specific audiences of beginning farmers or ranchers, based on crop or regional diversity.

(3) COMPOSITION.—In establishing an education team for a specific program or workshop, the Secretary shall, to the maximum extent practicable—

(A) obtain the short-term services of specialists with knowledge and expertise in programs serving beginning farmers or ranchers; and

(B) use officers and employees of the Department with direct experience in programs of the Department that may be taught as part of the curriculum for the program or workshop.

(4) COOPERATION.—

(A) IN GENERAL.—In carrying out this subsection, the Secretary shall cooperate, to the maximum extent practicable, with—

(i) State cooperative extension services;

(ii) Federal and State agencies;

(iii) community-based and nongovernmental organizations;

(iv) colleges and universities (including an institution awarding an associate's degree) or foundations maintained by a college or university; and

(v) other appropriate partners, as determined by the Secretary.

(B) COOPERATIVE AGREEMENT.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into a cooperative agreement to reflect the terms of any cooperation under subparagraph (A).

(e) CURRICULUM AND TRAINING CLEARINGHOUSE.—The Secretary shall establish an online clearinghouse that makes available to beginning farmers or ranchers education curricula and training materials and programs, which may include online courses for direct use by beginning farmers or ranchers.

(f) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall seek stakeholder input from—

(1) beginning farmers and ranchers;

(2) national, State, tribal, and local organizations and other persons with expertise in operating beginning farmer and rancher programs; and

(3) the Advisory Committee on Beginning Farmers and Ranchers established under section 5 of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1929 note; Public Law 102–554).

(g) PARTICIPATION BY OTHER FARMERS AND RANCHERS.—Nothing in this section prohibits the Secretary from allowing farmers and ranchers who are not beginning farmers or ranchers from participating in programs authorized under this section to the extent that the Secretary determines that such participation is appropriate and will not detract from the primary purpose of educating beginning farmers and ranchers.

(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.

SEC. 7406. SENSE OF CONGRESS REGARDING DOUBLING OF FUNDING FOR AGRICULTURAL RESEARCH.

It is the sense of Congress that—

(1) Federal funding for food and agricultural research has been essentially constant for 2 decades, putting at risk the scientific base on which food and agricultural advances have been made;

(2) the resulting increase in the relative proportion of private sector, industry investments in food and agricultural research has led to questions about the independence and objectivity of research and outreach conducted by the Federal and university research sectors; and

(3) funding for food and agricultural research should be at least doubled over the next 5 fiscal years—

(A) to restore the balance between public and private sector funding for food and agricultural research; and

(B) to maintain the scientific base on which food and agricultural advances are made.

SEC. 7407. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.

The Secretary shall ensure that segregated data on the production and marketing of organic agricultural products is included in the ongoing baseline of data collection regarding agricultural production and marketing.

SEC. 7408. INTERNATIONAL ORGANIC RESEARCH COLLABORATION.

The Secretary, acting through the Agricultural Research Service (including the National Agricultural Library) and the Economic Research Service, shall facilitate access by research and extension professionals, farmers, and other interested persons in the United States to, and the use by those persons of, organic research conducted outside the United States.

SEC. 7409. REPORT ON PRODUCERS AND HANDLERS OF ORGANIC AGRICULTURAL PRODUCTS.

Not later than 1 year after funds are made available to carry out this section, the Secretary shall submit to Congress a report that—

(1) describes—

(A) the extent to which producers and handlers of organic agricultural products are contributing to research and promotion programs of the Department;

(B) the extent to which producers and handlers of organic agricultural products are surveyed for ideas for research and promotion;

(C) ways in which the programs reflect the contributions made by producers and handlers of organic agricultural products and directly benefit the producers and handlers; and

(D) the implementation of initiatives that directly benefit organic producers and handlers; and

(2) evaluates industry and other proposals for improving the treatment of certified organic agricultural products under Federal marketing orders, including proposals to target additional resources for research and promotion of organic products and to differentiate between certified organic and other products in new or existing volume limitations or other orderly marketing requirements.

SEC. 7410. REPORT ON GENETICALLY MODIFIED PEST-PROTECTED PLANTS.

It is the sense of Congress that, not later than 1 year after the date of enactment of this Act, the Secretary should—

(1) review the recommendations of the Committee on Genetically Modified Pest-Protected Plants of the Board on Agriculture and Natural Resources of the National Research Council made during 2000 and the Committee on Environmental Impacts Associated with Commercialization of Transgenic Plants made during 2002, concerning food safety, ecological research, monitoring needs for transgenic crops with plant incorporated protectants, and the environmental effects of transgenic plants; and

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes actions taken to implement those recommendations by agencies within the Department, including agencies that develop or implement programs or objectives relating to marketing, regulation, food safety, research, education, or economics.

SEC. 7411. STUDY OF NUTRIENT BANKING.

(a) IN GENERAL.—The Secretary may conduct a study to evaluate nutrient banking for the purpose of enhancing the health and viability of watersheds in areas with large concentrations of animal producing units.

(b) COMPONENTS.—In conducting any study under subsection (a), the Secretary shall evaluate the costs, needs, and means by which litter may be collected and distributed outside the applicable watershed to reduce potential point source and nonpoint source phosphorous pollution.

(c) REPORT.—The Secretary 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 that describes the results of any study conducted under subsection (a).

SEC. 7412. GRANTS FOR YOUTH ORGANIZATIONS.

Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) (as amended by section 7206(e)) is amended by adding at the end the following:

"SEC. 410. GRANTS FOR YOUTH ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Cooperative State Research, Education, and Extension Service, shall make grants to the Girl Scouts of the United States of America, the Boy Scouts of America, the National 4–H Council, and the National FFA Organization to establish pilot projects to expand the programs carried out by the organizations in rural areas and small towns (including, with respect to the National 4–H Council, activities provided for in Public Law 107–19 (115 Stat. 153)).

''(b) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available $8,000,000 for fiscal year 2002, which shall remain available until expended.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2003 through 2007.''.

Subtitle E—Miscellaneous

SEC. 7501. RESIDENT INSTRUCTION AND DISTANCE EDUCATION AT INSTITUTIONS OF HIGHER EDUCATION IN UNITED STATES INSULAR AREAS.

(a) PURPOSE.—It is the purpose of this subtitle to promote and strengthen higher education in the food and agricultural sciences at institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) that have demonstrable capacity to carry out teaching and extension programs in food and agricultural sciences and that are located in the insular areas of the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau by formulating and administering programs to enhance teaching programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agriculture production and delivery systems.

SEC. 7502. DEFINITIONS.

(a) IN GENERAL.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) by redesignating paragraphs (10) through (17) as paragraphs (11) through (18), respectively;

(2) by inserting after paragraph (9) the following:

''(10) INSULAR AREA.—The term 'insular area' means—

''(A) the Commonwealth of Puerto Rico;

''(B) Guam;

''(C) American Samoa;

''(D) the Commonwealth of the Northern Mariana Islands;

''(E) the Federated States of Micronesia;

''(F) the Republic of the Marshall Islands;

''(G) the Republic of Palau; and

''(H) the Virgin Islands of the United States.''; and

(3) by striking paragraph (13) (as so redesignated) and inserting the following:

''(13) STATE.—The term 'State' means—

''(A) a State;

''(B) the District of Columbia; and

''(C) any insular area.''.

(b) EFFECT OF AMENDMENTS.—The amendments made by subsection (a) shall not affect any basis for distribution of funds by formula (in effect on the date of enactment of this Act) to—

(1) the Federated States of Micronesia;

(2) the Republic of the Marshall Islands; or

(3) the Republic of Palau.

SEC. 7503. RESIDENT INSTRUCTION AND DISTANCE EDUCATION GRANTS PROGRAM FOR INSULAR AREA INSTITUTIONS OF HIGHER EDUCATION.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"Subtitle O—Institutions of Higher Education in Insular Areas

"SEC. 1489. DEFINITION.

''For the purposes of this subtitle, the term 'eligible institution' means an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in an insular area that has demonstrable capacity to carry out teaching and extension programs in the food and agricultural sciences.

"SEC. 1490. DISTANCE EDUCATION GRANTS FOR INSULAR AREAS.

''(a) IN GENERAL.—The Secretary may make competitive or noncompetitive grants to eligible institutions in insular areas to strengthen the capacity of such institutions to carry out distance food and agricultural education programs using digital network technologies.

''(b) USE.—Grants made under this section shall be used—

''(1) to acquire the equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure necessary to teach students and teachers about technology in the classroom;

''(2) to develop and provide educational services (including faculty development) to prepare students or faculty seeking a degree or certificate that is approved by the State or a regional accrediting body recognized by the Secretary of Education;

''(3) to provide teacher education, library and media specialist training, and preschool and teacher aid certification to individuals who seek to acquire or enhance technology skills in order to use technology in the classroom or instructional process;

''(4) to implement a joint project to provide education regarding technology in the classroom with a local educational agency, community-based organization, national nonprofit organization, or business; or

''(5) to provide leadership development to administrators, board members, and faculty of eligible institutions with institutional responsibility for technology education.

''(c) LIMITATION ON USE OF GRANT FUNDS.—Funds provided under this section shall not be used for the planning, acquisition, construction, rehabilitation, or repair of a building or facility.

''(d) ADMINISTRATION OF PROGRAM.—The Secretary may carry out this section in a manner that recognizes the different needs and opportunities for eligible institutions in the Atlantic and Pacific Oceans.

''(e) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—The Secretary may establish a requirement that an eligible institution receiving a grant under this section shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the grant.

''(2) WAIVERS.—If the Secretary establishes a matching requirement under paragraph (1), the Secretary shall retain an option to waive the requirement for an eligible institution for any fiscal year if the Secretary determines that the institution will be unlikely to meet the matching requirement for the fiscal year.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.

"SEC. 1491. RESIDENT INSTRUCTION GRANTS FOR INSULAR AREAS.

''(a) IN GENERAL.—The Secretary of Agriculture shall make competitive grants to eligible institutions to—

''(1) strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international education needs in the food and agricultural sciences;

''(2) attract and support undergraduate and graduate students in order to educate them in identified areas of national need in the food and agriculture sciences;

''(3) facilitate cooperative initiatives between two or more insular area eligible institutions, or between those institutions and units of State Government or organizations in the private sector, to maximize the development and use of resources such as faculty, facilities, and equipment to improve food and agricultural sciences teaching programs; and

''(4) conduct undergraduate scholarship programs to assist in meeting national needs for training food and agricultural scientists

''(b) GRANT REQUIREMENTS.—

''(1) The Secretary of Agriculture shall ensure that each eligible institution, prior to receiving grant funds under subsection (a), shall have a significant demonstrable commitment to higher education programs in the food and agricultural sciences and to each specific subject area for which grant funds under this section are to be used.

''(2) The Secretary of Agriculture may require that any grant awarded under this section contain provisions that require funds to be targeted to meet the needs identified in section 1402.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 2002 through 2007 to carry out this section.''.

SEC. 7504. DECLARATION OF EXTRAORDINARY EMERGENCY AND RESULTING AUTHORITIES.

(a) REVIEW OF PAYMENT OF COMPENSATION.—Section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)) is amended by inserting before the final period the following: ''or a review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary''.

(b) REVIEW OF CERTAIN DECISIONS.—Section 442 of the Plant Protection Act (7 U.S.C. 7772) is amended by adding at the end the following new subsection:

''(c) SECRETARIAL DISCRETION.—The action of any officer, employee, or agent of the Secretary in carrying out this Act, including determining the amount of and making any payment authorized to be made under this title, shall not be subject to a review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.''.

(c) METHYL BROMIDE.—The Plant Protection Act (7 U.S.C. 7701 et seq.) is amended by inserting after section 418 the following new section:

"SEC. 419. METHYL BROMIDE.

''(a) IN GENERAL.—The Secretary, upon request of State, local, or tribal authorities, shall determine whether methyl bromide treatments or applications required by State, local, or tribal authorities to prevent the introduction, establishment, or spread of plant pests (including diseases) or noxious weeds should be authorized as an official control or official requirement. The Secretary shall not authorize such treatments or applications unless the Secretary finds there is no other registered, effective, and economically feasible alternative available.

''(b) METHYL BROMIDE ALTERNATIVE.—The Secretary, in consultation with State, local and tribal authorities, shall establish a program to identify alternatives to methyl bromide for treatment and control of plant pests and weeds. For uses where no registered, effective, economically feasible alternatives available can currently be identified, the Secretary shall initiate research programs to develop alternative methods of control and treatment.

''(c) REGISTRY.—Not later than 180 days after the date of enactment of this section, the Secretary shall publish, and thereafter maintain, a registry of State, local, and tribal requirements authorized by the Secretary under this section.

''(d) ADMINISTRATION.—

''(1) TIMELINE FOR DETERMINATION.—Upon the promulgation of regulations to carry out this section, the Secretary shall make the determination required by subsection (a) not later than 90 days after receiving the request for such a determination.

''(2) CONSTRUCTION.—Nothing in this section shall be construed to alter or modify the authority of the Administrator of the Environmental Protection Agency or to provide any authority to the Secretary of Agriculture under the Clean Air Act or regulations promulgated under the Clean Air Act.''.

SEC. 7505. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.

Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following:

"SEC. 411. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.

''(a) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(A) an institution of higher education that offers a curriculum in agriculture or the biosciences;

''(B) a nonprofit organization; or

''(C) a consortium of for-profit institutions and agricultural research institutions.

''(b) GRANT PROGRAM.—

''(1) IN GENERAL.—The Secretary (acting through the Foreign Agricultural Service) shall establish and administer a program to make competitive grants to eligible entities to develop agricultural biotechnology for developing countries.

''(2) USE OF FUNDS.—Funds provided to an eligible entity under this section may be used for projects that use biotechnology to—

''(A) enhance the nutritional content of agricultural products that can be grown in developing countries;

''(B) increase the yield and safety of agricultural products that can be grown in developing countries;

''(C) increase the yield of agricultural products that are drought- and stress-resistant and that can be grown in developing countries;

''(D) extend the growing range of crops that can be grown in developing countries;

''(E) enhance the shelf-life of fruits and vegetables grown in developing countries;

''(F) develop environmentally sustainable agricultural products that can be grown in developing countries; and

''(G) develop vaccines to immunize against life-threatening illnesses and other medications that can be administered by consuming genetically-engineered agricultural products.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2002 through 2007.''.

SEC. 7506. LAND ACQUISITION AUTHORITY, NATIONAL PEANUT RESEARCH LABORATORY, DAWSON, GEORGIA.

The limitation on the authority of the Agricultural Research Service to acquire lands by purchase using funds appropriated under the heading AGRICULTURAL RESEARCH SERVICE-SALARIES AND EXPENSES in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76; 115 Stat. 708), shall not apply to the purchase of land for a research farm for the National Peanut Research Laboratory in Dawson, Georgia, for which a lease with an option to purchase has been entered into before the date of enactment of this Act.

TITLE VIII—FORESTRY

Subtitle A—Cooperative Forestry Assistance Act of 1978

SEC. 8001. REPEAL OF FORESTRY INCENTIVES PROGRAM AND STEWARDSHIP INCENTIVE PROGRAM.

(a) REPEAL.—The Cooperative Forestry Assistance Act of 1978 is amended by striking section 4 (16 U.S.C. 2103) and section 6 (16 U.S.C. 2103b).

(b) USE OF REMAINING FUNDS.—Notwithstanding the amendment made by subsection (a), the Secretary of Agriculture may use funds appropriated for fiscal year 2002 for the forestry incentives program or the stewardship incentive program, but not expended before the date of enactment of this Act, to carry out sections 4 and 6 of the Cooperative Forestry Assistance Act of 1978, as in effect on the date before the date of enactment of this Act.

SEC. 8002. ESTABLISHMENT OF FOREST LAND ENHANCEMENT PROGRAM.

(a) PURPOSES.—The purposes of this section are—

(1) to strengthen the commitment of the Secretary of Agriculture to sustainable forest management to enhance the productivity of timber, fish and wildlife habitat, soil and water quality, wetland, recreational resources, and aesthetic values of forest land; and

(2) to establish a coordinated and cooperative Federal, State, and local sustainable forestry program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest land.

(b) FOREST LAND ENHANCEMENT PROGRAM.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 3 (16 U.S.C. 2102) the following:

"SEC. 4. FOREST LAND ENHANCEMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary of Agriculture shall establish a forest land enhancement program—

''(A) to provide financial assistance to State foresters; and

''(B) to encourage the long-term sustainability of nonindustrial private forest lands in the United States by assisting the owners of nonindustrial private forest lands, through State foresters, in more actively managing the nonindustrial private forest lands and related resources of those owners through the use of State, Federal, and private sector resource management expertise, financial assistance, and educational programs.

''(2) COORDINATION AND CONSULTATION.—The Secretary, acting through State foresters, shall implement the program—

''(A) in coordination with the State Forest Stewardship Coordinating Committees; and

''(B) in consultation with other Federal, State, and local natural resource management agencies, institutions of higher education, and a broad range of private sector interests.

''(b) PROGRAM OBJECTIVES.—In implementing the program, the Secretary shall target resources to achieve the following objectives:

''(1) Investing in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of the nonindustrial private forest lands in the United States for timber, habitat for flora and fauna, soil, water, and air quality, wetlands, and riparian buffers.

''(2) Ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest resources and provide environmental benefits.

''(3) Reducing the risks and helping restore, recover, and mitigate the damage to forests caused by fire, insects, invasive species, disease, and damaging weather.

''(4) Increasing and enhancing carbon sequestration opportunities.

''(5) Enhancing implementation of agroforestry practices.

''(6) Maintaining and enhancing the forest landbase and leverage State and local financial and technical assistance to owners that promote the same conservation and environmental values.

''(7) Preserving the aesthetic quality of nonindustrial private forest lands and providing opportunities for outdoor recreation.

''(c) STATE PRIORITY PLAN.—

''(1) DEVELOPMENT.—The State Forester and State Forest Stewardship Coordinating Committee of a State shall jointly develop and submit to the Secretary a State priority plan that is intended to promote forest management objectives in that State.

''(2) REPORT.—Not later than September 30, 2006, each State that implemented a State priority plan shall submit to the Secretary a report describing the status of all activities and practices funded under the program as of that date.

''(d) OWNER ELIGIBILITY FOR ASSISTANCE.—

''(1) ELIGIBILITY CRITERIA.—To be eligible for cost-share assistance under the program, an owner of nonindustrial private forest lands shall agree—

''(A) to develop and implement, in cooperation with a State forester, another State official, or a professional resources manager, a management plan that—

''(i) except as provided in paragraph (2) or (3), provides for the treatment of not more than 1,000 acres of nonindustrial private forest lands;

''(ii) is approved by the State forester; and

''(iii) addresses site specific activities and practices; and

''(B) to implement approved activities and practices in a manner consistent with the management plan for a period of not less than 10 years, unless the State forester approves a modification to the plan.

''(2) PUBLIC BENEFIT EXCEPTION.—The Secretary may increase the acreage limitation specified in paragraph (1)(A)(i) to not more than 5,000 acres for an owner of nonindustrial private forest lands if the Secretary, in consultation with the State forester, determines that significant public benefits will accrue as a result of the provision of cost-share assistance under the program for the treatment of the additional acreage.

''(3) PLAN DEVELOPMENT EXCEPTION.—An owner may receive cost-share assistance under the program for the purpose of developing a management plan under subsection (e) that provides for the treatment of acreage in excess of the acreage limitations specified in paragraphs (1)(A)(i) and (2), except that the owner's eligibility for cost-share assistance to implement approved activities and practices under the management plan remains subject to the acreage limitation specified in paragraph (1)(A)(i) or, if the Secretary makes the determination described in paragraph (2), the acreage limitation specified in that paragraph.

''(e) MANAGEMENT PLAN.—

''(1) SUBMISSION AND CONTENT.—An owner of nonindustrial private forest lands that seeks to participate in the program shall submit to the State forester of the State in which the lands are located a management plan that—

''(A) identifies and describes projects and activities to be carried out by the owner to protect or enhance soil, water, air, range and aesthetic quality, recreation, timber, water, wetland, or fish and wildlife resources on the lands in a manner that is compatible with the objectives of the owner;

''(B) addresses any criteria established by the State and the applicable Committee; and

''(C) meets the other requirements of this section.

''(2) LANDS COVERED.—At a minimum, the management plan shall apply to those portions of the nonindustrial private forest lands of the owner on which any project or activity funded under the program will be carried out. In a case in which a project or activity may affect acreage outside the portion of the land on which the project or activity is carried out, the management plan shall apply to all lands of the owner that are in forest cover and may be affected by the project or activity.

''(f) APPROVED ACTIVITIES.—

''(1) STATE LIST.—The Secretary shall develop for each State a list of approved forest activities and practices eligible for cost-share assistance that meets the purposes of the program. The Secretary shall develop the list for a State in consultation with the State forester and the Committee for that State.

''(2) TYPES OF ACTIVITIES.—Approved activities and practices under paragraph (1) may consist of activities and practices for the following purposes:

''(A) The establishment, management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes.

''(B) The sustainable growth and management of forests for timber production.

''(C) The restoration, use, and enhancement of forest wetland and riparian areas.

''(D) The protection of water quality and watersheds through—

''(i) the planting of trees in riparian areas; and

''(ii) the enhanced management and maintenance of native vegetation on land vital to water quality.

''(E) The management, maintenance, restoration, or development of habitat for plants, fish, and wildlife.

''(F) The control, detection, monitoring, and prevention of the spread of invasive species and pests on nonindustrial private forest lands.

''(G) The restoration of nonindustrial private forest land affected by invasive species and pests.

''(H) The conduct of other management activities, such as the reduction of hazardous fuels, that reduce the risks to forests posed by, and that restore, recover, and mitigate the damage to forests caused by, fire or any other catastrophic event, as determined by the Secretary.

''(I) The development of management plans;

''(J) The conduct of energy conservation and carbon sequestration activities.

''(K) The conduct of other activities approved by the Secretary, in consultation with the State forester and the appropriate Committees.

''(g) REIMBURSEMENT OF ELIGIBLE ACTIVITIES.—

''(1) IN GENERAL.—In the case of an eligible owner that has an approved management plan, the Secretary shall share the cost of implementing the approved activities and practices that the Secretary determines are appropriate.

''(2) RATE.—The Secretary shall determine the appropriate reimbursement rate for cost-share payments under paragraph (1) and the schedule for making those payments.

''(3) MAXIMUM COST SHARE.—The Secretary shall not make cost-share payments under this subsection to an owner in an amount in excess of 75 percent, or a lower percentage as determined by the State forester, of the total cost to

the owner to implement the approved activities and practices under the management plan.

''(4) AGGREGATE PAYMENT LIMIT.—The Secretary shall determine the maximum aggregate amount of cost-share payments that an owner may receive under the program.

''(5) CONSULTATION.—The Secretary shall make determinations under this subsection in consultation with the State forester.

''(h) RECAPTURE.—

''(1) IN GENERAL.—The Secretary shall establish and implement a mechanism to recapture payments made to an owner in the event that the owner fails to implement an approved activity or practice specified in the management plan for which the owner received cost-share payments.

''(2) ADDITIONAL REMEDY.—The remedy provided in paragraph (1) is in addition to any other remedy available to the Secretary.

''(i) DISTRIBUTION OF COST-SHARE FUNDS.—The Secretary, acting through the State foresters, shall distribute funds available for cost sharing under the program only after giving appropriate consideration to the following factors:

''(1) The public benefits that would result from the distribution.

''(2) The total acreage of nonindustrial private forest lands in each State.

''(3) The potential productivity of those lands, as determined by the Secretary.

''(4) The number of owners eligible for cost sharing in each State.

''(5) The opportunities to enhance nontimber resources on those lands, including—

''(A) the protection of riparian buffers and forest wetland;

''(B) the preservation of fish and wildlife habitat;

''(C) the enhancement of soil, air, and water quality; and

''(D) the preservation of aesthetic quality and opportunities for outdoor recreation.

''(6) The anticipated demand for timber and nontimber resources in each State.

''(7) The need to improve forest health to minimize the damaging effects of catastrophic fire, insects, disease, or weather.

''(8) The need and demand for agroforestry practices in each State.

''(9) The need to maintain and enhance the forest landbase.

''(10) The need for afforestation, reforestation, and timber stand improvement.

''(j) AVAILABILITY OF FUNDS.—The Secretary shall use $100,000,000 of funds of the Commodity Credit Corporation to carry out the Program during the period beginning on the date of enactment of the Farm Security and Rural Investment Act of 2002 and ending on September 30, 2007.

''(k) DEFINITIONS.—In this section:

''(1) NONINDUSTRIAL PRIVATE FOREST LANDS.—The term 'nonindustrial private forest lands' means rural lands, as determined by the Secretary, that—

''(A) have existing tree cover or are suitable for growing trees; and

''(B) are owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation, tribe, or entity has definitive decision-making authority over the lands.

''(2) COMMITTEE.—The terms 'State Forest Stewardship Coordinating Committee' and 'Committee' means a State Forest Stewardship Coordinating Committee established under section 19(b).

''(3) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(4) OWNER.—The term 'owner' means an owner of nonindustrial private forest land.

''(5) PROGRAM.—The term 'program' means the forest land enhancement program established by this section.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(7) STATE FORESTER.—The term 'State forester' means the director or other head of a State Forestry Agency or equivalent State official.''.

(c) CONFORMING AMENDMENT.—Section 246(b)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(2)) is amended by striking ''forestry incentive program'' and inserting ''forest land enhancement program''.

SEC. 8003. ENHANCED COMMUNITY FIRE PROTECTION.

(a) FINDINGS.—Congress finds the following:

(1) The severity and intensity of wildland fires has increased dramatically over the past few decades as a result of past fire and land management policies.

(2) The record 2000 fire season is a prime example of what can be expected if action is not taken.

(3) Wildland fires threaten not only the forested resources of the United States, but also the thousands of communities intermingled with the wildlands in the wildland-urban interface.

(4) The National Fire Plan, if implemented to achieve appropriate priorities, is the proper, coordinated, and most effective means to address the issue of wildfires.

(5) While adequate authorities exist to tackle the wildfire issues at the landscape level on Federal lands, there is limited authority to take action on most private lands, and the largest threat to life and property exists on private lands.

(6) There is a significant Federal interest in enhancing community protection from wildfire.

(b) ENHANCED PROTECTION.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 10 (16 U.S.C. 2106) the following:

"SEC. 10A. ENHANCED COMMUNITY FIRE PROTECTION.

''(a) COOPERATIVE MANAGEMENT RELATED TO WILDFIRE THREATS.—The Secretary may cooperate with State foresters and equivalent State officials in the management of lands in the United States for the following purposes:

''(1) Aid in wildfire prevention and control.

''(2) Protect communities from wildfire threats.

''(3) Enhance the growth and maintenance of trees and forests that promote overall forest health.

''(4) Ensure the continued production of all forest resources, including timber, outdoor recreation opportunities, wildlife habitat, and clean water, through conservation of forest cover on watersheds, shelterbelts, and windbreaks.

''(b) COMMUNITY AND PRIVATE LAND FIRE ASSISTANCE PROGRAM.—

''(1) ESTABLISHMENT; PURPOSE.—The Secretary shall establish a Community and Private Land Fire Assistance program (in this subsection referred to as the 'Program')—

''(A) to focus the Federal role in promoting optimal firefighting efficiency at the Federal, State, and local levels;

''(B) to augment Federal projects that establish landscape level protection from wildfires;

''(C) to expand outreach and education programs to homeowners and communities about fire prevention; and

''(D) to establish space around homes and property of private landowners that is defensible against wildfires.

''(2) ADMINISTRATION AND IMPLEMENTATION.—The Program shall be administered by the Forest Service and implemented through State foresters or equivalent State officials.

''(3) COMPONENTS.—In coordination with existing authorities under this Act, the Secretary, in consultation with the State forester or equivalent State official, may undertake on non-Federal lands—

''(A) fuel hazard mitigation and prevention;

''(B) invasive species management;

''(C) multiresource wildfire planning;

''(D) community protection planning;

''(E) community and landowner education enterprises, including the program known as FIREWISE;

''(F) market development and expansion;

''(G) improved wood utilization; and

''(H) special restoration projects.

''(4) CONSENT REQUIRED.—Program activities undertaken by the Secretary on non-Federal lands shall be undertaken only with the consent of the owner of the lands.

''(5) CONSIDERATIONS.—The Secretary shall use persons in the local community wherever possible to carry out projects under the Program.

''(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Administrator of the United States Fire Administration, the Director of the National Institute of Standards and Technology, and the heads of other Federal agencies, as necessary.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary to carry out this section—

(1) $35,000,000 for each of fiscal years 2002 through 2007; and

(2) such sums as are necessary for fiscal years thereafter.''.

Subtitle B—Amendments to Other Laws

SEC. 8101. SUSTAINABLE FORESTRY OUTREACH INITIATIVE; RENEWABLE RESOURCES EXTENSION ACTIVITIES.

(a) SUSTAINABLE FORESTRY OUTREACH INITIATIVE.—The Renewable Resources Extension Act of 1978 is amended by inserting after section 5A (16 U.S.C. 1674a) the following:

"SEC. 5B. SUSTAINABLE FORESTRY OUTREACH INITIATIVE.

''The Secretary shall establish a program, to be known as the 'Sustainable Forestry Outreach Initiative', to educate landowners concerning the following:

''(1) The value and benefits of practicing sustainable forestry.

''(2) The importance of professional forestry advice in achieving sustainable forestry objectives.

''(3) The variety of public and private sector resources available to assist the landowners in planning for and practicing sustainable forestry.''.

(b) RENEWABLE RESOURCES EXTENSION ACTIVITIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended by striking the first sentence and inserting the following: ''There is authorized to be appropriated to carry out this Act $30,000,000 for each of fiscal years 2002 through 2007.''.

(2) TERMINATION DATE.—Section 8 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 note; Public Law 95–306) is amended by striking ''2000'' and inserting ''2007''.

SEC. 8102. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405(d) of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6704(d)) is amended by striking ''2002'' and inserting ''2007''.

Subtitle C—Miscellaneous Provisions

SEC. 8201. MCINTIRE-STENNIS COOPERATIVE FORESTRY RESEARCH PROGRAM.

It is the sense of Congress to reaffirm the importance of Public Law 87–788 (16 U.S.C. 582a et seq.), commonly known as the ''McIntire-Stennis Cooperative Forestry Act''.

TITLE IX—ENERGY

SEC. 9001. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BIOBASED PRODUCT.—The term ''biobased product'' means a product determined by the

Secretary to be a commercial or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products or renewable domestic agricultural materials (including plant, animal, and marine materials) or forestry materials.

(3) BIOMASS.—

(A) IN GENERAL.—The term ''biomass'' means any organic material that is available on a renewable or recurring basis.

(B) INCLUSIONS.—The term ''biomass'' includes—

(i) agricultural crops;

(ii) trees grown for energy production;

(iii) wood waste and wood residues;

(iv) plants (including aquatic plants and grasses);

(v) residues;

(vi) fibers;

(vii) animal wastes and other waste materials; and

(viii) fats, oils, and greases (including recycled fats, oils, and greases).

(C) EXCLUSIONS.—The term ''biomass'' does not include—

(i) paper that is commonly recycled; or

(ii) unsegregated solid waste.

(4) RENEWABLE ENERGY.—The term ''renewable energy'' means energy derived from—

(A) a wind, solar, biomass, or geothermal source; or

(B) hydrogen derived from biomass or water using an energy source described in subparagraph (A).

(5) RURAL SMALL BUSINESS.—The term ''rural small business'' has the meaning that the Secretary shall prescribe by regulation.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 9002. FEDERAL PROCUREMENT OF BIOBASED PRODUCTS.

(a) APPLICATION OF SECTION.—Except as provided in subsection (c), each Federal agency shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds $10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was $10,000 or more.

(b) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement, by any Federal agency, which is subject to regulations of the Administrator under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962), shall not be subject to the requirements of this section to the extent that such requirements are inconsistent with such regulations.

(c) PROCUREMENT PREFERENCE.—(1) Except as provided in paragraph (2), after the date specified in applicable guidelines prepared pursuant to subsection (e) of this section, each Federal agency which procures any items designated in such guidelines shall, in making procurement decisions, give preference to such items composed of the highest percentage of biobased products practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines.

(2) AGENCY FLEXIBILITY.—Notwithstanding paragraph (1), an agency may decide not to procure such items if the agency determines that the items—

(A) are not reasonably available within a reasonable period of time;

(B) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

(C) are available only at an unreasonable price.

(3) After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting offices shall require that, with respect to biobased products, vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements.

(d) SPECIFICATIONS.—All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies shall, within one year after the date of publication of applicable guidelines under subsection (e), or as otherwise specified in such guidelines, assure that such specifications require the use of biobased products consistent with the requirements of this section.

(e) GUIDELINES.—

(1) IN GENERAL.—The Secretary, after consultation with the Administrator, the Administrator of General Services, and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall—

(A) designate those items which are or can be produced with biobased products and whose procurement by procuring agencies will carry out the objectives of this section;

(B) set forth recommended practices with respect to the procurement of biobased products and items containing such materials and with respect to certification by vendors of the percentage of biobased products used; and

(C) provide information as to the availability, relative price, performance, and environmental and public health benefits, of such materials and items and where appropriate shall recommend the level of biobased material to be contained in the procured product.

(2) CONSIDERATIONS.—In making the designation under paragraph (1)(A), the Secretary shall, at a minimum, consider—

(A) the availability of such items; and

(B) the economic and technological feasibility of using such items, including life cycle costs.

(3) FINAL GUIDELINES.—The Secretary shall prepare final guidelines under this section within 180 days after the date of enactment of this Act.

(f) OFFICE OF FEDERAL PROCUREMENT POLICY.—The Office of Federal Procurement Policy, in cooperation with the Secretary, shall implement the requirements of this section. It shall be the responsibility of the Office of Federal Procurement Policy to coordinate this policy with other policies for Federal procurement to implement the requirements of this section, and, every two years beginning in 2003, to report to the Congress on actions taken by Federal agencies and the progress made in the implementation of this section, including agency compliance with subsection (d).

(g) PROCUREMENT PROGRAM.—(1) Within one year after the date of publication of applicable guidelines under subsection (e), each Federal agency shall develop a procurement program which will assure that items composed of biobased products will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law.

(2) Each procurement program required under this subsection shall, at a minimum, contain—

(A) a biobased products preference program;

(B) an agency promotion program to promote the preference program adopted under subparagraph (A); and

(C) annual review and monitoring of the effectiveness of an agency's procurement program.

(3) In developing the preference program, the following options shall be considered for adoption:

(A) CASE-BY-CASE POLICY DEVELOPMENT.—Subject to the limitations of subsection (c)(2) (A) through (C), a policy of awarding contracts to the vendor offering an item composed of the highest percentage of biobased products practicable. Subject to such limitations, agencies may make an award to a vendor offering items with less than the maximum biobased products content.

(B) MINIMUM CONTENT STANDARDS.—Minimum biobased products content specifications which are set in such a way as to assure that the biobased products content required is consistent with the requirements of this section, without violating the limitations of subsection (c)(2) (A) through (C).

Federal agencies shall adopt one of the options set forth in subparagraphs (A) and (B) or a substantially equivalent alternative, for inclusion in the procurement program.

(h) LABELING.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall establish a voluntary program under which the Secretary authorizes producers of biobased products to use the label ''U.S.D.A. Certified Biobased Product''.

(2) ELIGIBILITY CRITERIA.—Within one year after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall issue criteria for determining which products may qualify to receive the label under paragraph (1). The criteria shall encourage the purchase of products with the maximum biobased content, and should, to the maximum extent possible, be consistent with the guidelines issued under subsection (e).

(3) USE OF THE LABEL.—The Secretary shall ensure that the label referred to in paragraph (1) is used only on products that meet the criteria issued pursuant to paragraph (2).

(4) RECOGNITION.—The Secretary shall establish a voluntary program to recognize Federal agencies and private entities that use a substantial amount of biobased products.

(i) LIMITATION.—Nothing in this section shall apply to the procurement of motor vehicle fuels or electricity.

(j) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(2) FUNDING FOR TESTING OF BIOBASED PRODUCTS.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use $1,000,000 for each of fiscal years 2002 through 2007 to support testing of biobased products to carry out this section.

(B) USE OF FUNDS.—Amounts made available under subparagraph (A) may be used to support contracts or cooperative agreements with entities that have experience and special skills to conduct such testing.

(C) PRIORITY.—At the discretion of the Secretary, the Secretary may give priority to the testing of products for which private sector firms provide cost sharing for the testing.

SEC. 9003. BIOREFINERY DEVELOPMENT GRANTS.

(a) PURPOSE.—The purpose of this section is to assist in the development of new and emerging technologies for the use of biomass, including lignocellulosic biomass, so as to—

(1) develop transportation and other fuels, chemicals, and energy from renewable sources;

(2) increase the energy independence of the United States;

(3) provide beneficial effects on conservation, public health, and the environment;

(4) diversify markets for raw agricultural and forestry products; and

(5) create jobs and enhance the economic development of the rural economy.

(b) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Biomass Research and Development Technical Advisory Committee established by section 306 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224).

(2) BIOREFINERY.—The term ''biorefinery'' means equipment and processes that—

(A) convert biomass into fuels and chemicals; and

(B) may produce electricity.

(3) BOARD.—The term ''Board'' means the Biomass Research and Development Board established by section 305 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224).

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(c) GRANTS.—The Secretary shall award grants to eligible entities to assist in paying the cost of development and construction of biorefineries to carry out projects to demonstrate the commercial viability of 1 or more processes for converting biomass to fuels or chemicals.

(d) ELIGIBLE ENTITIES.—An individual, corporation, farm cooperative, association of farmers, national laboratory, institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), State or local energy agency or office, Indian tribe, or consortium comprised of any of those entities shall be eligible to receive a grant under subsection (c).

(e) COMPETITIVE BASIS FOR AWARDS.—

(1) IN GENERAL.—The Secretary shall award grants under subsection (c) on a competitive basis after consulting the Board and Advisory Committee.

(2) SELECTION CRITERIA.—

(A) IN GENERAL.—In selecting projects to receive grants under subsection (c), the Secretary—

(i) shall select projects based on the likelihood that the projects will demonstrate the commercial viability of a new and emerging process for converting biomass into fuels, chemicals, or energy; and

(ii) may consider the likelihood that the projects will produce electricity.

(B) FACTORS.—The factors to be considered under subparagraph (A) may include—

(i) the potential market for the product or products;

(ii) the level of financial participation by the applicants;

(iii) the availability of adequate funding from other sources;

(iv) the beneficial impact on resource conservation, public health, and the environment;

(v) the participation of producer associations and cooperatives;

(vi) the timeframe in which the project will be operational;

(vii) the potential for rural economic development;

(viii) the participation of multiple eligible entities; and

(ix) the potential for developing advanced industrial biotechnology approaches.

(f) COST SHARING.—

(1) IN GENERAL.—The amount of a grant for a project awarded under subsection (c) shall not exceed 30 percent of the cost of the project.

(2) FORM OF GRANTEE SHARE.—

(A) IN GENERAL.—The grantee share of the cost of a project may be made in the form of cash or the provision of services, material, or other in-kind contributions.

(B) LIMITATION.—The amount of the grantee share of the cost of a project that is made in the form of the provision of services, material, or other in-kind contributions shall not exceed 25 percent of the amount of the grantee share determined under paragraph (1).

(g) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.

SEC. 9004. BIODIESEL FUEL EDUCATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall, under such terms and conditions as are appropriate, make competitive grants to eligible entities to educate governmental and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use.

(b) ELIGIBLE ENTITIES.—To receive a grant under subsection (a), an entity—

(1) shall be a nonprofit organization or institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001));

(2) shall have demonstrated knowledge of biodiesel fuel production, use, or distribution; and

(3) shall have demonstrated the ability to conduct educational and technical support programs.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(d) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section $1,000,000 for each of fiscal years 2003 through 2007.

SEC. 9005. ENERGY AUDIT AND RENEWABLE ENERGY DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to carry out a program to assist farmers, ranchers, and rural small businesses in becoming more energy efficient and in using renewable energy technology and resources.

(b) ELIGIBLE ENTITIES.—Entities eligible to carry out a program under subsection (a) are—

(1) a State energy or agricultural office;

(2) a regional or State-based energy organization or energy organization of an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

(3) a land-grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) or other institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001));

(4) a rural electric cooperative or utility;

(5) a nonprofit organization; and

(6) any other entity, as determined by the Secretary.

(c) MERIT REVIEW.—

(1) MERIT REVIEW PROCESS.—The Secretary shall establish a merit review process to review applications for grants under subsection (a) that uses the expertise of other Federal agencies, industry, and nongovernmental organizations.

(2) SELECTION CRITERIA.—In reviewing applications of eligible entities to receive grants under subsection (a), the Secretary shall consider—

(A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;

(B) the geographic scope of the program proposed by the eligible entity;

(C) the number of farmers, ranchers, and rural small businesses to be assisted by the program;

(D) the potential for energy savings and environmental and public health benefits resulting from the program; and

(E) the plan of the eligible entity for educating farmers, ranchers, and rural small businesses on the benefits of energy efficiency and renewable energy development.

(d) USE OF GRANT FUNDS.—

(1) REQUIRED USES.—A recipient of a grant under subsection (a) shall use the grant funds to conduct and promote energy audits for farmers, ranchers, and rural small businesses to provide farmers, ranchers, and rural small businesses recommendations on how to improve energy efficiency and use renewable energy technology and resources.

(2) PERMITTED USES.—In addition to the uses described in paragraph (1), a recipient of a grant may use the grant funds to make farmers, ranchers, and rural small businesses aware of, and ensure that they have access to—

(A) financial assistance under section 9006; and

(B) other Federal, State, and local financial assistance programs for which farmers, ranchers, and rural small businesses may be eligible.

(e) COST SHARING.—A recipient of a grant under subsection (a) that conducts an energy audit for a farmer, rancher, or rural small business under subsection (d)(1) shall require that, as a condition of the energy audit, the farmer, rancher, or rural small business pay at least 25 percent of the cost of the audit.

(f) USE OF COST-SHARE FUNDS.—Funds collected by a recipient of a grant under subsection (e) as a result of activities carried out using the grant funds shall be used to conduct activities authorized under this section, as approved by the Secretary.

(g) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(h) REPORTS.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the implementation of this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.

SEC. 9006. RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS.

(a) IN GENERAL.—In addition to exercising authority to make loans and loan guarantees under other law, the Secretary shall make loans, loan guarantees, and grants to farmers, ranchers, and rural small businesses to—

(1) purchase renewable energy systems; and

(2) make energy efficiency improvements.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a farmer, rancher, or rural small business shall demonstrate financial need as determined by the Secretary.

(c) COST SHARING.—

(1) IN GENERAL.—

(A) GRANTS.—The amount of a grant shall not exceed 25 percent of the cost of the activity funded under subsection (a).

(B) MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN.—The combined amount of a grant and loan made or guaranteed shall not exceed 50 percent of the cost of the activity funded under subsection (a).

(2) FACTORS.—In determining the amount of a grant or loan, the Secretary shall take into consideration, as applicable—

(A) the type of renewable energy system to be purchased;

(B) the estimated quantity of energy to be generated by the renewable energy system;

(C) the expected environmental benefits of the renewable energy system;

(D) the extent to which the renewable energy system will be replicable;

(E) the amount of energy savings expected to be derived from the activity, as demonstrated by an energy audit comparable to an energy audit under section 9005;

(F) the estimated length of time it would take for the energy savings generated by the activity to equal the cost of the activity; and

(G) other factors as appropriate.

(d) INTEREST RATE.—

(1) IN GENERAL.—A loan made by the Secretary under subsection (a) shall bear interest at the rate equivalent to the rate of interest charged on Treasury securities of comparable maturity on the date the loan is approved.

(2) DURATION.—The interest rate for each loan will remain in effect for the term of the loan.

(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section $23,000,000 for each of fiscal years 2003 through 2007.

SEC. 9007. HYDROGEN AND FUEL CELL TECHNOLOGIES.

(a) IN GENERAL.—The Secretary and the Secretary of Energy shall enter into a memorandum of understanding under which the Secretary and the Secretary of Energy shall cooperate in the application of hydrogen and fuel cell technology programs for rural communities and agricultural producers.

(b) DISSEMINATION OF INFORMATION.—Under the memorandum of understanding, the Secretary shall work with the Secretary of Energy to disseminate information to rural communities and agricultural producers on potential applications of hydrogen and fuel cell technologies.

SEC. 9008. BIOMASS RESEARCH AND DEVELOPMENT.

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

(1) in section 307, by striking subsection (f);

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

(3) by inserting after section 309 the following:

"SEC. 310. FUNDING.

''(a) FUNDING.—Of funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this title—

''(1) $5,000,000 for fiscal year 2002; and

''(2) $14,000,000 for each of fiscal years 2003 through 2007;

to remain available until expended.

''(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts transferred under subsection (a), there are authorized to be appropriated to carry out this title $49,000,000 for each of fiscal years 2002 through 2007.''.

(b) TERMINATION OF AUTHORITY.—Section 311 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) (as redesignated by subsection (a)) is amended by striking ''December 31, 2005'' and inserting ''September 30, 2007''.

SEC. 9009. COOPERATIVE RESEARCH AND EXTENSION PROJECTS.

Section 221 of the Agricultural Risk Protection Act of 2000 (114 Stat. 407) is amended—

(1) by redesignating subsection (d) as subsection (f); and

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

''(d) COOPERATIVE RESEARCH.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary, in cooperation with departments and agencies participating in the U.S. Global Change Research Program (which may use any of their statutory authorities) and with eligible entities, may carry out research to promote understanding of—

''(A) the flux of carbon in soils and plants (including trees); and

''(B) the exchange of other greenhouse gases from agriculture.

''(2) ELIGIBLE ENTITIES.—Research under this subsection may be carried out through the competitive awarding of grants and cooperative agreements to colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 1303)).

''(3) COOPERATIVE RESEARCH PURPOSES.—Research conducted under this subsection shall encourage collaboration among scientists with expertise in the areas of soil science, agronomy, agricultural economics, forestry, and other agricultural sciences to focus on—

''(A) developing data addressing carbon losses and gains in soils and plants (including trees) and the exchange of methane and nitrous oxide from agriculture;

''(B) understanding how agricultural and forestry practices affect the sequestration of carbon in soils and plants (including trees) and the exchange of other greenhouse gases, including the effects of new technologies such as biotechnology and nanotechnology;

''(C) developing cost-effective means of measuring and monitoring changes in carbon pools in soils and plants (including trees), including computer models;

''(D) evaluating the linkage between federal conservation programs and carbon sequestration;

''(E) developing methods, including remote sensing, to measure the exchange of carbon and other greenhouse gases sequestered, and to evaluate leakage, performance, and permanence issues; and

''(F) assessing the applicability of the results of research conducted under this subsection for developing methods to account for the impact of agricultural activities (including forestry) on the exchange of greenhouse gases.

''(4) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2002 through 2007.

''(e) EXTENSION PROJECTS.—

''(1) IN GENERAL.—The Secretary, in cooperation with departments and agencies participating in the U.S. Global Change Research Program (which may use any of their statutory authorities), and local extension agents, experts from institutions of higher education that offer a curriculum in agricultural and biological sciences, and other local agricultural or conservation organizations, may implement extension projects (including on-farm projects with direct involvement of agricultural producers) that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and the exchange of greenhouse gas emissions from agriculture which demonstrate the feasibility of methods of measuring and monitoring—

''(A) changes in carbon content and other carbon pools in soils and plants (including trees); and

''(B) the exchange of other greenhouse gases.

''(2) EXTENSION PROJECT RESULTS.—The Secretary may disseminate to farmers, ranchers, private forest landowners, and appropriate State agencies in each State information concerning—

''(A) the results of projects under this subsection; and

''(B) the manner in which the methods used in the projects might be applicable to the operations of the farmers, ranchers, private forest landowners, and State agencies.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2002 through 2007.''.

SEC. 9010. CONTINUATION OF BIOENERGY PROGRAM.

(a) DEFINITIONS.—In this section:

(1) BIOENERGY.—The term ''bioenergy'' means—

(A) biodiesel; and

(B) fuel grade ethanol.

(2) BIODIESEL.—The term ''biodiesel'' means a monoalkyl ester that meets the requirements of an appropriate American Society for Testing and Materials standard.

(3) ELIGIBLE COMMODITY.—The term ''eligible commodity'' means—

(A) wheat, corn, grain sorghum, barley, oats, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard, crambe, sesame seed, and cottonseed;

(B) a cellulosic commodity (such as hybrid poplar and switch grass);

(C) fats, oils, and greases (including recycled fats, oils, and greases) derived from an agricultural product; and

(D) any animal byproduct (in addition to oils, fats, and greases) that may be used to produce bioenergy, as determined by the Secretary.

(4) ELIGIBLE PRODUCER.—The term ''eligible producer'' means a producer that uses an eligible commodity to produce bioenergy.

(b) BIOENERGY PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue the program under part 1424 of title 7, Code of Federal Regulations (or any successor regulation), under which the Secretary makes payments to eligible producers to encourage increased purchases of eligible commodities for the purpose of expanding production of such bioenergy and supporting new production capacity for such bioenergy.

(2) CONTRACTS.—To be eligible to receive a payment, an eligible producer shall—

(A) enter into a contract with the Secretary to increase bioenergy production for 1 or more fiscal years; and

(B) submit to the Secretary such records as the Secretary may require as evidence of increased purchase and use of eligible commodities for the production of bioenergy.

(3) PAYMENT.—

(A) IN GENERAL.—Under the program, the Secretary shall make payments to eligible producers, based on the quantity of bioenergy produced by the eligible producer during a fiscal year that exceeds the quantity of bioenergy produced by the eligible producer during the preceding fiscal year.

(B) PAYMENT RATE.—

(i) PRODUCERS OF LESS THAN 65,000,000 GALLONS.—An eligible producer that produces less than 65,000,000 gallons of bioenergy shall be reimbursed 1 feedstock unit for every 2.5 feedstock units of eligible commodity used for increased production.

(ii) PRODUCERS OF 65,000,000 OR MORE GALLONS.—An eligible producer that produces 65,000,000 or more gallons of bioenergy shall be reimbursed 1 feedstock unit for every 3.5 feedstock units of eligible commodity used for increased production.

(C) QUARTERLY PAYMENTS.—The Secretary shall make payments to an eligible producer for each quarter of the fiscal year.

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

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

(6) LIMITATION.—No eligible producer shall receive more than 5 percent of the total amount made available under subsection (c) for a fiscal year.

(7) OTHER REQUIREMENTS.—To be eligible to receive a payment under this subsection, an eligible producer shall meet other requirements of Federal law (including regulations) applicable to the production of bioenergy.

(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

(1) not more than $150,000,000 for each of fiscal years 2003 through 2006; and

(2) $0 for fiscal year 2007.

TITLE X—MISCELLANEOUS

Subtitle A—Crop Insurance

SEC. 10001. EQUAL CROP INSURANCE TREATMENT OF POTATOES AND SWEET POTATOES.

Section 508(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(2)) is amended in the first sentence by striking ''and potatoes'' and inserting '', potatoes, and sweet potatoes''.

SEC. 10002. CONTINUOUS COVERAGE.

Section 508(e)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(4)) is amended—

(1) in the paragraph heading, by striking ''TEMPORARY PROHIBITION'' and inserting ''PROHIBITION''; and

(2) by striking ''through 2005'' and inserting ''and subsequent''.

SEC. 10003. QUALITY LOSS ADJUSTMENT PROCEDURES.

Section 508(m) of the Federal Crop Insurance Act (7 U.S.C. 1508(m)) is amended—

(1) in paragraph (3)—

(A) by striking ''The Corporation'' and inserting the following:

''(A) REVIEW.—The Corporation''; and

(B) by striking ''Based on'' and inserting the following:

''(B) PROCEDURES.—Effective beginning not later than the 2004 reinsurance year, based on''; and

(2) by adding at the end the following:

''(4) QUALITY OF AGRICULTURAL COMMODITIES DELIVERED TO WAREHOUSE OPERATORS.—In administering this title, the Secretary shall accept, in the same manner and under the same terms and conditions, evidence of the quality of agricultural commodities delivered to—

''(A) warehouse operators that are licensed under the United States Warehouse Act (7 U.S.C. 241 et seq.);

''(B) warehouse operators that—

''(i) are licensed under State law; and

''(ii) have entered into a storage agreement with the Commodity Credit Corporation; and

''(C) warehouse operators that—

''(i) are not licensed under State law but are in compliance with State law regarding warehouses; and

''(ii) have entered into a commodity storage agreement with the Commodity Credit Corporation.''.

SEC. 10004. ADJUSTED GROSS REVENUE INSURANCE PILOT PROGRAM.

Section 523 of the Federal Crop Insurance Act (7 U.S.C. 1523) is amended by adding at the end the following:

''(e) ADJUSTED GROSS REVENUE INSURANCE PILOT PROGRAM.—

''(1) IN GENERAL.—The Corporation shall carry out, through at least the 2004 reinsurance year, the adjusted gross revenue insurance pilot program in effect for the 2002 reinsurance year.

''(2) ADDITIONAL COUNTIES.—

''(A) IN GENERAL.—In addition to counties otherwise included in the pilot program, the Corporation shall include in the pilot program for the 2003 reinsurance year at least 8 counties in the State of California and at least 8 counties in the State of Pennsylvania.

''(B) SELECTION CRITERIA.—In carrying out subparagraph (A), the Corporation shall work with the respective State Departments of Agriculture to establish criteria to determine which counties to include in the pilot program.''.

SEC. 10005. SENSE OF CONGRESS ON EXPANSION OF CROP INSURANCE COVERAGE.

It is the sense of Congress that the Federal Crop Insurance Corporation should address needs of producers through the expansion of pilot programs and coverage under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), including—

(1) crop revenue insurance for the producers of pecans in the State of Georgia; and

(2) coverage for continuous crops of wheat produced in the State of Kansas.

SEC. 10006. REPORT ON SPECIALTY CROP INSURANCE.

Not later than 180 days after the date of enactment of this Act, 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 that describes—

(1) the progress made by the Federal Crop Insurance Corporation in research and development of innovative risk management products to include cost of production insurance that provides coverage for specialty crops, paying special attention to apples, asparagus, blueberries (wild and domestic), cabbage, canola, carrots, cherries, Christmas trees, citrus fruits, cucumbers, dry beans, eggplants, floriculture, grapes, greenhouse and nursery agricultural commodities, green peas, green peppers, hay, lettuce, maple, mushrooms, pears, potatoes, pumpkins, snap beans, spinach, squash, strawberries, sugar beets, and tomatoes; and

(2) the progress made by the Corporation in increasing the use of risk management products offered through the Corporation by producers of specialty crops, by small- and moderate-sized farms, and in areas that are underserved, as determined by the Secretary.

Subtitle B—Disaster Assistance

SEC. 10101. REFERENCE TO SEA GRASS AND SEA OATS AS CROPS COVERED BY NONINSURED CROP DISASTER ASSISTANCE PROGRAM.

Section 196(a)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)(2)(B)) is amended by inserting ''sea grass and sea oats,'' after ''fish),''.

SEC. 10102. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

Section 2281(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a(a)) is amended by striking '', not to exceed $20,000,000 annually,''.

SEC. 10103. EMERGENCY LOANS FOR SEED PRODUCERS.

Section 253(b)(5)(B) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 114 Stat. 423) is amended by striking ''18 months'' and inserting ''36 months''.

SEC. 10104. ASSISTANCE FOR LIVESTOCK PRODUCERS.

(a) AVAILABILITY OF ASSISTANCE.—In such amounts as are provided in advance in appropriation Acts, the Secretary of Agriculture may provide assistance to dairy and other livestock producers to cover economic losses incurred by such producers in connection with the production of livestock.

(b) TYPES OF ASSISTANCE.—The assistance provided to livestock producers may be in the following forms:

(1) Indemnity payments to livestock producers who incur livestock mortality losses.

(2) Livestock feed assistance to livestock producers affected by shortages of feed.

(3) Compensation for sudden increases in production costs.

(4) Such other assistance, and for such other economic losses, as the Secretary considers appropriate.

(c) LIMITATIONS.—The Secretary may not use the funds of the Commodity Credit Corporation to provide assistance under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

SEC. 10105. MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS.

(a) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use $94,000,000 for fiscal year 2002 to make payments, as soon as practicable after the date of enactment of this Act, to apple producers for the loss of markets during the 2000 crop year.

(b) PAYMENT QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the lesser of—

(1) the quantity of the 2000 crop of apples produced by the producers on the farm; or

(2) 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or income eligibility limitation, with respect to payments made under this section.

(d) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to implement this section.

(2) PROCEDURE.—The promulgation of the regulations and administration of this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 10106. MARKET LOSS ASSISTANCE FOR ONION PRODUCERS.

The Secretary of Agriculture shall use $10,000,000 of the funds of the Commodity Credit Corporation to make a grant to the State of New York to be used to support onion producers in Orange County, New York, that have suffered losses to onion crops during 1 or more of the 1996 through 2000 crop years.

SEC. 10107. COMMERCIAL FISHERIES FAILURE.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the Secretary of Commerce, shall provide emergency disaster assistance for the commercial fishery failure under section 308(b)(1) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)(1)) with respect to Northeast multispecies fisheries.

(b) PROGRAM REQUIREMENTS.—Amounts made available to carry out this section shall be used to support a voluntary fishing capacity reduction program in the Northeast multispecies fishery that—

(1) is certified by the Secretary of Commerce to be consistent with section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)); and

(2) permanently revokes multispecies limited access fishing permits so as to obtain the maximum sustained reduction in fishing capacity at the least cost and in the minimum period of time and to prevent the replacement of fishing capacity removed by the program.

(c) APPLICATION OF REGULATIONS.—The program shall be carried out in accordance with the regulations codified at part 648 of title 50, Code of Federal Regulations, and any corresponding rule issued in accordance with the regulations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority provided under this section terminates on the date that is 1 year after the date of enactment of this Act.

SEC. 10108. STUDY OF FEASIBILITY OF PRODUCER INDEMNIFICATION FROM GOVERNMENT-CAUSED DISASTERS.

(a) FINDINGS.—Congress finds that the implementation of Federal disaster assistance programs fails to adequately address situations in which disaster conditions are caused primarily by Federal action.

(b) AUTHORITY.—The Secretary of Agriculture shall conduct a study of the feasibility of expanding eligibility for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), and noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), to agricultural producers experiencing disaster conditions caused primarily by Federal agency action restricting access to irrigation water, including any lack of access to an adequate supply of water caused by failure by the Secretary of the Interior to fulfill a contract in accordance with the Central Valley Project Improvement Act (106 Stat. 4706).

(c) REPORT.—Not later than 150 days after the date of enactment of this Act, the Secretary 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 that describes the results of the study, including any recommendations.

Subtitle C—Tree Assistance Program

SEC. 10201. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE ORCHARDIST.—The term ''eligible orchardist'' means a person that produces annual crops from trees for commercial purposes.

(2) NATURAL DISASTER.—The term ''natural disaster'' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, and other occurrence, as determined by the Secretary.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(4) TREE.—The term ''tree'' includes a tree, bush, and vine.

SEC. 10202. ELIGIBILITY.

(a) LOSS.—Subject to subsection (b), the Secretary shall provide assistance under section 10203 to eligible orchardists that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary.

(b) LIMITATION.—An eligible orchardist shall qualify for assistance under subsection (a) only if the tree mortality of the eligible orchardist, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

SEC. 10203. ASSISTANCE.

Subject to section 10204, the assistance provided by the Secretary to eligible orchardists for losses described in section 10202 shall consist of—

(1) reimbursement of 75 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

(2) at the option of the Secretary, sufficient seedlings to reestablish a stand.

SEC. 10204. LIMITATIONS ON ASSISTANCE.

(a) AMOUNT.—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed $75,000, or an equivalent value in tree seedlings.

(b) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person shall be entitled to receive payments under this subtitle may not exceed 500 acres.

(c) REGULATIONS.—The Secretary shall promulgate regulations—

(1) defining the term ''person'' for the purposes of this subtitle, which shall conform, to the maximum extent practicable, to the regulations defining the term ''person'' promulgated under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) promulgating such regulations as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 10205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle D—Animal Welfare

SEC. 10301. DEFINITION OF ANIMAL UNDER THE ANIMAL WELFARE ACT.

Section 2(g) of the Animal Welfare Act (7 U.S.C. 2132(g)) is amended in the first sentence by striking ''excludes horses not used for research purposes and'' and inserting the following: ''excludes (1) birds, rats of the genus Rattus, and mice of the genus Mus, bred for use in research, (2) horses not used for research purposes, and (3)''.

SEC. 10302. PROHIBITION ON INTERSTATE MOVEMENT OF ANIMALS FOR ANIMAL FIGHTING.

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) SPONSORING OR EXHIBITING AN ANIMAL IN AN ANIMAL FIGHTING VENTURE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly sponsor or exhibit an animal in an animal fighting venture, if any animal in the venture was moved in interstate or foreign commerce.

''(2) SPECIAL RULE FOR CERTAIN STATES.—With respect to fighting ventures involving live birds in a State where it would not be in violation of the law, it shall be unlawful under this subsection for a person to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.'';

(2) in subsection (b), by striking ''or deliver to another person or receive from another person'' and inserting ''deliver, or receive''; and

(3) in subsection (d), by striking ''subsections (a), (b), or (c) of this section'' and inserting ''subsection (c)''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect 1 year after the date of enactment of this Act.

SEC. 10303. PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (e)—

(A) by inserting ''PENALTIES.—'' after ''(e)''; and

(B) by striking ''$5,000'' and inserting ''$15,000''; and

(2) in subsection (g)(2)(B), by inserting before the semicolon at the end the following: ''or from any State into any foreign country''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect 1 year after the date of enactment of this Act.

SEC. 10304. REPORT ON RATS, MICE, AND BIRDS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Research Council 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 implications of including rats, mice, and birds within the definition of animal under the regulations promulgated under the Animal Welfare Act (7 U.S.C. 2131 et seq.)

(b) REQUIREMENTS.—The report under subsection (a) shall—

(1) be completed with input, consultation, and recommendations from—

(A) the Secretary of Agriculture;

(B) the Secretary of Health and Human Services; and

(C) the Institute for Animal Laboratory Research within the National Academy of Sciences;

(2) contain an estimate of—

(A) the number and types of entities that use rats, mice, and birds for research purposes; and

(B) which of the entities—

(i) are subject to regulations of the Department of Agriculture;

(ii) are subject to regulations or guidelines of the Department of Health and Human Services; or

(iii) voluntarily comply with the accreditation requirements of the Association for Assessment and Accreditation of Laboratory Animal Care;

(3) contain an estimate of the numbers of rats, mice, and birds used in research facilities, with an indication of which of the facilities—

(A) are subject to regulations of the Department of Agriculture;

(B) are subject to regulations or guidelines of the Department of Health and Human Services; or

(C) voluntarily comply with the accreditation requirements of the Association for Assessment and Accreditation of Laboratory Animal Care;

(4) contain an estimate of the additional costs likely to be incurred by breeders and research facilities resulting from the additional regulatory requirements needed in order to afford the same level of protection to rats, mice, and birds as is provided for species regulated by the Department of Agriculture, detailing the costs associated with individual regulatory requirements;

(5) contain recommendations for minimizing such costs, including—

(A) an estimate of the cost savings that would result from providing a different level of protection to rats, mice, and birds than is provided for species regulated by the Department of Agriculture; and

(B) an estimate of the cost savings that would result if new regulatory requirements were substantially equivalent to, and harmonized with, guidelines of the National Institutes of Health;

(6) contain an estimate of the additional funding that the Animal and Plant Health Inspection Service would require to be able to ensure that the level of compliance with respect to other regulated animals is not diminished by the increase in the number of facilities that would require inspections if a rule extending the regulatory definition of animal to rats, mice, and birds were to become effective; and

(7) contain recommendations for—

(A) minimizing the regulatory burden on facilities subject to—

(i) regulations of the Department of Agriculture;

(ii) regulations or guidelines of the Department of Health and Human Services; or

(iii) accreditation requirements of the Association for Assessment and Accreditation of Laboratory Animal Care; and

(B) preventing any duplication of regulatory requirements.

SEC. 10305. ENFORCEMENT OF HUMANE METHODS OF SLAUGHTER ACT OF 1958.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should—

(1) continue tracking the number of violations of Public Law 85–765 (7 U.S.C. 1901 et seq.; commonly known as the ''Humane Methods of Slaughter Act of 1958'') and report the results and relevant trends annually to Congress; and

(2) fully enforce Public Law 85–765 by ensuring that humane methods in the slaughter of livestock—

(A) prevent needless suffering;

(B) result in safer and better working conditions for persons engaged in slaughtering operations;

(C) bring about improvement of products and economies in slaughtering operations; and

(D) produce other benefits for producers, processors, and consumers that tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce.

(b) UNITED STATES POLICY.—It is the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods, as provided by Public Law 85–765.

Subtitle E—Animal Health Protection

SEC. 10401. SHORT TITLE.

This subtitle may be cited as the ''Animal Health Protection Act''.

SEC. 10402. FINDINGS.

Congress finds that—

(1) the prevention, detection, control, and eradication of diseases and pests of animals are essential to protect—

(A) animal health;

(B) the health and welfare of the people of the United States;

(C) the economic interests of the livestock and related industries of the United States;

(D) the environment of the United States; and

(E) interstate commerce and foreign commerce of the United States in animals and other articles;

(2) animal diseases and pests are primarily transmitted by animals and articles regulated under this subtitle;

(3) the health of animals is affected by the methods by which animals and articles are transported in interstate commerce and foreign commerce;

(4) the Secretary must continue to conduct research on animal diseases and pests that constitute a threat to the livestock of the United States; and

(5)(A) all animals and articles regulated under this subtitle are in or affect interstate commerce or foreign commerce; and

(B) regulation by the Secretary and cooperation by the Secretary with foreign countries, States or other jurisdictions, or persons are necessary—

(i) to prevent and eliminate burdens on interstate commerce and foreign commerce;

(ii) to regulate effectively interstate commerce and foreign commerce; and

(iii) to protect the agriculture, environment, economy, and health and welfare of the people of the United States.

SEC. 10403. DEFINITIONS.

In this subtitle:

(1) ANIMAL.—The term ''animal'' means any member of the animal kingdom (except a human).

(2) ARTICLE.—The term ''article'' means any pest or disease or any material or tangible object that could harbor a pest or disease.

(3) DISEASE.—The term ''disease'' has the meaning given the term by the Secretary.

(4) ENTER.—The term ''enter'' means to move into the commerce of the United States.

(5) EXPORT.—The term ''export'' means to move from a place within the territorial limits of the United States to a place outside the territorial limits of the United States.

(6) FACILITY.—The term ''facility'' means any structure.

(7) IMPORT.—The term ''import'' means to move from a place outside the territorial limits of the United States to a place within the territorial limits of the United States.

(8) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) INTERSTATE COMMERCE.—The term ''interstate commerce'' means trade, traffic, or other commerce—

(A) between a place in a State and a place in another State, or between places within the same State but through any place outside that State; or

(B) within the District of Columbia or any territory or possession of the United States.

(10) LIVESTOCK.—The term ''livestock'' means all farm-raised animals.

(11) MEANS OF CONVEYANCE.—The term ''means of conveyance'' means any personal property used for or intended for use for the movement of any other personal property.

(12) MOVE.—The term ''move'' means—

(A) to carry, enter, import, mail, ship, or transport;

(B) to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting;

(C) to offer to carry, enter, import, mail, ship, or transport;

(D) to receive in order to carry, enter, import, mail, ship, or transport;

(E) to release into the environment; or

(F) to allow any of the activities described in this paragraph.

(13) PEST.—The term ''pest'' means any of the following that can directly or indirectly injure, cause damage to, or cause disease in livestock:

(A) A protozoan.

(B) A plant.

(C) A bacteria.

(D) A fungus.

(E) A virus or viroid.

(F) An infectious agent or other pathogen.

(G) An arthropod.

(H) A parasite.

(I) A prion.

(J) A vector.

(K) Any organism similar to or allied with any of the organisms described in this paragraph.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(15) STATE.—The term ''State'' means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States, or any territory or possession of the United States.

(16) THIS SUBTITLE.—Except when used in this section, the term ''this subtitle'' includes any regulation or order issued by the Secretary under the authority of this subtitle.

(17) UNITED STATES.—The term ''United States'' means all of the States.

SEC. 10404. RESTRICTION ON IMPORTATION OR ENTRY.

(a) IN GENERAL.—With notice to the Secretary of the Treasury and public notice as soon as practicable, the Secretary may prohibit or restrict—

(1) the importation or entry of any animal, article, or means of conveyance, or use of any means of conveyance or facility, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock;

(2) the further movement of any animal that has strayed into the United States if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock; and

(3) the use of any means of conveyance in connection with the importation or entry of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement of livestock.

(b) REGULATIONS.—

(1) RESTRICTIONS ON IMPORT AND ENTRY.—The Secretary may issue such orders and promulgate such regulations as are necessary to carry out subsection (a).

(2) POST IMPORTATION QUARANTINE.—The Secretary may promulgate regulations requiring that any animal imported or entered be raised or handled under post-importation quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the animal is or may be affected by any pest or disease of livestock.

(c) DESTRUCTION OR REMOVAL.—

(1) IN GENERAL.—The Secretary may order the destruction or removal from the United States of—

(A) any animal, article, or means of conveyance that has been imported but has not entered the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock;

(B) any animal or progeny of any animal, article, or means of conveyance that has been imported or entered in violation of this subtitle; or

(C) any animal that has strayed into the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock.

(2) REQUIREMENTS OF OWNERS.—

(A) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—

(i) a means of conveyance used in connection with the importation of an animal;

(ii) an individual involved in the importation of an animal and personal articles of the individual; and

(iii) any article used in the importation of an animal.

(B) FAILURE TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—

(i) take remedial action, destroy, or remove from the United States the animal or progeny of any animal, article, or means of conveyance as authorized under paragraph (1); and

(ii) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary in connection with the remedial action, destruction, or removal.

SEC. 10405. EXPORTATION.

(a) IN GENERAL.—The Secretary may prohibit or restrict—

(1) the exportation of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock;

(2) the exportation of any livestock if the Secretary determines that the livestock is unfit to be moved;

(3) the use of any means of conveyance or facility in connection with the exportation of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock; or

(4) the use of any means of conveyance in connection with the exportation of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement and humane treatment of livestock.

(b) REQUIREMENTS OF OWNERS.—

(1) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—

(A) a means of conveyance used in connection with the exportation of an animal;

(B) an individual involved in the exportation of an animal and personal articles of the individual; and

(C) any article used in the exportation of an animal.

(2) FAILURE TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—

(A) take remedial action with respect to the animal, article, or means of conveyance referred to in paragraph (1); and

(B) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary in connection with the remedial action.

(c) CERTIFICATION.—The Secretary may certify the classification, quality, quantity, condition, processing, handling, or storage of any animal or article intended for export.

SEC. 10406. INTERSTATE MOVEMENT.

The Secretary may prohibit or restrict—

(1) the movement in interstate commerce of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock; and

(2) the use of any means of conveyance or facility in connection with the movement in interstate commerce of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock.

SEC. 10407. SEIZURE, QUARANTINE, AND DISPOSAL.

(a) IN GENERAL.—The Secretary may hold, seize, quarantine, treat, destroy, dispose of, or take other remedial action with respect to—

(1) any animal or progeny of any animal, article, or means of conveyance that—

(A) is moving or has been moved in interstate commerce or has been imported and entered; and

(B) the Secretary has reason to believe may carry, may have carried, or may have been affected with or exposed to any pest or disease of livestock at the time of movement or that is otherwise in violation of this subtitle;

(2) any animal or progeny of any animal, article, or means of conveyance that is moving or is being handled, or has moved or has been handled, in interstate commerce in violation of this subtitle;

(3) any animal or progeny of any animal, article, or means of conveyance that has been imported, and is moving or is being handled or has moved or has been handled, in violation of this subtitle; or

(4) any animal or progeny of any animal, article, or means of conveyance that the Secretary finds is not being maintained, or has not been maintained, in accordance with any post-importation quarantine, post-importation condition, post-movement quarantine, or post-movement condition in accordance with this subtitle.

(b) EXTRAORDINARY EMERGENCIES.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary determines that an extraordinary emergency exists because of the presence in the United States of a pest or disease of livestock and that the presence of the pest or disease threatens the livestock of the United States, the Secretary may—

(A) hold, seize, treat, apply other remedial actions to, destroy (including preventative slaughter), or otherwise dispose of, any animal, article, facility, or means of conveyance if the Secretary determines the action is necessary to prevent the dissemination of the pest or disease; and

(B) prohibit or restrict the movement or use within a State, or any portion of a State of any animal or article, means of conveyance, or facility if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the pest or disease.

(2) STATE ACTION.—

(A) IN GENERAL.—The Secretary may take action in a State under this subsection only on finding that measures being taken by the State are inadequate to control or eradicate the pest or disease, after review and consultation with—

''(i) the Governor or an appropriate animal health official of the State; or

''(ii) in the case of any animal, article, facility, or means of conveyance under the jurisdiction of an Indian tribe, the head of the Indian tribe.

(B) NOTICE.—Subject to subparagraph (C), before any action is taken in a State under subparagraph (A), the Secretary shall—

(i) notify the Governor, an appropriate animal health official of the State, or head of the Indian tribe of the proposed action;

(ii) issue a public announcement of the proposed action; and

(iii) publish in the Federal Register—

(I) the findings of the Secretary;

(II) a description of the proposed action; and

(III) a statement of the reasons for the proposed action.

(C) NOTICE AFTER ACTION.—If it is not practicable to publish in the Federal Register the information required under subparagraph (B)(iii) before taking action under subparagraph (A), the Secretary shall publish the information as soon as practicable, but not later than 10 business days, after commencement of the action.

(c) QUARANTINE, DISPOSAL, OR OTHER REMEDIAL ACTION.—

(1) IN GENERAL.—The Secretary, in writing, may order the owner of any animal, article, facility, or means of conveyance referred to in subsection (a) or (b) to maintain in quarantine, dispose of, or take other remedial action with respect to the animal, article, facility, or means of conveyance, in a manner determined by the Secretary.

(2) FAILURE TO COMPLY WITH ORDERS.—If the owner fails to comply with the order of the Secretary, the Secretary may—

(A) seize, quarantine, dispose of, or take other remedial action with respect to the animal, article, facility, or means of conveyance under subsection (a) or (b); and

(B) recover from the owner the costs of any care, handling, disposal, or other remedial action incurred by the Secretary in connection with the seizure, quarantine, disposal, or other remedial action.

(d) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall compensate the owner of any animal, article, facility, or means of conveyance that the Secretary requires to be destroyed under this section.

(2) AMOUNT.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the compensation shall be based on the fair market value, as determined by the Secretary, of the destroyed animal, article, facility, or means of conveyance.

(B) LIMITATION.—Compensation paid any owner under this subsection shall not exceed the difference between—

(i) the fair market value of the destroyed animal, article, facility, or means of conveyance; and

(ii) any compensation received by the owner from a State or other source for the destroyed animal, article, facility, or means of conveyance.

(C) REVIEWABILITY.—The determination by the Secretary of the amount to be paid under this subsection shall be final and not subject to judicial review or review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(3) EXCEPTIONS.—No payment shall be made by the Secretary under this subsection for—

(A) any animal, article, facility, or means of conveyance that has been moved or handled by the owner in violation of an agreement for the control and eradication of diseases or pests or in violation of this subtitle;

(B) any progeny of any animal or article, which animal or article has been moved or handled by the owner of the animal or article in violation of this subtitle;

(C) any animal, article, or means of conveyance that is refused entry under this subtitle; or

(D) any animal, article, facility, or means of conveyance that becomes or has become affected with or exposed to any pest or disease of livestock because of a violation of an agreement for the control and eradication of diseases or pests or a violation of this subtitle by the owner.

SEC. 10408. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) GUIDELINES.—The activities authorized by this section shall be carried out consistent with guidelines approved by the Attorney General.

(b) WARRANTLESS INSPECTIONS.—The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving—

(1) into the United States, to determine whether the person or means of conveyance is carrying any animal or article regulated under this subtitle;

(2) in interstate commerce, on probable cause to believe that the person or means of conveyance is carrying any animal or article regulated under this subtitle; or

(3) in intrastate commerce from any State, or any portion of a State, quarantined under section 10407(b), on probable cause to believe that the person or means of conveyance is carrying any animal or article quarantined under section 10407(b).

(c) INSPECTIONS WITH WARRANTS.—

(1) IN GENERAL.—The Secretary may enter, with a warrant, any premises in the United States for the purpose of making inspections and seizures under this subtitle.

(2) APPLICATION AND ISSUANCE OF WARRANTS.—

(A) IN GENERAL.—On proper oath or affirmation showing probable cause to believe that there is on certain premises any animal, article, facility, or means of conveyance regulated under this subtitle, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may issue a warrant for the entry on premises within the jurisdiction of the judge or magistrate to make any inspection or seizure under this subtitle.

(B) EXECUTION.—The warrant may be applied for and executed by the Secretary or any United States marshal.

SEC. 10409. DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS.

(a) IN GENERAL.—The Secretary may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals), including animals at a slaughterhouse, stockyard, or other point of concentration.

(b) COMPENSATION.—

(1) IN GENERAL.—The Secretary may pay a claim arising out of the destruction of any animal, article, or means of conveyance consistent with the purposes of this subtitle.

(2) REVIEWABILITY.—The action of the Secretary in carrying out paragraph (1) shall not be subject to review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

SEC. 10410. VETERINARY ACCREDITATION PROGRAM.

(a) IN GENERAL.—The Secretary may establish a veterinary accreditation program that is consistent with this subtitle, including the establishment of standards of conduct for accredited veterinarians.

(b) CONSULTATION.—The Secretary shall consult with State animal health officials and veterinary professionals regarding the establishment of the veterinary accreditation program.

(c) SUSPENSION OR REVOCATION OF ACCREDITATION.—

(1) IN GENERAL.—The Secretary may, after notice and opportunity for a hearing on the record, suspend or revoke the accreditation of any veterinarian accredited under this title who violates this subtitle.

(2) FINAL ORDER.—The order of the Secretary suspending or revoking accreditation shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(3) SUMMARY SUSPENSION.—

(A) IN GENERAL.—The Secretary may summarily suspend the accreditation of a veterinarian whom the Secretary has reason to believe knowingly violated this subtitle.

(B) HEARINGS.—The Secretary shall provide the veterinarian with a subsequent notice and an opportunity for a prompt post-suspension hearing on the record.

(d) APPLICATION OF PENALTY PROVISIONS.—The criminal and civil penalties described in section 10414 shall not apply to a violation of this section that is not a violation of any other provision of this subtitle.

SEC. 10411. COOPERATION.

(a) IN GENERAL.—To carry out this subtitle, the Secretary may cooperate with other Federal agencies, States or political subdivisions of States, national governments of foreign countries, local governments of foreign countries, domestic or international organizations, domestic or international associations, Indian tribes, and other persons.

(b) RESPONSIBILITY.—The person or other entity cooperating with the Secretary shall be responsible for the authority necessary to carry out operations or measures—

(1) on all land and property within a foreign country or State, or under the jurisdiction of an Indian tribe, other than on land and property owned or controlled by the United States; and

(2) using other facilities and means, as determined by the Secretary.

(c) SCREWWORMS.—

(1) IN GENERAL.—The Secretary may, independently or in cooperation with national governments of foreign countries or international

organizations or associations, produce and sell sterile screwworms to any national government of a foreign country or international organization or association, if the Secretary determines that the livestock industry and related industries of the United States will not be adversely affected by the production and sale.

(2) PROCEEDS.—

(A) INDEPENDENT PRODUCTION AND SALE.—If the Secretary independently produces and sells sterile screwworms under paragraph (1), the proceeds of the sale shall be—

(i) deposited into the Treasury of the United States; and

(ii) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(B) COOPERATIVE PRODUCTION AND SALE.—

(i) IN GENERAL.—If the Secretary cooperates to produce and sell sterile screwworms under paragraph (1), the proceeds of the sale shall be divided between the United States and the cooperating national government or international organization or association in a manner determined by the Secretary.

(ii) ACCOUNT.—The United States portion of the proceeds shall be—

(I) deposited into the Treasury of the United States; and

(II) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(d) COOPERATION IN PROGRAM ADMINISTRATION.—The Secretary may cooperate with State authorities, Indian tribe authorities, or other persons in the administration of regulations for the improvement of livestock and livestock products.

(e) CONSULTATION AND COORDINATION WITH OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—The Secretary shall consult and coordinate with the head of a Federal agency with respect to any activity that is under the jurisdiction of the Federal agency.

(2) LEAD AGENCY.—Subject to the consultation and coordination requirement in paragraph (1), the Department of Agriculture shall be the lead agency with respect to issues related to pests and diseases of livestock.

SEC. 10412. REIMBURSABLE AGREEMENTS.

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into reimbursable fee agreements with persons for preclearance of animals or articles at locations outside the United States for movement into the United States.

(b) FUNDS COLLECTED FOR PRECLEARANCE.—Funds collected for preclearance activities shall—

(1) be credited to accounts that may be established by the Secretary for carrying out this section; and

(2) remain available until expended for the preclearance activities, without fiscal year limitation.

(c) PAYMENT OF EMPLOYEES.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may pay an officer or employee of the Department of Agriculture performing services under this subtitle relating to imports into and exports from the United States for all overtime, night, or holiday work performed by the officer or employee at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT.—

(A) IN GENERAL.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for any expenses paid by the Secretary for the services under this subsection.

(B) USE OF FUNDS.—All funds collected under this subsection shall—

(i) be credited to the account that incurs the costs; and

(ii) remain available until expended, without fiscal year limitation.

(d) LATE PAYMENT PENALTIES.—

(1) COLLECTION.—On failure by a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person, including interest on overdue funds, as required by section 3717 of title 31, United States Code.

(2) USE OF FUNDS.—Any late payment penalty and any accrued interest shall—

(A) be credited to the account that incurs the costs; and

(B) remain available until expended, without fiscal year limitation.

SEC. 10413. ADMINISTRATION AND CLAIMS.

(a) ADMINISTRATION.—To carry out this subtitle, the Secretary may—

(1) acquire and maintain real or personal property;

(2) employ a person;

(3) make a grant; and

(4) notwithstanding chapter 63 of title 31, United States Code, enter into a contract, cooperative agreement, memorandum of understanding, or other agreement.

(b) TORT CLAIMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may pay a tort claim, in the manner authorized by the first paragraph of section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with an activity authorized under this subtitle.

(2) REQUIREMENTS.—A claim may not be allowed under this subsection unless the claim is presented in writing to the Secretary not later than 2 years after the date on which the claim arises.

SEC. 10414. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) OFFENSES.—

(A) IN GENERAL.—A person that knowingly violates this subtitle, or knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this subtitle shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(B) DISTRIBUTION OR SALE.—A person that knowingly imports, enters, exports, or moves any animal or article, for distribution or sale, in violation of this subtitle, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

(2) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of this subtitle under paragraph (1), the person shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Except as provided in section 10410(d), any person that violates this subtitle, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided under this subtitle may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A)(i) $50,000 in the case of any individual, except that the civil penalty may not exceed $1,000 in the case of an initial violation of this subtitle by an individual moving regulated articles not for monetary gain;

(ii) $250,000 in the case of any other person for each violation; and

(iii) $500,000 for all violations adjudicated in a single proceeding; or

(B) twice the gross gain or gross loss for any violation or forgery, counterfeiting, or unauthorized use, alteration, defacing or destruction of a certificate, permit, or other document provided under this subtitle that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) FACTORS IN DETERMINING CIVIL PENALTY.—In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstance, extent, and gravity of the violation or violations and the Secretary may consider, with respect to the violator—

(A) the ability to pay;

(B) the effect on ability to continue to do business;

(C) any history of prior violations;

(D) the degree of culpability; and

(E) such other factors as the Secretary considers to be appropriate.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this subsection.

(4) FINALITY OF ORDERS.—

(A) FINAL ORDER.—The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) REVIEW.—The validity of the order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) INTEREST.—Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

(c) LIABILITY FOR ACTS OF AGENTS.—In the construction and enforcement of this subtitle, the act, omission, or failure of any officer, agent, or person acting for or employed by any other person within the scope of the employment or office of the officer, agent, or person, shall be deemed also to be the act, omission, or failure of the other person.

(d) GUIDELINES FOR CIVIL PENALTIES.—Subject to the approval of the Attorney General, the Secretary shall establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this subtitle.

SEC. 10415. ENFORCEMENT.

(a) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—The Secretary may gather and compile information and conduct any inspection or investigation that the Secretary considers to be necessary for the administration or enforcement of this subtitle.

(2) SUBPOENAS.—

(A) IN GENERAL.—The Secretary shall have power to issue a subpoena to compel the attendance and testimony of any witness and the production of any documentary evidence relating to the administration or enforcement of this subtitle or any matter under investigation in connection with this subtitle.

(B) LOCATION OF PRODUCTION.—The attendance of any witness and production of documentary evidence relevant to the inquiry may be required from any place in the United States.

(C) ENFORCEMENT.—

(i) IN GENERAL.—In case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, to require the attendance and testimony of any witness and the production of documentary evidence.

(ii) NONCOMPLIANCE.—In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence.

(iii) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as contempt of the court.

(D) COMPENSATION.—

(i) WITNESSES.—A witness summoned by the Secretary under this subtitle shall be paid the same fees and mileage that are paid to a witness in a court of the United States.

(ii) DEPOSITIONS.—A witness whose deposition is taken, and the person taking the deposition,

shall be entitled to the same fees that are paid for similar services in a court of the United States.

(E) PROCEDURES.—

(i) PUBLICATION.—The Secretary shall publish procedures for the issuance of subpoenas under this section.

(ii) REVIEW.—The procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and, to be effective, be signed by the Secretary.

(iii) DELEGATION.—If the authority to sign a subpoena is delegated to an agency other than the Office of Administrative Law Judges, the agency receiving the delegation shall seek review of the subpoena for legal sufficiency outside that agency.

(b) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General may—

(1) prosecute, in the name of the United States, all criminal violations of this subtitle that are referred to the Attorney General by the Secretary or are brought to the notice of the Attorney General by any person;

(2) bring an action to enjoin the violation of or to compel compliance with this subtitle, or to enjoin any interference by any person with the Secretary in carrying out this subtitle, in any case in which the Secretary has reason to believe that the person has violated, or is about to violate this subtitle or has interfered, or is about to interfere, with the actions of the Secretary; or

(3) bring an action for the recovery of any unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this subtitle.

(c) COURT JURISDICTION.—

(1) IN GENERAL.—The United States district courts, the District Court of Guam, the District Court of the Northern Mariana Islands, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions are vested with jurisdiction in all cases arising under this subtitle.

(2) VENUE.—Any action arising under this subtitle may be brought, and process may be served, in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

(3) EXCEPTION.—Paragraphs (1) and (2) do not apply to sections 10410(c) and 10414(b).

SEC. 10416. REGULATIONS AND ORDERS.

The Secretary may promulgate such regulations, and issue such orders, as the Secretary determines necessary to carry out this subtitle.

SEC. 10417. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) TRANSFER OF FUNDS.—

(1) IN GENERAL.—In connection with an emergency under which a pest or disease of livestock threatens any segment of agricultural production in the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such funds as the Secretary determines are necessary for the arrest, control, eradication, or prevention of the spread of the pest or disease of livestock and for related expenses.

(2) AVAILABILITY.—Any funds transferred under this subsection shall remain available until expended, without fiscal year limitation.

(3) REVIEWABILITY.—The action of any officer, employee, or agent of the Secretary in carrying out this section (including determining the amount of and making any payment authorized to be made under this subtitle) shall not be subject to review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(c) USE OF FUNDS.—In carrying out this subtitle, the Secretary may use funds made available to carry out this subtitle for—

(1) the employment of civilian nationals in foreign countries; and

(2) the construction and operation of research laboratories, quarantine stations, and other buildings and facilities for special purposes.

SEC. 10418. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions of law are repealed:

(1) Public Law 97–46 (7 U.S.C. 147b).

(2) Section 101(b) of the Act of September 21, 1944 (7 U.S.C. 429).

(3) The Act of August 28, 1950 (7 U.S.C. 2260).

(4) Section 919 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2260a).

(5) Section 306 of the Tariff Act of 1930 (19 U.S.C. 1306).

(6) Sections 6 through 8 and 10 of the Act of August 30, 1890 (21 U.S.C. 102 through 105).

(7) The Act of February 2, 1903 (21 U.S.C. 111, 120 through 122).

(8) Sections 2 through 9, 11, and 13 of the Act of May 29, 1884 (21 U.S.C. 112, 113, 114, 114a, 114a–1, 115 through 120, 130).

(9) The first section and sections 2, 3, and 5 of the Act of February 28, 1947 (21 U.S.C. 114b, 114c, 114d, 114d–1).

(10) The Act of June 16, 1948 (21 U.S.C. 114e, 114f).

(11) Public Law 87–209 (21 U.S.C. 114g, 114h).

(12) The third and fourth provisos of the fourth paragraph under the heading ''BUREAU OF ANIMAL INDUSTRY'' of the Act of May 31, 1920 (21 U.S.C. 116).

(13) The first section and sections 2, 3, 4, and 6 of the Act of March 3, 1905 (21 U.S.C. 123 through 127).

(14) The first proviso under the heading ''GENERAL EXPENSES, BUREAU OF ANIMAL INDUSTRY'' under the heading ''BUREAU OF ANIMAL INDUSTRY'' of the Act of June 30, 1914 (21 U.S.C. 128).

(15) The fourth proviso under the heading ''SALARIES AND EXPENSES'' under the heading ''ANIMAL AND PLANT HEALTH INSPECTION SERVICE'' of title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (21 U.S.C. 129).

(16) The third paragraph under the heading ''MISCELLANEOUS'' of the Act of May 26, 1910 (21 U.S.C. 131).

(17) The first section and sections 2 through 6 and 11 through 13 of Public Law 87–518 (21 U.S.C. 134 through 134h).

(18) Public Law 91–239 (21 U.S.C. 135 through 135b).

(19) Sections 12 through 14 of the Federal Meat Inspection Act (21 U.S.C. 612 through 614).

(20) Chapter 39 of title 46, United States Code.

(b) CONFORMING AMENDMENTS.—

(1) Section 414(b) of the Plant Protection Act (7 U.S.C. 7714(b)) is amended—

(A) in paragraph (1), by striking '', or the owner's agent,''; and

(B) in paragraph (2), by striking ''or agent of the owner'' each place it appears.

(2) Section 423 of the Plant Protection Act (7 U.S.C. 7733) is amended—

(A) by striking subsection (b) and inserting the following:

''(b) LOCATION OF PRODUCTION.—The attendance of any witness and production of documentary evidence relevant to the inquiry may be required from any place in the United States.'';

(B) in the third sentence of subsection (e), by inserting ''to an agency other than the Office of Administrative Law Judges'' after ''is delegated''; and

(C) by striking subsection (f).

(3) Section 11(h) of the Endangered Species Act of 1973 (16 U.S.C. 1540(h)) is amended in the first sentence by striking ''animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614)'' and inserting ''animal quarantine laws (as defined in section 2509(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(f))''.

(4) Section 18 of the Federal Meat Inspection Act (21 U.S.C. 618) is amended by striking ''of the cattle'' and all that follows through ''as herein described'' and inserting ''of the carcasses and products of cattle, sheep, swine, goats, horses, mules, and other equines''.

(5) Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended—

(A) in subsection (c), by inserting after paragraph (1) the following:

''(2) VETERINARY DIAGNOSTICS.—The Secretary may prescribe and collect fees to recover the costs of carrying out the provisions of the Animal Health Protection Act that relate to veterinary diagnostics.''; and

(B) in subsection (f)(1), by striking subparagraphs (B) through (O) and inserting the following:

''(B) section 9 of the Act of August 30, 1890 (21 U.S.C. 101);

''(C) the Animal Health Protection Act; or

''(D) any other Act administered by the Secretary relating to plant or animal diseases or pests.''.

(c) EFFECT ON REGULATIONS.—A regulation issued under a provision of law repealed by subsection (a) shall remain in effect until the Secretary issues a regulation under section 10404(b) or 10416 that supersedes the earlier regulation.

Subtitle F—Livestock

SEC. 10501. TRANSPORTATION OF POULTRY AND OTHER ANIMALS.

Section 5402(d)(2) of title 39, United States Code, is amended—

(1) in subparagraph (A), by inserting '', honeybees,'' after ''poultry''; and

(2) by striking subparagraph (C).

SEC. 10502. SWINE CONTRACTORS.

(a) DEFINITIONS.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended by adding at the end the following:

''(12) SWINE CONTRACTOR.—The term 'swine contractor' means any person engaged in the business of obtaining swine under a swine production contract for the purpose of slaughtering the swine or selling the swine for slaughter, if—

''(A) the swine is obtained by the person in commerce; or

''(B) the swine (including products from the swine) obtained by the person is sold or shipped in commerce.

''(13) SWINE PRODUCTION CONTRACT.—The term 'swine production contract' means any growout contract or other arrangement under which a swine production contract grower raises and cares for the swine in accordance with the instructions of another person.

''(14) SWINE PRODUCTION CONTRACT GROWER.—The term 'swine production contract grower' means any person engaged in the business of raising and caring for swine in accordance with the instructions of another person.''.

(b) SWINE CONTRACTORS.—

(1) IN GENERAL.—The Packers and Stockyards Act, 1921, is amended by striking ''packer'' each place it appears in sections 202, 203, 204, and 205 (7 U.S.C. 192, 193, 194, 195) (other than section 202(c)) and inserting ''packer or swine contractor''.

(2) CONFORMING AMENDMENTS.—

(A) Section 202(c) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192(c)), is amended by inserting '', swine contractor,'' after ''other packer'' each place it appears.

(B) Section 308(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 209(a)), is amended by inserting ''or swine production contract'' after ''poultry growing arrangement''.

(C) Sections 401 and 403 of the Packers and Stockyards Act, 1921 (7 U.S.C. 221, 223), are

amended by inserting ''any swine contractor, and'' after ''packer,'' each place it appears.

SEC. 10503. RIGHT TO DISCUSS TERMS OF CONTRACT.

(a) DEFINITIONS.—In this section:

(1) PRODUCER.—The term ''producer'' means any person engaged in the raising and caring for livestock or poultry for slaughter.

(2) PROCESSOR.—The term ''processor'' means any person engaged in the business of obtaining livestock or poultry for the purpose of slaughtering the livestock or poultry.

(b) NO PROHIBITION OF DISCUSSION.—Notwithstanding a provision in any contract between a producer and a processor for the production of livestock or poultry, or in any marketing agreement between a producer and a processor for the sale of livestock or poultry for a term of 1 year or more, that provides that information contained in the contract is confidential, a party to the contract shall not be prohibited from discussing any terms or details of the contract with—

(1) a Federal or State agency;

(2) a legal adviser to the party;

(3) a lender to the party;

(4) an accountant hired by the party;

(5) an executive or manager of the party;

(6) a landlord of the party; or

(7) a member of the immediate family of the party.

(c) EFFECT ON STATE LAWS.—Subsection (b) does not—

(1) preempt any State law that addresses confidentiality provisions in contracts for the sale or production of livestock or poultry, except any provision of State law that makes lawful a contract provision that prohibits a party from, or limits a party in, engaging in discussion that subsection (b) requires to be permitted; or

(2) deprive any State court of jurisdiction under any such State law.

(d) APPLICABILITY.—This section applies to each contract described in subsection (b) that is entered into, amended, renewed, or extended after the date of enactment of this Act.

SEC. 10504. VETERINARY TRAINING.

The Secretary of Agriculture may develop a program to maintain in all regions of the United States a sufficient number of Federal and State veterinarians who are well trained in recognition and diagnosis of exotic and endemic animal diseases.

SEC. 10505. PSEUDORABIES ERADICATION PROGRAM.

Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 114i(d)) is amended by striking ''2002'' and inserting ''2007''.

Subtitle G—Specialty Crops

SEC. 10601. MARKETING ORDERS FOR CANEBERRIES.

(a) IN GENERAL.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in subsection (2)(A), by inserting ''caneberries (including raspberries, blackberries, and loganberries),'' after ''other than pears, olives, grapefruit, cherries,''; and

(2) in subsection (6)(I), by striking ''tomatoes,,'' and inserting ''tomatoes, caneberries (including raspberries, blackberries, and loganberries),''.

(b) CONFORMING AMENDMENT.—Section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–l(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking ''or apples'' and inserting ''apples, or caneberries (including raspberries, blackberries, and loganberries)''.

SEC. 10602. AVAILABILITY OF SECTION 32 FUNDS.

The second undesignated paragraph of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), is amended by striking ''$300,000,000'' and inserting ''$500,000,000''.

SEC. 10603. PURCHASE OF SPECIALTY CROPS.

(a) GENERAL PURCHASE AUTHORITY.—Of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), for fiscal year 2002 and each subsequent fiscal year, the Secretary of Agriculture shall use not less than $200,000,000 each fiscal year to purchase fruits, vegetables, and other specialty food crops.

(b) PURCHASE AUTHORITY.—

(1) PURCHASE.—Of the amount specified in subsection (a), the Secretary of Agriculture shall use not less than $50,000,000 each fiscal year for the purchase of fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)).

(2) SERVICING AGENCY.—The Secretary of Agriculture shall provide for the Secretary of Defense to serve as the servicing agency for the procurement of the fresh fruits and vegetables under this subsection on the same terms and conditions as provided in the memorandum of agreement entered into between the Agricultural Marketing Service, the Food and Consumer Service, and the Defense Personnel Support Center during August 1995 (or any successor memorandum of agreement).

(c) DEFINITIONS.—In this section, the terms ''fruits'', ''vegetables'', and ''other specialty food crops'' shall have the meaning given the terms by the Secretary of Agriculture.

SEC. 10604. PROTECTION FOR PURCHASERS OF FARM PRODUCTS.

(a) DEFINITION OF EFFECTIVE FINANCING STATEMENT.—Section 1324(c)(4) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(4)) is amended—

(1) in subparagraph (B), by striking ''signed'' and inserting ''signed, authorized, or otherwise authenticated by the debtor,'';

(2) by striking subparagraph (C);

(3) in subparagraph (D)—

(A) in clause (iii), by adding ''and'' after the semicolon at the end; and

(B) in clause (iv), by striking ''applicable;'' and all that follows and inserting ''applicable, and the name of each county or parish in which the farm products are produced or located;'';

(4) in subparagraph (E), by striking ''signed'' and inserting ''signed, authorized, or otherwise authenticated by the debtor'';

(5) in subparagraph (G), by striking ''notice signed'' and inserting ''notice signed, authorized, or otherwise authenticated''; and

(6) by redesignating subparagraphs (D) through (I) as subparagraphs (C) through (H), respectively.

(b) PURCHASES SUBJECT TO SECURITY INTERESTS.—Section 1324(e) of the Food Security Act of 1985 (7 U.S.C. 1631(e)) is amended—

(1) in paragraph (1)(A)(ii)—

(A) in subclause (III), by adding ''and'' after the semicolon at the end; and

(B) in subclause (IV), by striking ''crop year,'' and all that follows and inserting ''crop year, and the name of each county or parish in which the farm products are produced or located;'';

(2) in paragraph (1)(A)(iii), by striking ''similarly signed'' and inserting ''similarly signed, authorized, or otherwise authenticated'';

(3) in paragraph (1)(A)(iv), by striking ''notice signed'' and inserting ''notice signed, authorized, or otherwise authenticated'';

(4) in paragraph (1)(A)(v), by inserting ''contains'' before ''any payment''; and

(5) in paragraph (3)—

(A) in subparagraph (A), by striking ''subparagraph'' and inserting ''subsection''; and

(B) in subparagraph (B), by striking ''; and'' and inserting a period.

(c) CERTAIN SALES SUBJECT TO SECURITY INTEREST.—Section 1324(g)(2)(A) of the Food Security Act of 1985 (7 U.S.C. 1631(g)(2)(A)) is amended—

(1) in clause (ii)—

(A) in subclause (III), by adding ''and'' after the semicolon at the end; and

(B) in subclause (IV), by striking ''crop year,'' and all that follows and inserting ''crop year, and the name of each county or parish in which the farm products are produced or located;'';

(2) in clause (iii), by striking ''similarly signed'' and inserting ''similarly signed, authorized, or otherwise authenticated'';

(3) in clause (iv), by striking ''notice signed'' and inserting ''notice signed, authorized, or otherwise authenticated''; and

(4) in clause (v), by inserting ''contains'' before ''any payment''.

SEC. 10605. FARMERS' MARKET PROMOTION PROGRAM.

(a) IN GENERAL.—The Farmer-to-Consumer Direct Marketing Act of 1976 is amended by inserting after section 5 (7 U.S.C. 3004) the following:

''SEC. 6. FARMERS' MARKET PROMOTION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall carry out a program, to be known as the 'Farmers' Market Promotion Program' (referred to in this section as the 'Program'), to make grants to eligible entities for projects to establish, expand, and promote farmers' markets.

''(b) PROGRAM PURPOSES.—

''(1) IN GENERAL.—The purposes of the Program are—

''(A) to increase domestic consumption of agricultural commodities by improving and expanding, or assisting in the improvement and expansion of, domestic farmers' markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer market opportunities; and

''(B) to develop, or aid in the development of, new farmers' markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer infrastructure.

''(2) LIMITATIONS.—An eligible entity may not use a grant or other assistance provided under the Program for the purchase, construction, or rehabilitation of a building or structure.

''(c) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under the Program if the entity is—

''(1) an agricultural cooperative;

''(2) a local government;

''(3) a nonprofit corporation;

''(4) a public benefit corporation;

''(5) an economic development corporation;

''(6) a regional farmers' market authority; or

''(7) such other entity as the Secretary may designate.

''(d) CRITERIA AND GUIDELINES.—The Secretary shall establish criteria and guidelines for the submission, evaluation, and funding of proposed projects under the Program.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SURVEY.—Section 4 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3003) is amended—

(A) in the first sentence, by striking ''a continuing'' and inserting ''an annual''; and

(B) by striking the second sentence.

(2) DIRECT MARKETING ASSISTANCE.—Section 5 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3004) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking ''Extension Service of the United States Department of Agriculture'' and inserting ''Secretary''; and

(ii) in the second sentence—

(I) by striking ''Extension Service'' and inserting ''Secretary''; and

(II) by striking ''and on the basis of which of these two agencies, or combination thereof, can best perform these activities'' and inserting '', as determined by the Secretary'';

(B) by redesignating subsection (b) as subsection (c); and

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

''(b) DEVELOPMENT OF FARMERS' MARKETS.—The Secretary shall—

''(1) work with the Governor of a State, and a State agency designated by the Governor, to develop programs to train managers of farmers' markets;

''(2) develop opportunities to share information among managers of farmers' markets;

''(3) establish a program to train cooperative extension service employees in the development of direct marketing techniques; and

''(4) work with producers to develop farmers' markets.''.

SEC. 10606. NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.

(a) IN GENERAL.—Of funds of the Commodity Credit Corporation, the Secretary of Agriculture (acting through the Agricultural Marketing Service) shall use $5,000,000 for fiscal year 2002, to remain available until expended, to establish a national organic certification cost-share program to assist producers and handlers of agricultural products in obtaining certification under the national organic production program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(b) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay under this section not more than 75 percent of the costs incurred by a producer or handler in obtaining certification under the national organic production program, as certified to and approved by the Secretary.

(2) MAXIMUM AMOUNT.—The maximum amount of a payment made to a producer or handler under this section shall be $500.

SEC. 10607. EXEMPTION OF CERTIFIED ORGANIC PRODUCTS FROM ASSESSMENTS.

(a) IN GENERAL.—Section 501 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401) is amended by adding at the end the following:

''(e) EXEMPTION OF CERTIFIED ORGANIC PRODUCTS FROM ASSESSMENTS.—

''(1) IN GENERAL.—Notwithstanding any provision of a commodity promotion law, a person that produces and markets solely 100 percent organic products, and that does not produce any conventional or nonorganic products, shall be exempt from the payment of an assessment under a commodity promotion law with respect to any agricultural commodity that is produced on a certified organic farm (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)).

''(2) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate regulations concerning eligibility and compliance for an exemption under paragraph (1).''.

(b) TECHNICAL AMENDMENTS.—Section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a)) is amended—

(1) in paragraph (17), by striking ''or'';

(2) in paragraph (18), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(19) any other provision of law enacted after April 4, 1996, that provides for the establishment and operation of a promotion program described in the first sentence.''.

SEC. 10608. CRANBERRY ACREAGE RESERVE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE AREA.—The term ''eligible area'' means a wetland or buffer strip adjacent to a wetland that, as determined by the Secretary—

(A)(i) is used, and has a history of being used, for the cultivation of cranberries; or

(ii) is an integral component of a cranberry-growing operation;

(B) is located in an environmentally sensitive area.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) PROGRAM.—The Secretary shall establish a program to purchase permanent easements in eligible areas from willing sellers.

(c) PURCHASE PRICE.—The Secretary shall ensure, to the maximum extent practicable, that each easement purchased under this section is for an amount that appropriately reflects the range of values for agricultural and nonagricultural land in the region in which the eligible area subject to the easement is located (including whether that land is located in 1 or more environmentally sensitive areas, as determined by the Secretary).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.

Subtitle H—Administration

SEC. 10701. INITIAL RATE OF BASIC PAY FOR EMPLOYEES OF COUNTY COMMITTEES.

Section 5334 of title 5, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) An employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may, on appointment to a position subject to this subchapter, have the initial rate of basic pay of the employee fixed at—

''(1) the lowest rate of the higher grade that exceeds the rate of basic pay of the employee with the county committee by not less than 2 step-increases of the grade from which the employee was promoted, if the Federal Civil Service position under this subchapter is at a higher grade than the last grade the employee had while an employee of the county committee;

''(2) the same step of the grade as the employee last held during service with the county committee, if the Federal Civil Service position under this subchapter is at the same grade as the last grade the employee had while an employee of the county committee; or

''(3) the lowest step of the Federal grade for which the rate of basic pay is equal to or greater than the highest previous rate of pay of the employee, if the Federal Civil Service position under this subchapter is at a lower grade than the last grade the employee had while an employee of the county committee.''.

SEC. 10702. COMMODITY FUTURES TRADING COMMISSION PAY COMPARABILITY.

(a) APPOINTMENT AND COMPENSATION OF EMPLOYEES OF THE COMMISSION.—Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended—

(1) by redesignating paragraphs (7) through (11) as paragraphs (8) through (12), respectively; and

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

''(7) APPOINTMENT AND COMPENSATION.—

''(A) IN GENERAL.—The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out the functions of the Commission under this Act.

''(B) RATES OF PAY.—Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

''(C) COMPARABILITY.—

''(i) IN GENERAL.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are provided by any agency referred to in section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)) or could be provided by such an agency under applicable provisions of law (including rules and regulations).

''(ii) CONSULTATION.—In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to in section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)).''.

(b) REPORTING OF INFORMATION BY THE COMMISSION.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended—

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

''(a) IN GENERAL.—The Federal''; and

(2) by adding at the end the following:

''(b) COMMODITY FUTURES TRADING COMMISSION.—In establishing and adjusting schedules of compensation and benefits for employees of the Commodity Futures Trading Commission under applicable provisions of law, the Commission shall—

''(1) inform the heads of the agencies referred to in subsection (a) and Congress of such compensation and benefits; and

''(2) seek to maintain comparability with those agencies regarding compensation and benefits.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

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

(B) in subparagraph (D), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(E) the Commodity Futures Trading Commission;''.

(2) Section 5316 of title 5, United States Code, is amended—

(A) by striking ''General Counsel, Commodity Futures Trading Commission.''; and

(B) by striking ''Executive Director, Commodity Futures Trading Commission.''.

(3) Section 5373(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''or'' at the end;

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

(C) by adding at the end the following:

''(4) section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)).''.

SEC. 10703. OVERTIME AND HOLIDAY PAY.

(a) IN GENERAL.—The Secretary of Agriculture may—

(1) pay employees of the Department of Agriculture employed in an establishment subject to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) for all overtime and holiday work performed at the establishment at rates determined by the Secretary, subject to applicable law relating to minimum wages and maximum hours; and

(2) accept from the establishment reimbursement for any sums paid by the Secretary for the overtime and holiday work, at rates determined under paragraph (1).

(b) AVAILABILITY.—Sums received by the Secretary under this section shall remain available until expended without further appropriation and without fiscal year limitation, to carry out subsection (a).

(c) CONFORMING AMENDMENTS.—

(1) Section 25 of the Poultry Products Inspection Act (21 U.S.C. 468) is amended by striking ''except that the cost'' and all that follows and inserting ''except the cost of overtime and holiday pay paid pursuant to the section 10703 of the Farm Security and Rural Investment Act of 2002.''.

(2) The Act of June 5, 1948 (21 U.S.C. 695), is amended by striking ''overtime'' and all that follows and inserting ''overtime and holiday pay paid pursuant to section 10703 of the Farm Security and Rural Investment Act of 2002.''.

(3) The matter under the heading ''BUREAU OF ANIMAL INDUSTRY'' of the Act of July 24, 1919, is amended by striking the next to the last paragraph (7 U.S.C. 394).

(4) Section 5549 of title 5, United States Code is amended by striking paragraph (1) and inserting the following:

''(1) section 10703 of the Farm Security and Rural Investment Act of 2002;''.

SEC. 10704. ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.

(a) IN GENERAL.—Section 218 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6918) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) Assistant Secretary of Agriculture for Civil Rights.''; and

(2) by striking subsections (d) and (e) and inserting the following:

''(d) DUTIES OF ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.—The Secretary may delegate to the Assistant Secretary for Civil Rights responsibility for—

''(1) ensuring compliance with all civil rights and related laws by all agencies and under all programs of the Department;

''(2) coordinating administration of civil rights laws (including regulations) within the Department for employees of, and participants in, programs of the Department; and

''(3) ensuring that necessary and appropriate civil rights components are properly incorporated into all strategic planning initiatives of the Department and agencies of the Department.''.

(b) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Agriculture (2)'' and inserting ''Assistant Secretaries of Agriculture (3)''.

(c) CONFORMING AMENDMENTS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (3), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(5) the authority of the Secretary to establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights, and delegate duties to the Assistant Secretary, under section 218.''.

SEC. 10705. OPERATION OF GRADUATE SCHOOL OF DEPARTMENT OF AGRICULTURE.

(a) AUDITS OF RECORDS.—Section 921 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279b) is amended by adding at the end the following:

''(k) AUDITS OF RECORDS.—The financial records of the Graduate School (including records relating to contracts or agreements entered into under subsection (c)) shall be made available to the Comptroller General for purposes of conducting an audit.''.

(b) CONFORMING REPEAL.—Section 1669 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5922) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2002.

SEC. 10706. IMPLEMENTATION FUNDING AND INFORMATION MANAGEMENT.

(a) ADDITIONAL FUNDS FOR ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, may use not more than $55,000,000 of funds of the Commodity Credit Corporation to cover administrative costs associated with the implementation of title I and the amendments made by that title.

(2) AVAILABILITY.—The funds referred to in paragraph (1) shall remain available to the Secretary until expended.

(3) SET-ASIDE.—Of the amount specified in paragraph (1), the Secretary shall use not less than $5,000,000, but not more than $8,000,000, to carry out subsection (b).

(b) INFORMATION MANAGEMENT.—

(1) DEVELOPMENT OF SYSTEM.—The Secretary of Agriculture shall develop a comprehensive information management system, using appropriate technologies, to be used in implementing the programs administered by the Federal Crop Insurance Corporation and the Farm Service Agency.

(2) ELEMENTS.—The information management system developed under this subsection shall be designed to—

(A) improve access by agricultural producers to programs described in paragraph (1);

(B) improve and protect the integrity of the information collected;

(C) meet the needs of the agencies that require the data in the administration of their programs;

(D) improve the timeliness of the collection of the information;

(E) contribute to the elimination of duplication of information collection;

(F) lower the overall cost to the Department of Agriculture for information collection; and

(G) achieve such other goals as the Secretary considers appropriate.

(3) RECONCILIATION OF CURRENT INFORMATION MANAGEMENT.—The Secretary shall ensure that all current information of the Federal Crop Insurance Corporation and the Farm Service Agency is combined, reconciled, redefined, and reformatted in such a manner so that the agencies can use the common information management system developed under this subsection.

(4) ASSISTANCE FOR DEVELOPMENT OF SYSTEM.—The Secretary shall enter into an agreement or contract with a non-Federal entity to assist the Secretary in the development of the information management system. The Secretary shall give preference in entering into an agreement or contract to entities that have—

(A) prior experience with the information and management systems of the Federal Crop Insurance Corporation; and

(B) collaborated with the Corporation in the development of the identification procedures required by section 515(f) of the Federal Crop Insurance Act (7 U.S.C. 1515(f)).

(5) USE.—The information collected using the information management system developed under this subsection may be made available to—

(A) any Federal agency that requires the information to carry out the functions of the agency; and

(B) any approved insurance provider, as defined in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)), with respect to producers insured by the approved insurance provider.

(6) RELATION TO OTHER ACTIVITIES.—This subsection shall not interfere with, or delay, existing agreements or requests for proposals of the Federal Crop Insurance Corporation or the Farm Service Agency regarding the information management activities known as data mining or data warehousing.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under subsection (a)(3), there are authorized to be appropriated such sums as are necessary to carry out subsection (b) for each of fiscal years 2003 through 2008.

SEC. 10707. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

(a) DEFINITIONS.—Section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)) is amended by adding at the end the following:

''(4) DEPARTMENT.—The term 'Department' means the Department of Agriculture.

''(5) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) Any community-based organization, network, or coalition of community-based organizations that—

''(i) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

''(ii) has provided to the Secretary documentary evidence of work with socially disadvantaged farmers and ranchers during the 2-year period preceding the submission of an application for assistance under subsection (a); and

''(iii) does not engage in activities prohibited under section 501(c)(3) of the Internal Revenue Code of 1986.

''(B) An 1890 institution or 1994 institution (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)), including West Virginia State College.

''(C) An Indian tribal community college or an Alaska Native cooperative college.

''(D) An Hispanic-serving institution (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)).

''(E) Any other institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region.

''(F) An Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) or a national tribal organization that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region.

''(G) An organization or institution that received funding under subsection (a) before January 1, 1996, but only with respect to projects that the Secretary considers are similar to projects previously carried out by the organization or institution under such subsection.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.''.

(b) OUTREACH AND ASSISTANCE.—Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended by striking subsection (a) and inserting the following:

''(a) OUTREACH AND ASSISTANCE.—

''(1) PROGRAM.—The Secretary of Agriculture shall carry out an outreach and technical assistance program to encourage and assist socially disadvantaged farmers and ranchers—

''(A) in owning and operating farms and ranches; and

''(B) in participating equitably in the full range of agricultural programs offered by the Department.

''(2) REQUIREMENTS.—The outreach and technical assistance program under paragraph (1) shall—

''(A) enhance coordination of the outreach, technical assistance, and education efforts authorized under various agriculture programs; and

''(B) include information on, and assistance with—

''(i) commodity, conservation, credit, rural, and business development programs;

''(ii) application and bidding procedures;

''(iii) farm and risk management;

''(iv) marketing; and

''(v) other activities essential to participation in agricultural and other programs of the Department.

''(3) GRANTS AND CONTRACTS.—

''(A) IN GENERAL.—The Secretary may make grants to, and enter into contracts and other agreements with, an eligible entity to provide information and technical assistance under this subsection.

''(B) RELATIONSHIP TO OTHER LAW.—The authority to carry out this section shall be in addition to any other authority provided in this or any other Act.

''(C) OTHER PROJECTS.—Notwithstanding paragraph (1), the Secretary may make grants

to, and enter into contracts and other agreements with, an organization or institution that received funding under this section before January 1, 1996, to carry out a project that is similar to a project for which the organization or institution received such funding.

''(4) FUNDING.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2002 through 2007.

''(B) INTERAGENCY FUNDING.—In addition to funds authorized to be appropriated under subparagraph (A), any agency of the Department may participate in any grant, contract, or agreement entered into under this subsection by contributing funds, if the agency determined that the objectives of the grant, contract, or agreement will further the authorized programs of the contributing agency.''.

(c) CONFORMING AMENDMENTS.—Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (d)(1), by striking ''of Agriculture'' after ''Department''; and

(2) in subsection (g)(1), by striking ''of Agriculture'' after ''Department''.

SEC. 10708. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS; PUBLIC DISCLOSURE REQUIREMENTS FOR COUNTY COMMITTEE ELECTIONS.

(a) TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.—The Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 2501 (7 U.S.C. 2279) the following:

''SEC. 2501A. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

''(a) PURPOSE.—The purpose of this section is to ensure compilation and public disclosure of data to assess and hold the Department of Agriculture accountable for the nondiscriminatory participation of socially disadvantaged farmers and ranchers in programs of the Department.

''(b) DEFINITION OF SOCIALLY DISADVANTAGED FARMER OR RANCHER.—In this section, the term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

''(c) COMPILATION OF PROGRAM PARTICIPATION DATA.—

''(1) ANNUAL REQUIREMENT.—For each county and State in the United States, the Secretary shall compute annually the participation rate of socially disadvantaged farmers and ranchers as a percentage of the total participation of all farmers and ranchers for each program of the Department of Agriculture established for farmers or ranchers.

''(2) REPORTING PARTICIPATION.—In reporting the rates of participation under paragraph (1), the Secretary shall report the participation rate of socially disadvantaged farmers and ranchers according to race, ethnicity, and gender.''.

(b) PUBLIC DISCLOSURE REQUIREMENTS FOR COUNTY COMMITTEE ELECTIONS.—Section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) is amended by striking subparagraph (B) and inserting the following:

''(B) ESTABLISHMENT AND ELECTIONS FOR COUNTY, AREA, OR LOCAL COMMITTEES.—

''(i) ESTABLISHMENT.—

''(I) IN GENERAL.—In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

''(II) LOCAL ADMINISTRATIVE AREAS.—The Secretary may designate local administrative areas within a county or a larger area under the jurisdiction of a committee established under subclause (I).

''(ii) COMPOSITION OF COUNTY, AREA, OR LOCAL COMMITTEES.—A committee established under clause (i) shall consist of not fewer than 3 nor more than 5 members that—

''(I) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and

''(II) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.

''(iii) ELECTIONS.—

''(I) IN GENERAL.—Subject to subclauses (II) through (V), the Secretary shall establish procedures for nominations and elections to county, area, or local committees.

''(II) NONDISCRIMINATION STATEMENT.—Each solicitation of nominations for, and notice of elections of, a county, area, or local committee shall include the nondiscrimination statement used by the Secretary.

''(III) NOMINATIONS.—

''(aa) ELIGIBILITY.—To be eligible for nomination and election to the applicable county, area, or local committee, as determined by the Secretary, an agricultural producer shall be located within the area under the jurisdiction of a county, area, or local committee, and participate or cooperate in programs administered within that area.

''(bb) OUTREACH.—In addition to such nominating procedures as the Secretary may prescribe, the Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

''(IV) OPENING OF BALLOTS.—

''(aa) PUBLIC NOTICE.—At least 10 days before the date on which ballots are to be opened and counted, a county, area, or local committee shall announce the date, time, and place at which election ballots will be opened and counted.

''(bb) OPENING OF BALLOTS.—Election ballots shall not be opened until the date and time announced under item (aa).

''(cc) OBSERVATION.—Any person may observe the opening and counting of the election ballots.

''(V) REPORT OF ELECTION.—Not later than 20 days after the date on which an election is held, a county, area, or local committee shall file an election report with the Secretary and the State office of the Farm Service Agency that includes—

''(aa) the number of eligible voters in the area covered by the county, area, or local committee;

''(bb) the number of ballots cast in the election by eligible voters (including the percentage of eligible voters that cast ballots);

''(cc) the number of ballots disqualified in the election;

''(dd) the percentage that the number of ballots disqualified is of the number of ballots received;

''(ee) the number of nominees for each seat up for election;

''(ff) the race, ethnicity, and gender of each nominee, as provided through the voluntary self-identification of each nominee; and

''(gg) the final election results (including the number of ballots received by each nominee).

''(VI) NATIONAL REPORT.—Not later than 90 days after the date on which the first election of a county, area, or local committee that occurs after the date of enactment of the Farm Security and Rural Investment Act of 2002 is held, the Secretary shall complete a report that consolidates all the election data reported to the Secretary under subclause (V).

''(VII) ELECTION REFORM.—

''(aa) ANALYSIS.—If determined necessary by the Secretary after analyzing the data contained in the report under subclause (VI), the Secretary shall promulgate and publish in the Federal Register proposed uniform guidelines for conducting elections for members and alternate members of county, area, and local committees not later than 1 year after the date of completion of the report.

''(bb) INCLUSION.—The procedures promulgated by the Secretary under item (aa) shall ensure fair representation of socially disadvantaged groups described in subclause (III)(bb) in an area covered by the county, area, or local committee, in cases in which those groups are underrepresented on the county, area, or local committee for that area.

''(cc) METHODS OF INCLUSION.—Notwithstanding clause (ii), the Secretary may ensure inclusion of socially disadvantaged farmers and ranchers through provisions allowing for appointment of 1 additional voting member to a county, area, or local committee or through other methods.

''(iv) TERM OF OFFICE.—The term of office for a member of a county, area, or local committee shall not exceed 3 years.

''(v) PUBLIC AVAILABILITY AND REPORT TO CONGRESS.—

''(I) PUBLIC DISCLOSURE.—The Secretary shall maintain and make readily available to the public, via website and otherwise in electronic and paper form, all data required to be collected and computed under section 2501A(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 and clause (iii)(V) collected annually since the most recent Census of Agriculture.

''(II) REPORT TO CONGRESS.—After each Census of Agriculture, the Secretary shall report to Congress the rate of loss or gain in participation by each socially disadvantaged group, by race, ethnicity, and gender, since the previous Census.''.

Subtitle I—General Provisions

SEC. 10801. COTTON CLASSIFICATION SERVICES.

(a) EXTENSION OF AUTHORITY TO PROVIDE SERVICES.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the ''Cotton Statistics and Estimates Act''; 7 U.S.C. 473a), is amended by striking ''2002'' and inserting ''2007''.

(b) REPEAL OF OBSOLETE EFFECTIVE DATE PROVISIONS.—

(1) 1984 AMENDMENT.—The first section of Public Law 98–403 (98 Stat. 1479) is amended by striking '', effective for the period beginning October 1, 1984, and ending September 30, 1988,''.

(2) 1987 AMENDMENTS.—Section 2 of the Uniform Cotton Classing Fees Act of 1987 (Public Law 100–108; 101 Stat. 728) is amended by striking ''Effective for the period beginning on the date of enactment of this Act and ending September 30, 1992, section'' and inserting ''Section''.

(3) 1991 AMENDMENTS.—Section 120 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1842) is amended by striking subsection (e).

SEC. 10802. PROGRAM OF PUBLIC EDUCATION REGARDING USE OF BIOTECHNOLOGY IN PRODUCING FOOD FOR HUMAN CONSUMPTION.

(a) PUBLIC INFORMATION CAMPAIGN.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall develop and implement a program to communicate with the public regarding the use of biotechnology in producing food for human consumption. The information provided under the program shall include the following:

(1) Science-based evidence on the safety of foods produced with biotechnology.

(2) Scientific data on the human outcomes of the use of biotechnology to produce food for human consumption.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.

SEC. 10803. CHINO DAIRY PRESERVE PROJECT.

Notwithstanding any other provision of law, the Secretary of Agriculture, acting through the Natural Resources Conservation Service, may provide financial and technical assistance to the Chino Dairy Preserve Project, San Bernadino County, California.

SEC. 10804. GRAZINGLANDS RESEARCH LABORATORY.

Notwithstanding any other provision of law, before December 31, 2007, the Federal land and

facilities at El Reno, Oklahoma, currently administered by the Secretary of Agriculture as the Grazinglands Research Laboratory shall not, without specific authorization by Congress—

(1) be declared to be excess or surplus under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); or

(2) be conveyed or otherwise transferred in whole or in part.

SEC. 10805. FOOD AND AGRICULTURAL POLICY RESEARCH INSTITUTE.

(a) AUTHORITY.—The Secretary of Agriculture may award grants to the Food and Agricultural Policy Research Institute for the purpose of funding prospective, independent research on the effects of alternative domestic, foreign, and trade policies, on the agricultural sector, including research on the effects of those policies on—

(1) commodity prices for—

(A) feed; and

(B) food grains, oilseeds, cotton, livestock, and products thereof;

(2) supply and demand conditions for similar products;

(3) costs to the Federal Government;

(4) farm income;

(5) food costs;

(6) the volume and value of trade in agricultural commodities; and

(7) exporter and importer supply, demand, and trade.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2003 through 2007.

SEC. 10806. MARKET NAMES FOR CATFISH AND GINSENG.

(a) CATFISH LABELING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)—

(A) the term ''catfish'' may only be considered to be a common or usual name (or part thereof) for fish classified within the family Ictaluridae; and

(B) only labeling or advertising for fish classified within that family may include the term ''catfish''.

(2) AMENDMENT.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(t) If it purports to be or is represented as catfish, unless it is fish classified within the family Ictaluridae.''.

(b) GINSENG LABELING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)—

(A) the term ''ginseng'' may only be considered to be a common or usual name (or part thereof) for any herb or herbal ingredient derived from a plant classified within the genus Panax; and

(B) only labeling or advertising for herbs or herbal ingredients classified within that genus may include the term ''ginseng''.

(2) AMENDMENT.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) (as amended by subsection (a)(2)) is amended by adding at the end the following:

''(u) If it purports to be or is represented as ginseng, unless it is an herb or herbal ingredient derived from a plant classified within the genus Panax.''.

SEC. 10807. FOOD SAFETY COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a commission to be known as the ''Food Safety Commission'' (referred to in this section as the ''Commission'').

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 15 members (including a Chairperson, appointed by the President.

(B) ELIGIBILITY.—

(i) IN GENERAL.—Members of the Commission—

(I) shall have specialized training or significant experience in matters under the jurisdiction of the Commission; and

(II) shall represent, at a minimum—

(aa) consumers;

(bb) food scientists;

(cc) the food industry; and

(dd) health professionals.

(ii) FEDERAL EMPLOYEES.—Not more than 3 members of the Commission may be Federal employees.

(C) DATE OF APPOINTMENTS.—The appointment of the members of the Commission shall be made as soon as practicable after the date on which funds authorized to be appropriated under subsection (e)(1) are made available.

(D) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled—

(I) not later than 60 days after the date on which the vacancy occurs; and

(II) in the same manner as the original appointment was made.

(3) MEETINGS.—

(A) INITIAL MEETING.—The initial meeting of the Commission shall be conducted not later than 30 days after the date of appointment of the final member of the Commission.

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

(4) QUORUM; STANDING RULES.—

(A) QUORUM.—A majority of the members of the Commission shall constitute a quorum to conduct business.

(B) STANDING RULES.—At the first meeting of the Commission, the Commission shall adopt standing rules of the Commission to guide the conduct of business and decisionmaking of the Commission.

(b) DUTIES.—

(1) RECOMMENDATIONS.—The Commission shall make specific recommendations to enhance the food safety system of the United States, including a description of how each recommendation would improve food safety.

(2) COMPONENTS.—Recommendations made by the Commission under paragraph (1) shall address all food available commercially in the United States.

(3) REPORT.—Not later than 1 year after the date on which the Commission first meets, the Commission shall submit to the President and Congress—

(A) the findings, conclusions, and recommendations of the Commission, including a description of how each recommendation would improve food safety;

(B) a summary of any other material used by the Commission in the preparation of the report under this paragraph; and

(C) if requested by 1 or more members of the Commission, a statement of the minority views of the Commission.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this section, hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly, from any Federal agency, such information as the Commission considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—

(i) IN GENERAL.—Subject to subparagraph (C), on the request of the Commission, the head of a Federal agency described in subparagraph (A) may furnish information requested by the Commission to the Commission.

(ii) ADMINISTRATION.—The furnishing of information by a Federal agency to the Commission shall not be considered a waiver of any exemption available to the agency under section 552 of title 5, United States Code.

(C) INFORMATION TO BE KEPT CONFIDENTIAL.—

(i) IN GENERAL.—For purposes of section 1905 of title 18, United States Code—

(I) the Commission shall be considered an agency of the Federal Government; and

(II) any individual employed by an individual, entity, or organization that is a party to a contract with the Commission under this section shall be considered an employee of the Commission.

(ii) PROHIBITION ON DISCLOSURE.—Information obtained by the Commission, other than information that is available to the public, shall not be disclosed to any person in any manner except to an employee of the Commission as described in clause (i), for the purpose of receiving, reviewing, or processing the information.

(d) COMMISSION PERSONNEL MATTERS.—

(1) MEMBERS.—

(A) COMPENSATION.—A member of the Commission shall serve without compensation for the services of the member on the Commission.

(B) TRAVEL EXPENSES.—A member of the Commission 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 Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate the appointment of an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(C) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level II of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission, without reimbursement, for such period of time as is permitted by law.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level II of the Executive Schedule under section 5316 of that title.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as are necessary to carry out this section.

(2) LIMITATION.—No payment may be made under subsection (d) except to the extent provided for in advance in an appropriations Act.

(f) TERMINATION.—The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the recommendations and report under subsection (b)(3).

SEC. 10808. PASTEURIZATION.

(a) PASTEURIZATION OF MEAT AND POULTRY.—

(1) IN GENERAL.—Effective beginning not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct an education program regarding the availability and safety of processes and treatments that eliminate or substantially reduce the level of pathogens on meat, meat food products, poultry, and poultry products.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out this subsection.

(b) PASTEURIZATION OF FOOD AS PASTEURIZED.—Section 403(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(h)) is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(3) by adding at the end the following:

''(3) a food that is pasteurized unless—

''(A) such food has been subjected to a safe process or treatment that is prescribed as pasteurization for such food in a regulation promulgated under this Act; or

''(B)(i) such food has been subjected to a safe process or treatment that—

''(I) is reasonably certain to achieve destruction or elimination in the food of the most resistant microorganisms of public health significance that are likely to occur in the food;

''(II) is at least as protective of the public health as a process or treatment described in subparagraph (A);

''(III) is effective for a period that is at least as long as the shelf life of the food when stored under normal and moderate abuse conditions; and

''(IV) is the subject of a notification to the Secretary, including effectiveness data regarding the process or treatment; and

''(ii) at least 120 days have passed after the date of receipt of such notification by the Secretary without the Secretary making a determination that the process or treatment involved has not been shown to meet the requirements of subclauses (I) through (III) of clause (i).

For purposes of paragraph (3), a determination by the Secretary that a process or treatment has not been shown to meet the requirements of subclauses (I) through (III) of subparagraph (B)(i) shall constitute final agency action under such subclauses.''.

SEC. 10809. RULEMAKING ON LABELING OF IRRADIATED FOOD; CERTAIN PETITIONS.

The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall publish a proposed rule and, with due consideration to public comment, a final rule to revise, as appropriate, the current regulation governing the labeling of foods that have been treated to reduce pest infestation or pathogens by treatment by irradiation using radioactive isotope, electronic beam, or x-ray. Pending promulgation of the final rule required by this subsection, any person may petition the Secretary for approval of labeling, which is not false or misleading in any material respect, of a food which has been treated by irradiation using radioactive isotope, electronic beam, or x-ray. The Secretary shall approve or deny such a petition within 180 days of receipt of the petition, or the petition shall be deemed denied, except to the extent additional agency review is mutually agreed upon by the Secretary and the petitioner. Any denial of a petition under this subsection shall constitute final agency action subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit. Any labeling approved through the foregoing petition process shall be subject to the provisions of the final rule referred to in the first sentence of the subparagraph on the effective date of such final rule.

SEC. 10810. PENALTIES FOR VIOLATIONS OF PLANT PROTECTION ACT.

Section 424 of the Plant Protection Act (7 U.S.C. 7734) is amended by striking subsection (a) and inserting the following:

''(a) CRIMINAL PENALTIES.—

''(1) OFFENSES.—

''(A) IN GENERAL.—A person that knowingly violates this title, or knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this title shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

''(B) MOVEMENT.—A person that knowingly imports, enters, exports, or moves any plant, plant product, biological control organism, plant pest, noxious weed, or article, for distribution or sale, in violation of this title, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of this title under paragraph (1), the person shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.''.

SEC. 10811. PRECLEARANCE QUARANTINE INSPECTIONS.

(a) PRECLEARANCE INSPECTIONS REQUIRED.—The Secretary of Agriculture, acting through the Administrator of the Animal and Plant Health Inspection Service, shall conduct preclearance quarantine inspections of persons, baggage, cargo, and any other articles destined for movement from the State of Hawaii to any of the following—

(1) The continental United States.

(2) Guam.

(3) Puerto Rico.

(4) The United States Virgin Islands.

(b) INSPECTION LOCATIONS.—The preclearance quarantine inspections required by subsection (a) shall be conducted at all direct departure and interline airports in the State of Hawaii.

(c) LIMITATION.—The Secretary shall not implement this section unless appropriations for necessary expenses of the Animal and Plant Health Inspection Service for inspection, quarantine, and regulatory activities are increased by an amount not less than $3,000,000 in an Act making appropriations for fiscal year 2003.

SEC. 10812. CONNECTICUT RIVER ATLANTIC SALMON COMMISSION.

Section 3(2) of Public Law 98–138 (Public Law 98–138; 97 Stat. 870) is amended by striking ''twenty'' and inserting ''40''.

SEC. 10813. PINE POINT SCHOOL.

Section 802(b)(2) of the No Child Left Behind Act of 2001 (Public Law 107–110) is amended by striking ''2002'' each place it appears and inserting ''2000''.

SEC. 10814. 7-MONTH EXTENSION OF CHAPTER 12 OF TITLE 11 OF THE UNITED STATES CODE.

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105–277 is amended—

(1) by striking ''June 1, 2002'' each place it appears and inserting ''January 1, 2003''; and

(2) in subsection (a)—

(A) by striking ''September 30, 2001'' and inserting ''May 31, 2002''; and

(B) by striking ''October 1, 2001'' and inserting ''June 1, 2002''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on June 1, 2002.

SEC. 10815. PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

(a) REPORT.—The Secretary of Agriculture shall investigate and submit to Congress a report on—

(1) the scope of nonambulatory livestock;

(2) the causes that render livestock nonambulatory;

(3) the humane treatment of nonambulatory livestock; and

(4) the extent to which nonambulatory livestock may present handling and disposition problems for stockyards, market agencies, and dealers.

(b) AUTHORITY.—Based on the findings of the report, if the Secretary determines it necessary, the Secretary shall promulgate regulations to provide for the humane treatment, handling, and disposition of nonambulatory livestock by stockyards, market agencies, and dealers.

(c) ADMINISTRATION AND ENFORCEMENT.—For the purpose of administering and enforcing any regulations promulgated under subsection (b), the authorities provided under sections 10414 and 10415 shall apply to the regulations in a similar manner as those sections apply to the Animal Health Protection Act. Any person that violates regulations promulgated under subsection (b) shall be subject to penalties provided in section 10414.

SEC. 10816. COUNTRY OF ORIGIN LABELING.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

''Subtitle D—Country of Origin Labeling

''SEC. 281. DEFINITIONS.

''In this subtitle:

''(1) BEEF.—The term 'beef' means meat produced from cattle (including veal).

''(2) COVERED COMMODITY.—

''(A) IN GENERAL.—The term 'covered commodity' means—

''(i) muscle cuts of beef, lamb, and pork;

''(ii) ground beef, ground lamb, and ground pork;

''(iii) farm-raised fish;

''(iv) wild fish;

''(v) a perishable agricultural commodity; and

''(vi) peanuts.

''(B) EXCLUSIONS.—The term 'covered commodity' does not include an item described in subparagraph (A) if the item is an ingredient in a processed food item.

''(3) FARM-RAISED FISH.—The term 'farm-raised fish' includes—

''(A) farm-raised shellfish; and

''(B) fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.

''(4) 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.

''(5) LAMB.—The term 'lamb' means meat, other than mutton, produced from sheep.

''(6) 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 of 1930 (7 U.S.C. 499a(b)).

''(7) PORK.—The term 'pork' means meat produced from hogs.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

''(9) WILD FISH.—

''(A) IN GENERAL.—The term 'wild fish' means naturally-born or hatchery-raised fish and shellfish harvested in the wild.

''(B) INCLUSIONS.—The term 'wild fish' includes a fillet, steak, nugget, and any other flesh from wild fish or shellfish.

''(C) EXCLUSIONS.—The term 'wild fish' excludes net-pen aquacultural or other farm-raised fish.

''SEC. 282. NOTICE OF COUNTRY OF ORIGIN.

''(a) IN GENERAL.—

''(1) REQUIREMENT.—Except as provided in subsection (b), 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—

''(A) in the case of beef, is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States (including from an animal exclusively born and raised in Alaska or Hawaii and transported for a period not to exceed 60 days through Canada to the United States and slaughtered in the United States);

''(B) in the case of lamb and pork, is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States;

''(C) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States;

''(D) in the case of wild fish, is—

''(i) harvested in waters of the United States, a territory of the United States, or a State; and

''(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof; and

''(E) in the case of a perishable agricultural commodity or peanuts, is exclusively produced in the United States.

''(3) WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

''(b) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS.—Subsection (a) shall not apply to a covered commodity if the covered commodity is—

''(1) prepared or served in a food service establishment; and

''(2)(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 (a) 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 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 verify compliance with this subtitle (including the regulations promulgated under section 284(b)).

''(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) CERTIFICATION OF ORIGIN.—

''(1) MANDATORY IDENTIFICATION.—The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity.

''(2) EXISTING CERTIFICATION PROGRAMS.—To certify the country of origin of a covered commodity, the Secretary may use as a model certification programs in existence on the date of enactment of this Act, including—

''(A) the carcass grading and certification system carried out under this Act;

''(B) the voluntary country of origin beef labeling system carried out under this Act;

''(C) voluntary programs established to certify certain premium beef cuts;

''(D) the origin verification system established to carry out the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); or

''(E) the origin verification system established to carry out the market access program under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

''SEC. 283. ENFORCEMENT.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), section 253 shall apply to a violation of this subtitle.

''(b) WARNINGS.—If the Secretary determines that a retailer is in violation of section 282, the Secretary shall—

''(1) notify the retailer of the determination of the Secretary; and

''(2) provide the retailer a 30-day period, beginning on the date on which the retailer receives the notice under paragraph (1) from the Secretary, during which the retailer may take necessary steps to comply with section 282.

''(c) FINES.—If, on completion of the 30-day period described in subsection (b)(2), the Secretary determines that the retailer has willfully violated section 282, after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer in an amount of not more than $10,000 for each violation.

''SEC. 284. REGULATIONS.

''(a) GUIDELINES.—Not later than September 30, 2002, the Secretary shall issue guidelines for the voluntary country of origin labeling of covered commodities based on the requirements of section 282.

''(b) REGULATIONS.—Not later than September 30, 2004, the Secretary shall promulgate such regulations as are necessary to implement this subtitle.

''(c) PARTNERSHIPS WITH STATES.—In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to assist in the administration of this subtitle.

''SEC. 285. APPLICABILITY.

''This subtitle shall apply to the retail sale of a covered commodity beginning September 30, 2004.''.

Subtitle J—Miscellaneous Studies and Reports

SEC. 10901. REPORT ON SPECIALTY CROP PURCHASES.

Not later than 1 year after the date of enactment of this Act, 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 quantity and type of—

(1) fruits, vegetables, and other specialty food crops that are purchased under section 10603; and

(2) other commodities that are purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

SEC. 10902. REPORT ON POUCHED AND CANNED SALMON.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress a report on efforts to expand the promotion, marketing, and purchasing of pouched and canned salmon harvested and processed in the United States under food and nutrition programs administered by the Secretary.

(b) COMPONENTS.—The report under subsection (a) shall include—

(1) an analysis of pouched and canned salmon inventories in the United States that, as of the date on which the report is submitted, are available for purchase;

(2) an analysis of the demand for pouched and canned salmon and value-added products (such as salmon ''nuggets'') by—

(A) partners of the Department of Agriculture (including other appropriate Federal agencies); and

(B) consumers; and

(3) an analysis of impediments to additional purchases of pouched and canned salmon, including—

(A) any marketing issues; and

(B) recommendations for methods to resolve those impediments.

SEC. 10903. STUDY ON UPDATING YIELDS.

(a) IN GENERAL.—The Comptroller General shall conduct a study and make findings and recommendations with respect to determining how producer income would be affected by updating yield bases, including—

(1) whether crop yields have increased over the past 20 crop years for program crops and oilseeds;

(2) whether program payments would be disbursed differently under title I if yield bases were updated further;

(3) what impact the target prices under title I would have on producer income if the yield bases of the target prices were further updated; and

(4) what impact lower target prices with updated yield bases would have on producer income, as compared with the impact of target prices under title I.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study, findings, and recommendations required by subsection (a).

SEC. 10904. REPORT ON EFFECT OF FARM PROGRAM PAYMENTS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a review of the effects that payments under production flexibility contracts and market loss assistance payments have had, and that direct payments and counter-cyclical payments are likely to have, on the economic viability of producers and the farming infrastructure, particularly in areas where climate, soil types, and other agronomic conditions severely limit the covered crops that producers can choose to successfully and profitably produce.

(b) CASE STUDY RELATED TO RICE PRODUCTION.—The review shall include a case study of the effects that the payments described in subsection (a), and the forecast effects of increasing these or other fixed payments, are likely to have on rice producers (including tenant rice producers), the rice milling industry, and the economies of rice farming areas in Texas, where harvested rice acreage has fallen from 320,000 acres in 1995 to only 211,000 acres in 2001.

(c) REPORT AND RECOMMENDATIONS.—

(1) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary 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 describing the information collected for the review and the case study and any findings made on the basis of the information.

(2) RECOMMENDATIONS.—The report shall include recommendations for minimizing the adverse effects on producers, with a special focus on—

(A) producers who are tenants;

(B) the agricultural economies in farming areas generally;

(C) particular areas described in subsection (a); and

(D) on the area that is the subject of the case study conducted under subsection (b).

SEC. 10905. CHILOQUIN DAM FISH PASSAGE FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary of the Interior, in collaboration with all interested parties (including the Modoc Point Irrigation District, the Klamath Tribes, and the Oregon Department of Fish and Wildlife), shall conduct a study of the feasibility of providing adequate upstream and downstream passage for fish at the Chiloquin Dam on the Sprague River, Oregon.

(b) SUBJECTS.—The study shall include—

(1) a review of all alternatives for providing passage described in subsection (a), including the removal of the dam;

(2) the determination of the most appropriate alternative;

(3) the development of recommendations for implementing that alternative; and

(4) examination of mitigation needed for upstream and downstream water users, and for Klamath tribal nonconsumptive uses, as a result of the implementation of the alternative.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that describes the findings, conclusions, and recommendations of the study.

SEC. 10906. REPORT ON GEOGRAPHICALLY DISADVANTAGED FARMERS AND RANCHERS.

(a) DEFINITION OF GEOGRAPHICALLY DISADVANTAGED FARMER OR RANCHER.—In this section, the term ''geographically disadvantaged farmer or rancher' means a farmer or rancher in—

(1) an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) (as amended by section 7502(a)); or

(2) a State other than 1 of the 48 contiguous States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, 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 that describes—

(1) barriers to efficient and competitive transportation of inputs and products by geographically disadvantaged farmers and ranchers; and

(2) means of encouraging and assisting geographically disadvantaged farmers and ranchers—

(A) to own and operate farms and ranches; and

(B) to participate equitably in the full range of agricultural programs offered by the Department of Agriculture.

SEC. 10907. STUDIES ON AGRICULTURAL RESEARCH AND TECHNOLOGY.

(a) SCIENTIFIC STUDIES.—

(1) IN GENERAL.—The Secretary of Agriculture may conduct scientific studies on—

(A) the transmission of spongiform encephalopathy in deer, elk, and moose; and

(B) chronic wasting disease (including the risks that chronic wasting disease poses to livestock).

(2) REPORT.—The Secretary 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 any scientific studies conducted under paragraph (1).

(b) VACCINES.—

(1) VACCINE STORAGE STUDY.—The Secretary may—

(A) conduct a study to determine the number of doses of livestock disease vaccines that should be available to protect against livestock diseases that could be introduced into the United States; and

(B) compare that number with the number of doses of the livestock disease vaccines that are available as of that date.

(2) STOCKPILING OF VACCINES.—If, after conducting the study and comparison described in paragraph (1), the Secretary determines that there is an insufficient number of doses of a particular vaccine referred to in that paragraph, the Secretary may take such actions as are necessary to obtain the required additional doses of the vaccine.

SEC. 10908. REPORT ON TOBACCO SETTLEMENT AGREEMENT.

Not later than December 31, 2002, and annually thereafter through 2006, the Comptroller General shall submit to Congress a report that describes all programs and activities that States have carried out using funds received under all phases of the Master Settlement Agreement of 1997.

SEC. 10909. REPORT ON SALE AND USE OF PESTICIDES FOR AGRICULTURAL USES.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency 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 manner in which the Agency is applying regulations of the Agency governing the sale and use of pesticides for agricultural use to electronic commerce transactions.

SEC. 10910. REVIEW OF OPERATION OF AGRICULTURAL AND NATURAL RESOURCE PROGRAMS ON TRIBAL TRUST LAND.

(a) REVIEW.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') shall conduct a review of the operation of agricultural and natural resource programs available to farmers and ranchers operating on tribal and trust land, including—

(1) agricultural commodity, price support, and farm income support programs (collectively referred to in this section as ''agricultural commodity programs'');

(2) conservation programs (including financial and technical assistance);

(3) agricultural credit programs;

(4) rural development programs; and

(5) forestry programs.

(b) CRITERIA FOR REVIEW.—In carrying out the review under subsection (a), the Secretary shall consider—

(1) the extent to which agricultural commodity programs and conservation programs are consistent with tribal goals and priorities regarding the sustainable use of agricultural land;

(2) strategies for increasing tribal participation in agricultural commodity programs and conservation programs;

(3) the educational and training opportunities available to Indian tribes and members of Indian tribes in the practical, technical, and professional aspects of agriculture and land management; and

(4) the development and management of agricultural land under the jurisdiction of Indian tribes in accordance with integrated resource management plans that—

(A) ensure proper management of the land;

(B) produce increased economic returns;

(C) promote employment opportunities; and

(D) improve the social and economic well-being of Indian tribes and members of Indian tribes.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with—

(1) the Secretary of the Interior;

(2) local officers and employees of the Department of Agriculture; and

(3) program recipients.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that contains—

(1) a description of the results of the review conducted under this section;

(2) recommendations for program improvements; and

(3) a description of actions that will be taken to carry out the improvements.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert the following: ''An Act to provide for the continuation of agricultural programs through fiscal year 2007, and for other purposes.''.

And the Senate agree to the same.

From the Committee on Agriculture, for consideration of the House bill and Senate amendment and modifications committed to conference:

LARRY COMBEST,
BOB GOODLATTE,
RICHARD POMBO,
TERRY EVERETT,
FRANK D. LUCAS,
SAXBY CHAMBLISS,
JERRY MORAN,
CHARLES W. STENHOLM,
GARY CONDIT,
COLLIN C. PETERSON,
EVA M. CLAYTON,
TIM HOLDEN,

As additional conferees from the Committee on the Budget, for consideration of sec. 197 of the Senate amendment, and modifications committed to conference:

JIM NUSSLE,

From the Committee on Education and the Workforce, for consideration of secs. 453–5, 457–9, 460–1, and 464 of the Senate amendment and modifications committed to conference:

MICHAEL N. CASTLE,
TOM OSBORNE,
DALE E. KILDEE,

From the Committee on Energy and Commerce, for consideration of secs. 213, 605, 627, 648, 652, 902, 1041, and 1079E of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JOE BARTON,
JOHN D. DINGELL,

From the Committee on Financial Services, for consideration of secs. 335 and 601 of the Senate amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
SPENCER BACHUS,
JOHN J. LAFALCE
(except for sec. 335),

From the Committee on International Relations, for consideration of title III of the House bill and title III of the Senate amendment, and modifications committed to conference:

HENRY HYDE,
CHRISTOPHER SMITH,
TOM LANTOS,

From the Committee on the Judiciary, for consideration of secs. 940–1 of the House bill and secs. 602, 1028–9, 1033–5, 1046, 1049, 1052–3, 1058, 1068–9, 1070–1, 1098, and 1098A of the Senate amendment, and modifications committed to conference:

MARK GREEN,

From the Committee on Resources, for consideration of secs. 201, 203, 211, 213, 215–7, 262, 721, 786, 806, 810, 817–8, 1069, 1070, and 1076 of the Senate amendment, and modifications committed to conference:

JAMES V. HANSEN,
DON YOUNG,

From the Committee on Science, for consideration of secs. 808, 811, 902–3, and 1079 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
ROSCOE G. BARTLETT,
RALPH M. HALL,

From the Committee on Ways and Means, for consideration of secs. 127 and 146 of the House bill and sections 144, 1024, 1038, and 1070 of the Senate amendment, and modifications committed to conference:

CHARLES B. RANGEL,
Managers on the Part of the House.

TOM HARKIN,
PATRICK LEAHY,
KENT CONRAD,
TOM DASCHLE,
THAD COCHRAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646) to provide for the continuation of agricultural programs through fiscal year 2011, submit the following joint statement to the

House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE; TABLE OF CONTENTS

(1) Short Title

The House bill cites that this Act may be cited as the ''Farm Security Act of 2001''. (Section 1)

The Senate amendment cites that the Act may be cited as the ''Agriculture, Conservation, and Rural Enhancement Act of 2002''. (Section 1)

The Conference substitute cites this Act as the ''Farm Security and Rural Investment Act of 2002''. (Section 1000)

TITLE I—COMMODITY PROGRAMS

(2) Definitions

The House bill defines terms necessary for implementation of this Act: Agricultural Act of 1949, base acres, counter-cyclical payment, covered commodity, effective price, eligible producer, fixed decoupled payment, other oilseed, payment acres, payment yield, producer, Secretary, State, target price and United States. (Section 101)

The Senate amendment defines terms necessary for implementation of this Act: Agricultural Act of 1949, considered planted, contract, contract acreage, contract commodity, contract payment, Department, ELS Cotton, loan commodity, oilseed, payment yield, producer, Secretary, State and United States. (Section 101)

The Conference substitute defines terms necessary for implementation of this Act: Agricultural Act of 1949, base acres, counter-cyclical payment, covered commodity, direct payment, effective price, extra long staple cotton, loan commodity, other oilseed, payment acres, payment yield, updated payment yield, producer, Secretary, State, target price and United States. (Section 1001)

SUBTITLE A—FIXED DECOUPLED PAYMENTS AND COUNTER-CYCLICAL PAYMENTS

(3) Payments to Eligible Producers

The House bill provides that beginning with the 2002 crop year, the Secretary will make fixed decoupled payments and counter-cyclical payments to eligible producers, including producers that would have been eligible for an AMTA contract payment in 2002 and other producers of a covered commodity on a farm in the United States as described in section 103(a).

Defines a producer eligible to share in a fixed, decoupled and counter-cyclical payment as ''an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title''.

Requires the Secretary to protect the interests of tenants and sharecroppers in carrying out this title.

Sharing of Contract Payments.—The Secretary shall provide for the sharing of fixed, decoupled payments and counter-cyclical payments among the eligible producers on a farm on a fair and equitable basis.

The Senate amendment provides that the Secretary shall offer to enter into a contract with an eligible owner or producer on a farm containing eligible cropland under which the eligible owner or producer will receive direct and counter-cyclical payments under sections 113 and 114, respectively.

For each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments available to eligible owners and producers on a farm that have entered into a contract to receive payments under this section.

For each of the 2002 through 2006 crop years, the Secretary shall make counter-cyclical payments to eligible owners and producers on a farm of each contract commodity that have entered into a contract to receive payments under this section.

An eligible owner or producer on a farm, subject to the provisions for share-rent tenants, cash-rent tenants and cash-rent owners, shall be eligible to enter into a contract.

Share-rent Tenant.—A producer on eligible cropland that is a tenant with a share-rent lease of the eligible cropland shall be eligible to enter into a contract, regardless of the length of the lease, if the owner enters into the same contract.

Cash-Rent Tenant.—Contracts With Long-Term Lease—A producer on eligible cropland that cash rents the eligible cropland under a lease expiring on or after the termination of the contract shall be eligible to enter into a contract.

Contracts With Short-Term Lease.—A producer that cash rents the eligible cropland under a lease expiring before the termination of the contract shall be eligible to enter into a contract in addition to the owner. Provides that the owner must consent if a producer elects to enroll less than 100 percent of the eligible cropland in the contract.

Cash-Rent Owner.—An owner of eligible cropland that cash rents under a lease that expires before the end of the 2006 crop year shall be eligible to enter into a contract if the tenant declines to do so, however the Secretary shall not make contract payments to the owner under the contract until the lease held by the tenant terminates.

Requires the Secretary to protect the interest of tenants and sharecroppers in carrying out this subtitle.

Requires the Secretary to provide for the sharing of contract payments among the eligible producers on a farm on a fair and equitable basis. (Section 111)

The Conference substitute deletes both the House and the Senate provisions, except provides in section 1105 for the protection of the interest of tenants and sharecroppers and requires the sharing of direct and counter-cyclical payments among the producers on a farm on a fair and equitable basis. (Section 1105)

The Managers intend that the Secretary will consider acreage and production data from producers' federal crop insurance records, as well as records provided to the Farm Service Agency to qualify for market assistance loan benefits during the relevant crop years.

(4) Establishment of Payment Yield

The House bill requires the Secretary to establish payment yields for each farm for each covered commodity. The yield for a farm will be the payment yield in effect for the 2002 crop of the commodity as provided under section 505 of the Agricultural Act of 1949. If no yield is available, the Secretary shall establish an appropriate payment yield taking into account the payment yields applicable to the commodity for similar farms in the area.

Relative to soybeans and other oilseeds, the Secretary will establish a yield for a farm by determining the average yield from 1998 through 2001, excluding years where the acreage planted to the oilseed was zero. If a farm would have satisfied disaster eligibility requirements under the FY1999 Agriculture Appropriations Bill in any of the 1998 through 2001 crop years, the Secretary will assign a yield to the farm equal to 65 percent of the county yield for that year in determining the 4–year average.

The payment yield for a farm for an oilseed shall be equal to the product of the following: (A) the average yield for the oilseed determined under paragraph (1). The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops. (Section 102)

The Senate amendment provides that subject to subsection (h), an eligible owner or producer that has entered into a contract under this subtitle may make a 1–time election to have the payment yield for each of the contract commodities for a farm be equal to an amount that is the greater of: (1) the average yield per harvested acre for the crop of the contract commodity for the farm for the 1998–2001 crop years, excluding any crop year for which the producers on the farm did not plant the contract crop and, at the option of the producers, 1 additional crop year or the farm program payment yield adjusted for any additional yields. If no yield records are available for a contract commodity, including land devoted to oilseed under a conservation reserve contract, the Secretary shall establish an appropriate payment yield taking into account the payment yields applicable to the commodity for similar farms in the area. (Section 111)

The Conference substitute requires the Secretary to establish payment yields for each farm for each covered commodity. The yield for a farm will be the payment yield in effect for the 2002 crop of the commodity as provided under section 505 of the Agricultural Act of 1949, as adjusted by the Secretary to account for any additional yield payments. If no yield is available, the Secretary shall establish an appropriate payment yield taking into account the payment yields applicable to the commodity for similar farms in the area, but before the yields for the similar farms are updated to reflect the actual yield per planted acre for the period 1998 through 2001.

Relative to soybeans and other oilseeds, the Secretary will establish a yield for a farm by determining the average yield from 1998 through 2001, excluding years where the acreage planted to the oilseed was zero.

The payment yield for a farm for an oilseed shall be equal to the product of the following: (A) The average yield for the oilseed for the 1998 through 2001 crops. (B) The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.

If the yield per planted acre for a crop of an oilseed for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that oilseed, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for purposes of determining the average yield for the 1998 through 2001 crop years.

If the owner of a farm elects to update the crop acreage base for all covered commodities using the average of the planted and prevented from planting acreage for 1998

through 2001, the owner shall also have a 1–time opportunity to elect to partially update the payment yields that would be used in calculating any counter-cyclical payments for covered commodities on the farm. If yields are updated for counter-cyclical payments for one covered commodity, they must be updated for all covered commodities on the farm.

If the owner of a farm elects to update yields for payments, the counter-cyclical payment yield for a covered commodity on the farm shall be equal to the yield determined using either of the following: (A) The sum of the payment yield applicable for direct payments for the covered commodity on the farm and 70 percent of the difference between the average of the yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years and the payment yield applicable for direct payments for the covered commodity on the farm, or (B) 93.5 percent of the average yield per planted acre for the crop of the covered commodity for the farm for the 1998 through 2001 crop years.

If the yield per planted acre for a crop of the covered commodity for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that commodity, the Secretary shall assign a yield for that crop year equal to 75 percent of the county for the purpose of determining the average yield.

Owners electing to partially update yields are required to have the partially updated yield determined on the average yield per planted acre, excluding any year in which the crop was not planted. The Managers intend that the Secretary recognize that those producers planting crops for grazing that will be included as base acreage are unable to furnish production evidence similar to that furnished by producers that harvest crops for grain. For those owners intending to partially update a crop's counter-cyclical yield that have this situation, the Managers intend for the Secretary to equitably determine the yield on the grazed acreage to be used for purposes of proven yields by either assigning a yield based on the actual production for that year on similar farms that harvested for grain or other method determined appropriate by the Secretary. (Section 1102)

(5) Establishment of Base Acres and Payment Acres for a Farm

The House bill provides that the Secretary will give producers a choice in determining their base acres. Producers may choose base acres reflecting the four-year average of acreage planted or prevented from being planted to the commodity for harvest, grazing, haying, silage, and other similar purposes during the 1998 through 2001 crop years. Alternatively, producers may choose base acres reflecting contract acreage that would otherwise be used to calculate the fiscal year 2002 production flexibility contract payments.

Producers may make an election of base acres only once and provide notice of the election to the Secretary no later than 180 days after the date of enactment of this Act. If a producer fails to make an election of base acreage, or fails to timely notify the Secretary of the selected base acreage, the producers shall be deemed to have chosen base acres reflecting the production flexibility contract acreage.

The election made by the producer shall apply to all covered commodities on the farm.

In the case of producers on a farm that elect as their base acreage the contract acreage used by the Secretary to calculate the fiscal year 2002 payment, the Secretary will restore base acres when land under a conservation reserve contract expires, is voluntary terminated, or is released by the Secretary. (Conservation Reserve Program Sign-up 1–14)

For the fiscal year and crop year in which a base acre adjustment is first made, the producers on the farm shall elect to receive either fixed decoupled payments and counter-cyclical payments with respect to the acreage added to the farm or a prorated payment under the conservation reserve contract, but not both.

In the case of producers on a farm that elect as their base acreage the contract acreage used by the Secretary to calculate the fiscal year 2002 payment, the Secretary will restore base acres when land under a conservation reserve contract expires, is voluntary terminated, or is released by the Secretary. (Conservation Reserve Program Sign-up 15 and greater)

Payment acres for both the fixed decoupled and the counter-cyclical payment shall be equal to 85% of the base acres.

The sum of base acres, peanut acres and acreage enrolled in CRP, WRP, or other programs in which a producer agrees not to produce a commodity on acreage in exchange for a payment, cannot exceed the actual cropland acreage on the farm. The Secretary shall give producers on the farm the opportunity to select base acres or peanuts acres against which the reduction will be made. The Secretary shall make an exception in the case of double cropping. (Section 103)

The Senate amendment provides that land shall be considered to be cropland eligible for coverage under a contract only if the land has with respect to a contract commodity, contract acreage attributable to the land and a payment yield or was subject to a conservation reserve contract with a term that expired, or was voluntarily terminated on or after the date of enactment.

Provides that an eligible owner or producer may enroll as contract acreage under this subtitle all or a portion of the eligible cropland on the farm.

Provides that an owner or producer that enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

Subject to subsection (h) the Secretary shall provide eligible owners and producers on the farm with an opportunity to elect 1 of the following methods as the method by which the contract acreage for the 2002 through 2006 crops of all contract commodities for a farm are determined: (1) the 4-year average of acreage planted or considered planted to a contract commodity for harvest, grazing, haying, silage, or other similar purposes during the 1998 through 2001 crop years or (2) contract acreage that would be used to calculate the fiscal year 2002 production flexibility contract payments and the 4-year average for each oilseed produced on the farm.

In making the contract acreage and yield elections, eligible owners and producers on a farm shall elect to update the contract acreage using the 4-year 1998 through 2001 average acreage and the 1998 through 2001 average yield per harvested acre (adjusted for years with no planted acreage and at the option of the producer, 1 additional crop year) or the 2002 production flexibility contract crop acreage plus the 4-year average of oilseeds and the farm program payment yield for current contract crops and for oilseeds, the 1998 through 2001 average yield per harvested acre (adjusted for years with no planted acreage and at the option of the producer, 1 additional crop year).

At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract that terminated after 180 days after the enactment of this Act to enter into or expand a contract to cover the eligible cropland of the farm that was subject to the former conservation reserve contract.

For the fiscal year and crop year for which a contract acreage adjustment is made as a result of the termination of a conservation reserve program contract the eligible owners and producers on the farm shall elect to receive direct payments and counter-cyclical payments with respect to the acreage added to the farm or a prorated payment under the conservation reserve contract.

The sum of the contract acreage, peanut acres and acreage enrolled in CRP, WRP, or other acreage on a farm enrolled in a voluntary Federal conservation program under which production of any agricultural commodity is prohibited, cannot exceed the actual cropland acreage on a farm. The Secretary shall give owners and producers on the farm the opportunity to select contract acreage or peanut acres against which the reduction will be made. The Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm. (Section 111)

The Conference substitute provides that for the purpose of making direct and counter-cyclical payments to a farm, the Secretary shall give an owner of the farm an opportunity to elect the method by which the base acres of all covered commodities on the farm are to be determined. Subject to the provision requiring the base acreage to be determined based on a 4-year average, including the years in which the crop was not planted, and the treatment of multiple plantings or prevented planting on the same acreage, owners may choose the farms crop acreage base by either: (1) using the acreage planted on the farm to covered commodities for harvest, grazing, haying, silage, or other similar purposes for the 1998 through 2001 crop years including any acreage on the farm that the producers were prevented from planting to covered commodities because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary or (2) contract acreage that would be used to calculate the fiscal year 2002 production flexibility contract payments and the 4-year average for each oilseed produced on the farm for the 1998 through 2001 crop years. The eligible acreage for each oilseed on a farm shall be the average of each oilseed for the 1998 through 2001 crop years, except that the total acreage for all oilseeds on the farm for a crop year may not exceed the difference between the total acreage determined for all covered commodities for that crop year and the total contract acreage used by the Secretary to calculate the fiscal year 2002 production flexibility contract payment.

The owner of a farm may increase the eligible acreage for an oilseed on the farm by reducing the production flexibility contract acreage for one or more covered commodities on an acre-for-acre-basis, except that the total base acreage for each oilseed on the farm may not exceed the 4-year average of each oilseed.

The Secretary shall not exclude any crop year in which a covered commodity was not planted for purposes of determining a 4-year acreage average.

For the purposes of determining the 4-year average of acreage planted or prevented from being planted during the 1998 through 2001 crop years to covered commodities, acreage that was planted or prevented from being planted that was devoted to another covered commodity in the same crop year may only be used in the base calculation after the owner determines whether the initial commodity or the subsequent commodity, but not both, will be used.

As soon as practicable after the date of enactment of this Act, the Secretary shall provide notice to owners of farms regarding their opportunity to make the applicable base election. The notice shall include: (1) notice that the opportunity of an owner to make the election is being provided only once and (2) information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

The owner may make an election of base acres only once and must provide notice of the election to the Secretary within the time period and in the manner prescribed by the Secretary. If an owner fails to make an election of base acreage, or fails to timely notify the Secretary of the election made, the owner shall be deemed to have chosen base acres reflecting the production flexibility contract acreage, plus oilseeds if applicable.

The election made by the producer shall apply to all covered commodities on the farm.

The Secretary shall provide for an appropriate adjustment in the base acres for covered commodities for a farm whenever land under a conservation reserve contract expires, is voluntary terminated, or is released by the Secretary.

For the crop year in which a base acre adjustment is first made, the owner on the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm or a prorated payment under the conservation reserve contract, but not both.

Payment acres for both the direct and the counter-cyclical payment shall be equal to 85% of the base acres.

The sum of base acres, base acres for peanuts and acreage enrolled in CRP, WRP, or other conservation programs which restrict or prohibit the production of an agricultural commodity cannot exceed the actual cropland acreage on the farm. The Secretary shall give producers on the farm the opportunity to select base acres or base acres for peanuts against which the reduction will be made. The Secretary shall make an exception in the case of double cropping.

The owner of a farm may reduce, at any time, base acreage for any covered commodity for the farm provided the reduction of base acreage is permanent.

In implementing Section 1101, the Secretary shall also allow owners of a farm who did not hold a production flexibility contract under the Federal Agriculture Improvement and Reform Act of 1996 to elect to calculate base acreage for planting history on the farm for crop years 1998–2001. The intent of this section is to provide the opportunity to owners to update base acreage to reflect a more recent planting history, to allow owners not holding a production flexibility contract to receive farm program benefits under this Act, and to allow owners holding production flexibility contracts the opportunity to retain their base acreage and add oilseeds in a limited manner.

The Managers expect the Secretary to recognize that although the owner of the farm will be allowed the opportunity to make the applicable base election under Section 1101, it is important that other producers on the farm are notified of the acreage options available to the owner. In addition to providing notice to the owner of the farm, the Managers expect the Secretary to provide notice to operators or producers on a farm of the owner's opportunity to elect the method in which to calculate base acres at the time the Secretary provides notice to the owner.

The Managers are aware that production flexibility contract acreage was not protected on acreage enrolled into the Conservation Reserve Program during CRP signup number 15 and later. The Managers intend that the Secretary develop a method that provides for the restoration of base acreage on farms that permanently reduced contract acreage because of enrollment in CRP. Since soybeans and other oilseeds did not have contract acreage prior to this Act, the Managers expect the Secretary to treat soybeans and other oilseeds in a manner that is similar and consistent with other covered commodities. (Section 1101)

(5) Elements of Contracts

The Senate amendment provides the Time for Contracting—

(1) Commencement.—To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after the date of enactment of this title.

(2) Except as provided in paragraph the Secretary may not enter into a contract after the date that is 180 days after the date of enactment.

(3) At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm with a conservation reserve contract that terminated after the final date to enroll eligible cropland in a direct and counter-cyclical payment contract to enter into or expand a contract to cover the eligible cropland that was subject to the former conservation reserve contract.

Duration of Contract.—The term of a contract shall begin with the 2002 crop or in the case of acreage that was subject to a conservation reserve contract that is subsequently terminated, the date the contract was entered into or expanded to cover the terminated acreage. Unless earlier terminated by eligible owners or producer, the contract shall extend through the 2006 crop. (Section 111)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(6) Availability of Fixed, Decoupled Payments

The House bill provides that the Secretary shall make fixed decoupled payments to eligible producers for each of the 2002 through 2011 crop years at a payment rate of $0.53 per bushel for wheat, $0.30 per bushel for corn, $0.36 per bushel for grain sorghum, $0.25 per bushel for barley, $0.025 per bushel for oats, $0.0667 per pound for upland cotton, $2.35 per hundredweight for rice, $0.42 per bushel for soybeans, and $0.0074 per pound for other oilseeds.

The amount of the fixed, decoupled payment will be equal to the product of the payment rate of the applicable base crop, the payment acres, and the payment yield.

Fixed decoupled payments shall be paid no later than September 30 of fiscal years 2002 through 2011, except that in fiscal year 2002 payments may be made on or after December 1, 2001.

A producer may elect to receive 50 percent of the fixed decoupled payment in advance anytime on or after December 1 of a fiscal year. The producer may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

If a producer who receives an advance fixed decoupled payment ceases to be an eligible producer by the time final fixed decoupled payments are to be made, the producer must repay the advance amount.

The Senate amendment provides that the Secretary shall make direct payments available to eligible owners and producers that have entered into a contract at a payment rate as follows:

	2002–03	2004–05	2006
Wheat (bu)	$0.45	$0.225	$0.113
Corn (bu)	0.27	0.135	0.068
Barley (bu)	0.20	0.100	0.050
Oats (bu)	0.05	0.025	0.013
Cotton (lb)	0.13	0.065	0.0325
Rice (cwt)	2.45	2.400	2.400
Soybeans (bu)	0.55	0.275	0.138
Other oilseeds (lb)	0.01	0.005	0.0025
Grain sorghum (bu)	2002—0.31 2003—0.27	0.135	0.068

The amount of direct payment will be equal to the product of the payment rate for the contract crop for the applicable year, contract acreage and the payment yield.

A final direct payment (less the amount of any initial payment made to the producers on the farm of the contract commodity) shall be made not later than September 30 of the fiscal year.

A producer may elect to receive 50% of the direct payment in advance anytime on or after December 1 of the fiscal year. (Section 111)

The Conference substitute provides that the Secretary shall make direct payments to eligible producers for each of the 2002 through 2007 crop years at a payment rate of $0.52 per bushel for wheat, $0.28 per bushel for corn, $0.35 per bushel for grain sorghum, $0.24 per bushel for barley, $0.024 per bushel for oats, $0.0667 per pound for upland cotton, $2.35 per hundredweight for rice, $0.44 per bushel for soybeans, and $0.008 per pound for other oilseeds.

The amount of the direct payment will be equal to the product of the payment rate of the applicable base crop, the payment acres, and the payment yield.

For 2002, the Secretary is directed to make payments as soon as practicable after the date of enactment of this Act and for 2002 through 2007, but not before October 1 of the calendar year in which the crop of the covered commodity is harvested.

A producer may elect to receive up to 50 percent of the direct payment in advance in any month after December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested. The producer may change the selected month for a subsequent crop year by providing advance notice to the Secretary.

If a producer who receives an advance fixed decoupled payment ceases to be a producer or changes share before the date the remainder of the direct payments are to be made, the producer must repay the applicable amount of the advance payment.

The Managers are aware that producers that elect to receive up to 50 percent of an advance direct payment might cease to be a producer on the farm before the date the remainder of the direct payment is made. The Managers assume the Secretary recognizes that different reasons exist for a producer ceasing to be a producer on a farm. These reasons would include bankruptcy, foreclosure and other similar situations that would preclude the producer from repaying the advance direct payment. Specifically, the Managers would not intend for this provision to apply in situations where a producer with winter wheat harvested a crop or failed to harvest the crop for weather related reasons beyond their control and the acreage was subsequently under the control of another producer that intended to plant a subsequent crop, or other similar situations. Conversely, the Managers expect there are a number of situations where the producer receiving the advance direct payment ceases to be a producer on the farm and should refund the advance direct payment. (Section 1103)

(7) Availability of Counter-Cyclical Payments

The House bill provides that the Secretary shall make counter-cyclical payments relative to a covered commodity whenever the effective price is less than the target price.

The target price is $4.04 per bushel for wheat, $2.78 per bushel for corn, $2.64 per bushel for grain sorghum, $2.39 per bushel for barley, $1.47 per bushel for oats, $0.736 per pound for upland cotton, $10.82 per hundredweight for rice, $5.86 per bushel for soybeans, and $0.1036 per pound for other oilseeds.

The effective price is equal to the sum of (1) the higher of the national average market price during the 12-month marketing year for the commodity or the national average loan rate for the commodity, and (2) the payment rate for fixed decoupled payments for the commodity.

The payment rate for counter-cyclical payments is equal to the difference between the target price and the effective price for the commodity.

The payment amount for counter-cyclical payments is the product of the payment rate, the payment acres, and the payment yield.

The Secretary shall make counter-cyclical payments for a covered commodity as soon as possible after determining that such payments are required.

The Secretary may provide a partial payment up to 40 percent of the projected counter-cyclical payment to producers upon completion of the first 6 months of the marketing year for that crop.

The producer must repay the amount, if any, by which the partial payment exceeds the counter-cyclical payment to be made in that crop year.

If the Secretary uses the authority to designate another oilseed for counter-cyclical payments the Secretary may modify the target price in subsection (c) (9) that would otherwise apply to that oilseed.

For purposes of calculating the effective price for barley the Secretary shall use the loan rate in effect for barley under section 122(b)(3) except in the case of producers who received the higher loan rate provided under such section for barley used only for feed purposes, the Secretary shall use the that higher loan rate. (Section 105)

The Senate amendment provides that the Secretary shall make counter-cyclical payments relative to a contract commodity to owners and producers on a farm that have entered into a contract to receive such payments.

The income protection price is $3.4460 per bushel for wheat, $2.3472 per bushel for corn, $2.3472 per bushel for grain sorghum, $2.1973 per bushel for barley, $1.5480 per bushel for oats, $0.6793 per pound for upland cotton, $9.2914 per hundredweight for rice, $5.7431 per bushel for soybeans, and $0.1049 per pound for other oilseeds.

The payment rate for counter-cyclical payments shall equal the difference between the income protection price and the total of the higher of (1) the average price of the contract commodity during the first 5 months of the marketing year of the contract commodity or the loan rate for the commodity, and (2) the direct payment for the contract crop for the fiscal year that precedes the date of payment under this section.

The payment amount for counter-cyclical payments is the product of the payment rate for the contract crop, the contract acreage, and the payment yield.

The Secretary shall make counter-cyclical payments not later than 190 days after the beginning of the marketing year for the applicable contract crop. (Section 114)

The Conference substitute provides that the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and bases acres are established with respect to a covered commodity whenever the effective price is less than the target price.

The effective price is equal to the sum of (1) the higher of the national average market price during the 12-month marketing year for the commodity or the national average loan rate for the commodity, and (2) the payment rate for direct payments for the commodity.

For the 2002 and 2003 crop years, the target price is $3.86 per bushel for wheat, $2.60 per bushel for corn, $2.54 per bushel for grain sorghum, $2.21 per bushel for barley, $1.40 per bushel for oats, $0.724 per pound for upland cotton, $10.50 per hundredweight for rice, $5.80 per bushel for soybeans, and $0.098 per pound for other oilseeds.

For the 2004 and 2007 crop years, the target price is $3.92 per bushel for wheat, $2.63 per bushel for corn, $2.57 per bushel for grain sorghum, $2.24 per bushel for barley, $1.44 per bushel for oats, $0.724 per pound for upland cotton, $10.50 per hundredweight for rice, $5.80 per bushel for soybeans, and $0.1010 per pound for other oilseeds.

The payment rate for counter-cyclical payments is equal to the difference between the target price and the effective price for the commodity.

The payment amount for counter-cyclical payments is the product of the payment rate, the payment acres, and the payment yield or updated payment yield, depending on the election of the owner of the farm.

If the Secretary determines that a counter-cyclical payment is required to be made for a covered commodity, the Secretary shall make the counter-cyclical payments for the crop as soon as practicable after the end of the 12-month marketing year for the covered commodity.

If the Secretary estimates counter-cyclical payments will be required, the Secretary shall give producers the option to receive partial payments.

When the Secretary makes partial payments for any of the 2002 through 2006 crop years, the first partial payment for the crop shall be made not earlier than October 1 and to the maximum extent practicable, not later than October 31, of the calendar year in which the crop is harvested. The second partial payment shall be made not earlier than February 1 of the next calendar year and the third and final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

For the 2002 through 2006 crop years, the first partial payment may not exceed 35 percent of the projected counter-cyclical payment for the covered commodity for the crop year. The second partial payment may not exceed the difference between 70 percent of the revised projection of the counter-cyclical payment for the crop of the covered commodity and the amount of the payment made under clause (i). The final payment shall be equal to the difference between the actual counter-cyclical payment to be made to the producer and the amount of the first and second partial payment.

For the 2007 crop year, the first partial payment shall be made after completion of the first 6 months of the marketing year and the second and final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

For the 2007 crop year, the first partial payment may not exceed 40 percent of the projected counter-cyclical payment. The final payment shall be equal to the difference between the actual counter-cyclical payment to be made to the producer and the amount of the partial payment.

The producer must repay the amount, if any, by which the partial payment exceeds the counter-cyclical payment to be made in that crop year. (Section 1104)

(8) Producer Agreement Required as Condition on Provision of Fixed, Decoupled Payments and Counter-Cyclical Payments

The House bill provides that before producers on a farm may receive fixed, decoupled payments or counter-cyclical payments with respect to the farm, the producers shall agree, in exchange for the payments to comply with applicable conservation requirements, applicable wetland protection requirements, planting flexibility requirements and to use the land on the farm, in an amount equal to the base acres, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary.

The Secretary may issue such rules to ensure compliance with these requirements.

A producer may not be required to make repayments to the Secretary of fixed, decoupled payments and counter-cyclical payments if the farm has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment. This subsection shall not void the responsibilities of the producer to comply with conservation, wetlands protection, planting flexibility and agriculture land use requirements if the producer continues or resumes operation, or control of the farm. On the resumption of operation or control over the farm by the producer, the above noted requirements in effect on the date of the foreclosure shall apply.

A transfer of (or change in) the interest of a producer in base acres for which fixed decoupled or counter-cyclical payments are made shall result in the termination of the payments with respect to bases acres, unless the transferee or owner of the acreage agrees to assume all obligations under conservation, wetland, planting flexibility or agriculture land use provisions. The termination shall be effective on the date of the transfer or change.

There is no restriction on the transfer of base acres or payment yield as part of a change in the producers on the farm.

At the request of the transferee or owner, the Secretary may modify the conservation, wetlands protection, planting flexibility and agriculture land use requirements if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

If a producer entitled to a fixed, decoupled payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

Requires a producer who receives fixed decoupled payments, counter-cyclical payments, or marketing loan assistance to submit acreage reports to the Secretary.

A determination of the Secretary under this section shall be considered an adverse decision for purposes of availability of administrative review. (Section 106)

The Senate amendment provides that under the terms of a contract, the owner or producer shall agree, in exchange for annual payments to comply with applicable highly erodible land conservation requirements, applicable wetland conservation requirements, planting flexibility requirements and to use a quantity of land on the farm equal to the contract acreage, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary. (Section 111)

The Conference substitute provides that before producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the producers shall

agree, in exchange for the payments to comply with applicable conservation requirements, applicable wetland protection requirements, planting flexibility requirements, to use the land on the farm in a quantity attributable to the base acres for an agricultural or conserving use and not for a nonagricultural commercial or industrial use, as determined by the Secretary and on noncultivated land attributable to the base acres, control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices.

The Secretary may issue rules to ensure compliance with these requirements.

At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

A transfer of (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made shall result in the termination of the payments with respect to bases acres, unless the transferee or owner of the acreage agrees to assume all obligations under conservation, wetland, planting flexibility, agriculture land use provisions and controlling noxious weeds provisions. The termination shall take effect on the date determined by the Secretary.

If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

A producer who receives direct payments, counter-cyclical payments, or marketing loan benefits is required to submit annual acreage reports with respect to all cropland on the farm to the Secretary.

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

When there is a transfer (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made, the Managers intend for the Secretary to provide a time frame for the succession to occur that is farmer-friendly.

Acreage reports provide important information such as assisting in determining the eligibility of land to be accepted into the Conservation Reserve Program. The Managers are aware that in prior years, the Secretary has imposed penalties on producers that submit acreage reports that the Secretary later determines to be inaccurate. The Managers understand that under prior acreage limiting and acreage reduction programs there was a need for very accurate reporting. However, under this Act, with the exception of determining the amount of fruits, vegetables, and wild rice planted on base acreage, there is no such need or requirement for the level of accuracy. Therefore, under this provision the Managers do not intend for any penalty to be applicable to inaccurate acreage reports on covered commodities or peanuts, provided the producer has made a good faith effort to accurately report acreage. (Section 1105)

(9) Violations of Contracts

The Senate amendment is the same as current law except for amending language in existing law to add a provision for a planting flexibility violation. Makes corrections to add:

Planting Flexibility.—In the case of a first violation of the planting flexibility provisions by an eligible owner or producer that has entered into a contract and that acted in good faith, in lieu of terminating the contract under subsection (a), the Secretary shall require a refund or reduce a future contract payment under subsection (b) in an amount that does not exceed twice the amount otherwise payable under the contract on the number of acres involved in the violation. (Section 112)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(10) Planting Flexibility

The House bill provides that all rules concerning planting flexibility are unchanged with the exception of adding wild rice as a prohibited crop.

Subject to the limitations in subsection (b), any commodity may be planted on base acres on a farm.

The planting of fruits, vegetables (excluding lentils, mung beans, and dry peas) and wild rice are prohibited on base acres.

The 3 exceptions to this rule in current law are also unchanged.

(1) Fruits, vegetables or wild rice may be planted on base acres in a region where the Secretary determines there is a history of double cropping of covered commodities with fruits, vegetables or wild rice.

(2) Fruits, vegetables or wild rice may be planted on base acres on a farm that the Secretary determines has a history of planting fruits, vegetables or wild rice on base acres, except that fixed decoupled payments and counter-cyclical payments will be reduced for each acre planted. Fruits and vegetables also may be planted by a producer who the Secretary determines has an established planting history of a specific fruit, vegetable or wild rice, except that the quantity planted may not exceed the producer's annual planting history of such agricultural commodity from the 1991 through 1995 crop years, as determined by the Secretary, and fixed, decoupled payments and counter-cyclical payments will be reduced for each acre planted. (Section 107)

The Senate amendment provides that all rules concerning planting flexibility are unchanged with the exception of adding chickpeas as a permitted exception, wild rice as a prohibited crop for 2003 and beyond, and by changing the base period from 1991 through 1995 to 1996 through 2001 to establish a planting history for a producer.

Limitations.—The planting of the following agricultural commodities shall be prohibited on contract acreage: (A) Fruits. (B) Vegetables (other than lentils, mung beans, dry peas, and chickpeas). (C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice'';

Same as current law except for the change in base period (for a producer) as noted directly below.

Sec. 118(b)(2)(C) by striking ''1991 through 1995'' and inserting ''1996 through 2001''. (Section 113)

The Conference substitute adopts the House provision with an amendment that provides that the planting of fruits, vegetables (other than lentils, mung beans and dry peas) and wild rice shall be prohibited on base acreage unless the commodity, if planted, is destroyed before harvest.

The planting of fruits and vegetables produced on trees and other perennials shall be prohibited on base acres.

The Secretary shall establish a producer planting history for fruits, vegetables and wild rice planted by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years.

For the 2002 crop year, if the calculation of base acres results in total base acres for a farm in excess of the contract acreage for the farm that was used to calculate the fiscal year 2002 payment, the planting of fruits, vegetables and wild rice on new base acres is allowed, provided the direct and counter-cyclical payments for the 2002 crop year are reduced on an acre-for-acre basis. (Section 1106)

(11) Relation to Remaining Payment Authority Under Production Flexibility Contracts

The House bill provides authority to make production flexibility contract payments for the 2002 fiscal year is terminated upon enactment. If a producer receives an PFC contract payment for the 2002 fiscal year before enactment of this legislation, the amount of the producer's fixed decoupled payment for fiscal year 2002 will be reduced by the amount of the PFC contract payment. (Section 108)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that terminates the authority of the Secretary to make production flexibility contract payments on the date of the enactment of this Act, unless requested by the producer. Any direct payments due a producer under this Act would be reduced by any fiscal year 2002 payments made under a production flexibility contract. (Section 1107)

(12) Payment Limitations

The House bill provides fixed decoupled payments and counter-cyclical payments are subject to the payment limitations contained in sections 1001 through 1001C of the Food Security Act of 1985 as amended. Limitations are based on a crop year and the fixed, decoupled limitation is $50,000 and the counter-cyclical limitation is $75,000. (Section 109)

The Senate amendment amends Section 1001 of the Food Security Act of 1985. The total of direct and counter-cyclical payments that an individual or entity may receive during any fiscal year for program commodities shall not exceed $75,000. The total of marketing loan gains, forfeiture gains, gains from marketing certificates and loan deficiency payments that a person is entitled to receive for program crops, peanuts, honey and wool is $150,000 per crop year.

During a fiscal and corresponding crop year, the total amount of payments and benefits that a married couple may receive from direct, counter-cyclical and marketing loan is $75,000 and $150,000 respectively, plus a combined total of an additional $50,000.

Provides that an individual or entity shall not be eligible for a direct, income-protection and marketing loan program benefits if the average adjusted gross income of the individual or entity exceeds $2.5 million. (Section 169)

The Conference substitute provides the total direct and counter-cyclical payments to a person for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton and rice may not exceed $40,000 and $65,000, respectively. The total marketing loan gains and loan deficiency payments for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton, rice, lentils, dry peas and small chickpeas that a person is entitled to receive is $75,000.

Provides for a separate direct and counter-cyclical payment limitation for peanuts of $40,000 and $65,000, respectively. Provides for a separate marketing loan gain and loan deficiency payments limitation for peanuts, wool, mohair and honey of $75,000.

Retains current rules on husband and wife, 3-entities, actively engaged, generic certificates and adopts the $2.5 million adjusted gross income means test.

The Conference substitute refers to levels of adjusted gross income or comparable measures of income. The Managers intend

that the comparable measure provision be utilized when necessary and in cases of applicants for whom, because of their status under the Internal Revenue Code, adjusted gross income is not measured or reported. For example, participants who are organized as C Corporations, S Corporations, or as nonprofit organizations, the Managers intend for the Secretary to use this direction to adopt alternative income measurements that compare most closely to adjusted gross income. The Managers expect the Secretary to implement this provision in a manner that provides equitable treatment, to the maximum extent practicable to all producers regardless of the legal structure of their farming operation.

For purposes of subsection (b), the Managers expect the Secretary to determine the individual or entity to be ineligible only if the adjusted gross income or similar equivalent exceeds $2.5 million and less than 75 percent of the adjusted gross income is derived from farming, ranching or forestry operations as determined by the Secretary. (Section 1603)

(13) Period of Effectiveness

The House bill provides that the subtitle is effective from the 2002 crop year through the 2011 crop year. (Section 110)

The Senate amendment provides that the term of a contract shall extend through the 2006 crop, unless earlier terminated by the eligible owners or producers on a farm. (Section 111)

The Conference substitute adopts the House provision with an amendment that the subtitle is effective through the 2007 crop year. (Section 1109)

(14) Pilot Program for Farm Counter-Cyclical Savings Accounts

The Senate amendment amends Subtitle B of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C 7211 et seq.) to authorize and fund a pilot program for farm counter-cyclical savings accounts. Eligible producers may establish such accounts in the name of the producer in a bank or financial institution selected by the producer and approved by the Secretary of Agriculture. A savings account shall consist of B contributions of the producer; matching contributions of the Secretary; and interest earned on account balances.

To be eligible, a producer must share in the risk of producing an agricultural commodity for the applicable year; have filed a farm business-related federal income tax return during each of the previous 5 years, or be a beginning farmer or rancher, and have at least $50,000 in average adjusted gross farm revenue, except for limited resource farmers as determined by the Secretary.

An eligible producer may deposit such amounts in the account of the producer as the producer considers appropriate. The Secretary shall provide a matching contribution on the amount deposited by the producer into the account, except that matching contributions may not exceed 2 percent of the producer's average adjusted gross farm revenue, or $5,000 for any applicable fiscal year. The Secretary shall provide the required matching contributions for a producer as of the date that a majority of the commodities grown by the producer are harvested.

In any year, a producer may withdraw funds from the account in an amount up to the difference between 90 percent of the producer's average adjusted gross revenue and the producers adjusted gross revenue in that year. A producer that ceases to be actively engaged in farming, as determined by the Secretary, may withdraw the full balance from, and close, the account; and may not establish another account.

The Secretary shall administer this program through the Farm Service Agency and local, county, and area offices of the Agriculture Department. For each of fiscal years 2003 through 2005, the Secretary shall establish a farm counter-cyclical savings account pilot program in 3 States, as determined by the Secretary. The total amount of matching contributions in a State may not exceed $4 million per State for each of fiscal years 2003 through 2005. (Section 114)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

SUBTITLE B—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

(15) Availability of Nonrecourse Marketing Assistance Loans for Covered Commodities

The House bill provides that the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for covered commodities produced on the farm, including extra long staple cotton, for each of the 2002 through 2011 crop years.

Any production of a covered commodity on a farm is eligible for a marketing assistance loan.

Producers that would otherwise be eligible for the assistance, but for the fact the covered commodity is commingled with covered commodities of other producers in facilities unlicensed for the storage of commodities, if the producer obtaining the loan agrees to immediately redeem the loan collateral.

Producers are required to comply with applicable conservation requirements and applicable wetland protection requirements as a condition to receiving marketing loan assistance.

Extra long staple cotton is defined.

Marketing assistance loans for the 2002 crop of covered commodities shall not be made under subtitle C of title I of such Act. (Section 121)

The Senate amendment provides that the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm through the 2006 crop.

The FAIR Act is amended by striking the definition of eligible production and redefining as: Eligible Production.—The producers on a farm shall be eligible for a marketing loan under subsection (a) for any quantity of a loan commodity produced on the farm.

Sec. 169 may restrict quantity. (Section 121)

The Conference substitute provides that the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm, including extra long staple cotton, wool, mohair, honey, dry peas, lentils and small chickpeas for each of the 2002 through 2007 crop years.

Any production of a loan commodity on a farm is eligible for a marketing assistance loan, however loan commodities harvested for hay and silage, and unshorn pelts are eligible only for a loan deficiency payment.

The Secretary shall make loans to producers that would otherwise be eligible for the assistance, but for the fact the loan commodity is commingled with loan commodities of other producers in facilities unlicensed for the storage of commodities, if the producer obtaining the loan agrees to immediately redeem the loan collateral.

Producers are required to comply with applicable conservation requirements and applicable wetland protection requirements as a condition to receiving marketing loan assistance.

Marketing assistance loans for the 2002 crop of loan commodities shall not be made under subtitle C of title I of the Federal Agriculture Improvement and Reform Act of 1996.

Beginning with the 2002 crop, the Managers intend for marketing loan and loan deficiency program benefits to be made available for all farms producing loan commodities, regardless of whether the farm does or does not have base acreage. (Section 1201)

(16) Loan Rates for Nonrecourse Marketing Assistance Loans

The House bill provides loan rates (per bushel or pound, as applicable) are maintained at not more than $2.58 for wheat, $1.89 for corn and grain sorghum, $1.65 for barley except not more than $1.70 for barley used only for feed purposes, $1.21 for oats, $0.5192 for upland cotton (and not less than $0.50), $0.7965 for extra long staple cotton, $4.92 for soybeans, and $0.087 for other oilseeds, and equal to $6.50 per cwt. for rice.

Amends section 162(b) of the FAIR Act by striking ''this title'' and inserting ''this title and title I of the Farm Security Act of 2001''. (Section 122)

The Senate amendment provides loan rates are $2.9960 per bushel for wheat, $2.0772 per bushel for corn and grain sorghum, $1.9973 per bushel for barley, $1.4980 per bushel for oats, $0.5493 per pound for upland cotton, $0.7965 per pound for extra long staple cotton, $6.4914 per hundredweight for rice, $5.1931 per bushel for soybeans, $0.0949 per pound for other oilseeds, $6.78 per hundredweight for dry peas, $12.79 per hundredweight for lentils, $17.44 per hundredweight for large chickpeas and $8.10 per hundredweight for small chickpeas.

Sec. 132(b)(1) of the FAIR Act. No change from existing law except instead of referencing ''commodity'', ''loan commodity'' is referenced.

Sec. 132(b)(2) of the FAIR Act is consistent with Sec 162(b) of existing law. Sec. 123(b) Repeals Sec. 162(c) of current law, but Sec. 171(b)(2) repeals Sec. 123(b). (Section 123)

The Conference substitute provides for loan rates for the 2002 and 2003 crop years that are different than loan rates for the 2004 through 2007 crop years for most crops.

Loan rates for the 2002 and 2003 crop years are $2.80 per bushel for wheat, $1.98 per bushel for corn, $1.98 per bushel for grain sorghum, $1.88 per bushel for barley, $1.35 per bushel for oats, $0.52 per pound for upland cotton, $0.7977 per pound for extra long staple cotton, $5.00 per bushel for soybeans, $0.096 per pound for other oilseeds, and $6.50 per hundredweight for rice, $6.33 per hundredweight for dry peas, $11.94 per hundredweight for lentils and $7.56 per hundredweight for small chickpeas.

Loan rates for the 2004 through 2007 crop years are $2.75 per bushel for wheat, $1.95 per bushel for corn, $1.95 per bushel for grain sorghum, $1.85 per bushel for barley, $1.33 per bushel for oats, $0.52 per pound for upland cotton, $0.7977 per pound for extra long staple cotton, $5.00 per bushel for soybeans, $0.093 per pound for other oilseeds, and $6.50 per hundredweight for rice, $6.22 per hundredweight for dry peas, $11.72 per hundredweight for lentils and $7.43 per hundredweight for small chickpeas.

Loan rates for the 2002 through 2007 crop years are $1.00 per pound for graded wool, $0.40 per pound for ungraded wool and unshorn pelts and $4.20 per pound for mohair.

Loan rate for the 2002 through 2007 crop years for honey is $0.60 per pound.

The Managers anticipate the Secretary will take advantage of the change in national average loan rates to review and adjust as appropriate the county loan rates.

To the extent practicable, for purposes of making loans and loan deficiency payments, the Secretary should designate loan rates in those units that are consistent with the units in common usage in the industry.

It is the intention of the Committee that the provision for non-graded wool be made

available for wool that has not been objectively measured for fiber diameter (micron) and yield. Documentation of objective measurement is commonly known as a core test, which is available through laboratory analysis. It is the intent of the Mangers that the Secretary provide the graded wool loan rate to wool that meets the terminology used by the wool industry to define graded wool, such as core tested. (Section 1202)

(17) Term of Loans

The House bill provides that the term for marketing assistance loans is unchanged. For all covered commodities except upland cotton and extra long staple cotton, the term of the loan is nine months beginning on the first day of the first month after the month in which the loan is made.

For upland cotton and extra long staple cotton, the term of the loan is 10 months beginning on the first day of the month in which the loan is made.

Prohibits extension of a marketing assistance loan for a covered commodity. (Section 123)

The Senate amendment provides that the term for marketing assistance loans for all commodities shall be 9 months beginning on the first day of the first month after the month in which the loan is made. (Section 124)

The Conference substitute adopts the Senate provision with respect to the term of loans and adopts the House provision with respect to the prohibition on extension of loans. (Section 1203)

(18) Repayment of Loans

The House bill provides repayment of marketing assistance loans is unchanged. The Secretary will permit producers of wheat, corn, grain sorghum, barley, oats, soybeans, and other oilseeds to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or a rate that the Secretary determines will minimize forfeitures, accumulation of stocks, storage costs, and allow the commodity to be marketed freely and competitively.

The Secretary will permit producers of upland cotton and rice to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or the prevailing world market price (adjusted to U.S. quality and location), as determined by the Secretary.

The Secretary will permit producers of extra long staple cotton to repay a marketing assistance loan at the loan rate plus interest.

The Secretary will prescribe by regulation the formula to determine the prevailing world market price and a mechanism to periodically announce this price.

The adjustment of the prevailing world market price for upland cotton is unchanged.

In the case of a producer that marketed or lost beneficial interest before repaying the loan, the Secretary shall permit the producer to repay the loan at the lowest repayment rate that was in effect for the covered commodity under this section as of the date that the producer lost beneficial interest. (Section 124)

The Senate amendment amends Section 134(a) of the FAIR Act by striking the reference to wheat, corn, grain sorghum, barley, oats and oilseeds and inserting ''a loan commodity (other than upland cotton, rice, and extra long staple cotton)'' (in effect, adding wool, honey, dry peas, lentils and chickpeas to the list of commodities) and adding ''minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries'' to the other 4 factors the Secretary is required to use in determining a loan repayment rate.

Amends Sec. 1001 of the Food Security Act of 1985. Sec. 1001(c) Limitations on marketing loan gains, loan deficiency payments, and commodity certificate transactions and Sec. 1001(d) Settlement of certain loans may restrict the eligibility of some producers to repay loans at a lower repayment rate.

Amends Sec. 134(e)(1) of the FAIR Act by authorizing the program through July 31, 2007. (Section 125, 121, and 169)

The Conference substitute permits producers of wheat, corn, grain sorghum, barley, oats, soybeans, other oilseeds, dry peas, lentils, small chickpeas, wool, mohair, and honey to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or a rate that the Secretary determines will minimize forfeitures, accumulation of stocks, storage costs, allow the commodity to be marketed freely and competitively, and minimizes discrepancies in marketing loan benefits across State boundaries and county boundaries.

The Secretary will permit producers of upland cotton and rice to repay a marketing assistance loan at a rate that is the lesser of the loan rate for the commodity plus interest or the prevailing world market price (adjusted to U.S. quality and location), as determined in accordance with section 163 of the FAIR Act.

The Secretary will permit producers of extra long staple cotton to repay a marketing assistance loan at the loan rate plus interest as determined in accordance with section 163 of the FAIR Act.

The Secretary will prescribe by regulation the formula to determine the prevailing world market price for upland cotton and rice and a mechanism to periodically announce this price.

The adjustment of the prevailing world market price for upland cotton is unchanged.

For the 2001 crop, in the case of a producer that marketed or lost beneficial interest before repaying the loan, the Secretary shall permit the producer to repay the loan at the appropriate repayment rate that was in effect for the loan commodity under as of the date that the producer lost beneficial interest, if the Secretary determines the producers acted in good faith.

The Managers intend that in determining loan repayment rates for loan commodities other than upland cotton and rice, the Secretary will consider alternative methodologies, including establishing the Posted County Prices for grains and oilseeds at levels that reflect market prices at both terminal markets for counties with two terminal markets. The Managers expect the Secretary to determine whether assigning equal weight to two terminal markets will better reflect local market prices than the current system of using the higher of the two terminal markets to establish the Posted County Price.

In implementing the marketing assistance loan program for minor oilseeds, the Managers expect the Secretary to establish a single sunflower loan rate in each county for oil-type, confection and other-type sunflowers combined. Managers also expect the Secretary to continue to announce weekly loan repayment rates for sunflowers reflecting local market prices that minimize potential loan forfeitures. Accordingly, sunflower seed loan repayment rates should reflect oil-type sunflower seed local market prices.

The Conference substitute established a marketing assistance loan program for pulse crops—dry peas, lentils and small chickpeas. The loan rate for dry peas is based on U.S. feed pea prices; the loan rate for lentils is based on the price of U.S. No. 3 lentils; and the loan rate for small chickpeas is based on the price of chickpeas that drop below a 20/64 screen. Accordingly, the Managers expect the Secretary to calculate regional pulse loan rates and repayment rates based on the prices of feed peas, No. 3 lentils, and chickpeas that drop below a 20/64 screen. (Section 1204)

(19) Loan Deficiency Payments

The House bill provides loan deficiency payments are maintained. The Secretary will make loan deficiency payments available to producers who, although eligible for a marketing assistance loan, agree to forgo a loan in favor of receiving a payment.

The loan deficiency payment is determined by multiplying the loan payment rate by the quantity of the covered commodity produced, excluding any commodity for which the producer obtained a loan.

The loan payment rate is the amount by which the loan rate exceeds the rate at which the loan may be repaid.

Loan deficiency payments do not apply to extra long staple cotton.

The Secretary shall make a loan deficiency payment on the earlier of the date the producer marketed or lost beneficial interest in the commodity, or the date the producer requests the payment.

Provides for loan deficiency payments on crop year 2001 covered commodities on farms that do not have an AMTA contract. (Section 125)

The Senate amendment amends Sec. 135 of the FAIR Act. Makes loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan with respect to a loan commodity, agree to forgo obtaining the loan in return for payments under this section.

Strikes subsections (e) and (f) of section 135 of the FAIR Act and inserts language comparable to the House provision except the provision is applicable for the 2001–2006 crops. The Secretary shall make a loan deficiency payment only if the producer has beneficial interest in the loan commodity as of the earlier of the date on which the producers on the farm marketed or otherwise lost beneficial interest in the loan commodity or the date the producers on the farm request the payment.

Amends section 135(a)(2) to provide for loan deficiency payments on crop year 2001 contract commodities on farms that do not have a production flexibility contract. (Section 126)

The Conference substitute provides for the continuation of loan deficiency payments. The Secretary will make loan deficiency payments available to producers who, although eligible for a marketing assistance loan, agree to forgo a loan in favor of receiving a payment.

Unshorn pelts, hay and silage derived from a loan commodity are not eligible for a marketing assistance loan, however the commodities are eligible for loan deficiency payments when unshorn pelts, hay or silage are derived from a loan commodity.

The loan deficiency payment is determined by multiplying the payment rate by the quantity of the loan commodity produced, excluding any commodity for which the producer obtained a loan.

The payment rate is the amount by which the loan rate exceeds the rate at which the loan may be repaid.

Provides that the loan deficiency payment for unshorn pelts is based on the rate in effect for ungraded wool and the loan deficiency payment for hay and silage is based on the loan commodity from which the hay and silage is derived.

Loan deficiency payments do not apply to extra long staple cotton.

The Secretary shall make a loan deficiency payment on the date the producer requests the payment.

Provides for loan deficiency payments on crop year 2001 loan commodities on farms that do not have an AMTA contract.

For the 2001 crop, the Secretary shall make a loan deficiency payment on the earlier of the date the producer marketed or lost beneficial interest in the loan commodity, or the date the producer requested the payment. (Section 1205)

(20) Payments in Lieu of Loan Deficiency Payments for Grazed Acreage

The House bill provide that the Secretary will make payments in lieu of loan deficiency payments for grazed acreage to producers that would be eligible for such a loan deficiency payment for wheat, barley, or oats but elects to use the acreage planted to the crops for livestock grazing.

To receive a payment, the producer must agree to forgo any other harvesting of the commodity on that acreage.

The payment amount is determined by multiplying the loan deficiency payment rate by the payment quantity, which is determined by multiplying the quantity of grazed acreage in which the producer elects to forgo harvesting by the payment yield.

The time, manner, and availability of these payments are to be consistent with the general loan deficiency payment and marketing assistance loan provisions for wheat, barley, and oats.

Producers who receive a loan deficiency payment under this section are ineligible for crop insurance or noninsured crop assistance as to that acreage. (Section 126)

The Senate amendment adds Sec. 138 to Subtitle C of the FAIR Act. The Secretary will make payments in lieu of loan deficiency payments for grazed acreage to producers that would be eligible for such a loan deficiency payment for wheat, grain sorghum, barley, or oats but who elect to use the acreage planted to the crops for livestock grazing.

To receive a payment, the producer must agree to forgo any other harvesting of the commodity on that acreage.

The payment amount is determined by multiplying the loan deficiency payment rate by the payment quantity, which is determined by multiplying the quantity of grazed acreage in which the producer elects to forgo harvesting by the payment yield.

The time, manner, and availability of these payments are to be consistent with the general loan deficiency payment and marketing assistance loan provisions for wheat, grain sorghum, barley, and oats.

Producers who receive a loan deficiency payment under this section are ineligible for crop insurance or noninsured crop assistance as to that acreage. (Section 127)

The Conference substitute adopts the House provision with an amendment that provides payments to producers with triticale for grazing when the producer agrees to forgo any other harvesting of the acreage.

For purposes of determining the loan deficiency payment to be used in calculating the payment for the grazing of triticale acreage only, the Managers intend for the Secretary to take into account the predominate class of wheat grown in the county in which the farm is located. (Section 1206)

(21) Special Marketing Loan Provisions for Upland Cotton

The House bill provides that the special marketing loan provisions for upland cotton remain unchanged, including provisions relating to cotton user marketing certificates, the special import quota, and the limited global import quota for upland cotton.

Authorizes through July 31, 2012. (Section 127)

The Senate amendment amends section 136(a) of the FAIR Act by adding language that removes the 1.25–cent threshold for Step–2 cotton payments beginning on the date of enactment of this paragraph and ending on July 31, 2003.

Amends Sec. 136 of the FAIR Act by authorizing program through July 31, 2007. (Section 121 and 128)

The Conference substitute adopts the House provision with an amendment that accepts the Senate provision removing the 1.25–cent threshold for cotton Step–2 payments through July 31, 2006. (Section 1207)

(22) Special Competitive Provisions for Extra Long Staple Cotton

The House bill provides that the special competitive provisions for extra long staple cotton remain unchanged, including provisions relating to the competitiveness program, payments under the program, eligibility, and the amount and form of payment. (Section 128)

The Senate amendment amends Sec. 136(A)(a) of the FAIR Act by authorizing the program through July 31, 2007. (Section 121)

The Conference substitute adopts the House provisions through July 31, 2008. (Section 1208)

(23) Availability of Recourse Loans for High Moisture Feed Grains and Seed Cotton and other Fibers

The House bill provides that the availability of recourse loans for high moisture feed grains and seed cotton remains unchanged. Authority under the FAIR Act to provide this assistance for the 2002 crop year is terminated. (Section 129)

The Senate amendment amends Sec. 137 of the FAIR Act by authorizing the loans through the 2006 crops. Otherwise retains current law. (Section 121)

The Conference substitute adopts the House provision with an amendment that provides that a loan under this subsection shall be made on a quantity of acquired grain determined by multiplying the acreage in a high moisture state on the farm by the lower of the farm program payment yield used for counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary. (Section 1209)

(24) Availability of Nonrecourse Marketing Assistance Loans for Wool and Mohair

The House bill provides that the Secretary will make nonrecourse marketing assistance loans available to producers of wool and mohair for the 2002 through 2011 marketing years.

The graded wool loan rate is not more than $1.00 per pound. The non-graded wool loan rate is not more than $0.40 per pound. The mohair loan rate is not more than $4.20 per pound.

The term of the loan is one year beginning on the first day of the first month after the month in which the loan is made.

Producers may repay the loan at a rate that is the lesser of the loan rate established for the commodity plus interest or at a rate that the Secretary determines will minimize forfeitures, accumulation of stocks, storage costs, and that allows the commodity to be marketed freely and competitively.

Loan deficiency payments are also authorized to those producers who agree to forgo obtaining a loan.

The loan payment rate shall be the amount by which the loan rate in effect for the commodity exceeds the rate at which a loan may be repaid.

The Secretary shall make a loan deficiency payment on the earlier of the date the producer marketed or lost beneficial interest in the commodity or the date the producer requests the payment.

The marketing loan gains and loan deficiency payment a producer may receive under the wool and mohair program is subject to a separate but equal payment limitation than other covered commodities receiving marketing loan benefits. (Section 130)

The Senate amendment amends Sec. 132 of the FAIR Act. Loan rates are $1.00 per pound for graded wool, $0.40 per pound for non-graded wool and unshorn pelts. The Senate amendment contains no provisions for mohair.

Amends Sec. 133 of the FAIR Act to establish a 9-month loan term for all loan commodities.

Amends Sec. 134(a) of the FAIR Act to provide loan repayment rate criteria for wool and other loan commodities. (Section 123, 124 and 125)

The Conference substitute accepts the House provisions with an amendment that adds unshorn pelts as a commodity eligible for a loan deficiency payment. In addition, all marketing loan and loan deficiency provisions for wool and mohair are integrated into the same sections in subtitle B as for other loan commodities.

(25) Availability of Nonrecourse Marketing Assistance Loans for Honey

The House bill provides that the Secretary will make nonrecourse marketing assistance loans available to producers of honey for the 2002 through 2011 marketing years.

The honey loan rate shall be equal to $0.60 per pound.

The term of the loan is one year beginning on the first day of the first month after the month in which the loan is made.

Producers may repay the loan at a rate that is the lesser of the loan rate established for the commodity plus interest or at the prevailing domestic market price for honey.

Loan deficiency payments are also authorized to those producers who agree to forgo obtaining a loan.

The loan payment rate shall be the amount by which the loan rate in effect for the commodity exceeds the rate at which a loan may be repaid.

The Secretary shall make a loan deficiency payment on the earlier of the date the producer marketed or lost beneficial interest in the commodity or the date the producer requests the payment.

The marketing loan gains and loan deficiency payment a producer may receive under the honey program is subject to a separate but equal payment limitation than other covered commodities receiving marketing loan benefits.

This section shall be carried out in a manner as to minimize forfeitures of honey. (Section 131)

The Senate amendment amends Sec. 132 of the FAIR Act. Loan rate is $0.60 per pound.

Amends Sec. 133 of the FAIR Act to establish a 9-month loan term for all loan commodities.

Amends Sec. 134(a) of the FAIR Act to provide loan repayment rate criteria for honey and other loan commodities. (Section 123, 124, and 125)

The Conference substitute accepts the House provisions with an amendment that includes honey in the same marketing loan and loan deficiency sections as for other loan commodities in subtitle B.

(26) Availability of Nonrecourse Marketing Assistance Loans for Dry Peas, Lentils and Chickpeas

The Senate amendment amends Sec. 132 of the FAIR Act. Loan rate for dry peas is $6.78 per hundredweight, loan rate for lentils is $12.79 per hundredweight, loan rate for large chickpeas is $17.44 per hundredweight, and loan rate for small chickpeas is $8.10 per hundredweight.

Amends Sec. 133 of the FAIR Act to establish a 9-month loan term for all loan commodities.

Amends Sec. 134(a) of the FAIR Act to provide loan repayment rate criteria for dry

peas, lentils, chickpeas and other loan commodities. (Section 123, 124, and 125)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that provides a loan rate for the 2002 and 2003 crop years at $7.56 per hundredweight for small chickpeas, $11.94 per hundredweight for lentils and $6.33 per hundredweight for dry peas.

Provides a loan rate for the 2004 through 2007 crop years at $7.43 per hundredweight for small chickpeas, $11.72 per hundredweight for lentils and $6.22 per hundredweight for dry peas. (Section 1202)

(27) Producer Retention of Erroneously Paid Loan Deficiency Payments and Marketing Loan Gains

The House bill provides that neither the Secretary nor CCC shall require producers in Erie County, Pennsylvania, to repay 1998 and 1999 loan deficiency payments and marketing loan gains erroneously paid or determined to have been earned. In the case of a producer who has already made repayment, CCC shall reimburse the producer the full amount of the repayment. (Section 132)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1618)

SUBTITLE C—OTHER COMMODITIES

Chapter 1—Dairy

(28) Milk Price Support Program

The House bill provides that the Milk Price Support Program is authorized through December 31, 2011 at a rate of $9.90/cwt on a 3.67% milk fat basis. The Secretary is authorized to purchase butter, nonfat dry milk powder or cheese at established prices in order to maintain the $9.90/cwt support price. The purchase prices for butter and nonfat dry milk powder may be allocated so as to minimize expenditures from the Commodity Credit Corporation. The Secretary may modify purchase prices for butter and nonfat dry milk not more than 2 times per year. (Section 141)

The Senate amendment amends the Federal Agriculture Improvement and Reform Act of 1996 extending the price support program through December 31, 2006. It also retains provisions of the 1996 Act to provide that at the program's termination, it shall be considered to have expired notwithstanding section 257 (relating to the baseline) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907). (Section 131)

The Conference substitute adopts the House provision (including an enduring budgetary baseline) with an amendment providing for the program's operation through December 31, 2007.

(29) Repeal of Recourse Loan Program For Processors

The House bill provides that the Recourse Loan Program for Processors (7 U.S.C. 7252) is repealed (Section 142)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. P.L. 107–76 repealed the Recourse Loan Program.

(30) Extension of Dairy Export Incentive and Dairy Indemnity Programs

The House bill provides that the Dairy Export Incentive Program (15 U.S.C. 713a–14(a)) is extended through 2011. The Dairy Indemnity Program (7 U.S.C. 4501) is extended through 2011. (Section 143)

The Senate amendment extends the Dairy Export Incentive Program and the Dairy Indemnity Program through 2006. (Section 133)

The Conference substitute adopts the House provision with an amendment to extend both programs through 2007.

(31) Fluid Milk Promotion

The House bill provides that the Fluid Milk Processor Promotion Program (7 U.S.C. 6402) is amended to repeal the termination of authority, and to make technical changes to the definitions of ''Fluid Milk Product'' and ''Fluid Milk Processor.'' (Section 144)

The Senate amendment is similar with technical amendments within the definition of fluid milk processor regarding exclusion for products delivered directly to the place of residence of a consumer. (Section 134)

The Conference substitute adopts the Senate provision.

(32) Dairy Product Mandatory Reporting

The House bill provides that the Dairy Product Mandatory Reporting (7 U.S.C. 1637a(1)) is amended to make technical corrections regarding products to be reported. (Section 145)

The Senate amendment is similar with technical amendments regarding the definition of manufactured dairy products. (Section 135)

The Conference substitute adopts the Senate provision.

The managers want to ensure the enforcement of federal standards of identity that apply for fluid milk products purchased by the federal government for distribution in all federally supported feeding and nutrition programs. If the Secretary of Health and Human Services determines that the federal standards are not being enforced, the Secretary is urged to develop and implement procedures for the enforcement of federal standards of identity for fluid milk products purchased by the federal government within 1 year of enactment of this legislation.

(33) Funding of Dairy Promotion and Research Program

The House bill provides that the Dairy Promotion Program (7 U.S.C. 4502) is amended to require dairy importers to pay an assessment equivalent to domestic dairy producers. Importers would be eligible to vote in referenda and would have representation on the National Dairy Promotion and Research Board. (Section 146)

The Senate amendment is the same (Section 136)

The Conference substitute adopts the House provision with amendments to authorize the Secretary of Agriculture to reapportion the representation levels of domestic producers and importers to reflect a proportion of domestic production and imports supplying the United States market; to make clear that assessments from importers will not be used for foreign export promotion purposes; to clarify when the importer must pay the assessment; to make clear that the domestic milk rate shall be applied to imports on a milk-equivalent basis; to make clear that national dairy promotion program and order must promote milk and dairy products without regard to origin; and to require that in implementing an order under this section, the Secretary consults with the United States Trade Representative in order to ensure consistency with the international trade obligations of the United States.

The Conferees note that since 1990, the provisions of 7 U.S.C. 2278 have been in effect and apply generally to research and promotion programs administered by the Department of Agriculture. Those provisions require that the Secretary consult with the U.S. Trade Representative when research and promotion orders are modified or implemented to apply to imported products, and take steps to ensure that international trade obligations are met. The Conferees intend that the similar provision included specifically in the conference substitute with respect to assessments on imports for the dairy promotion program not be regarded as being in conflict with current law.

(34) Study of National Dairy Policy and Studies of Effects of Changes in Approach to National Dairy Policy and Fluid Milk Identity Standards

The House bill requires the Secretary of Agriculture to conduct an economic analysis of various options for a National Dairy Program and report to Congress not later than April 30, 2002. (Section 147)

The Senate amendment requires studies of the effects of terminating all Federal dairy programs and establishing regional compacts, and a study of the effects of establishing minimum protein standards to be reported to Congress not later than September 30, 2002. (Section 137)

The Conference substitute adopts the both the House and Senate provisions with an amendment to require that each report be issued one year after the date of enactment of this Act.

(35) National Dairy Program

The Senate amendment creates a national dairy support program with two components. The National Dairy Market Loss Assistance Program is authorized from December 1, 2001, through September 30, 2005. The program covers producers in states not included in the Northeast Dairy Market Loss Payment program. Payment is calculated by taking 40% of the difference between the all-milk price and the historical five-year average multiplied by eligible production. Eligible production is based on taking the lesser of (A) the average quantity of milk marketed for commercial use in which the producer has had a direct or indirect interest during each of the 1999 through 2001 fiscal years, (B) 8,000,000 pounds, or (C) actual production for the time period. The program is capped at $1.5 billion.

The Northeast Dairy Market Loss Payment program is authorized from December 1, 2001 through September 30, 2005. The program covers the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia. Payment is based on a target price of $16.94. Eligible production is based on the lesser of (A) the average quantity of milk marketed for commercial use in which the producer had a direct or indirect interest during each of the 1999 through 2001 fiscal years, (B) 8,000,000 pounds, or (C) actual production for the time period. The program is capped at $500 million. (Section 132)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision to create a single national program using the payment formula established under the proposed Northeast Dairy Market Loss Assistance Program. Under this program, participating dairy producers will receive monthly payments equal to 45 percent of the difference between $16.94 and the price per hundredweight of Class I fluid milk in Boston under the applicable federal milk marketing order. No payments will be made for months during which the fluid milk price in Boston is $16.94 or higher. Payments will be made not later than 60 days after the end of the month for which a payment is made. Producers, on an operation-by-operation basis, may receive payments on no more than 2.4 million pounds of milk marketed per year. Retroactive payments will be made covering market losses due to low prices since December 1, 2001. The program is authorized through September 30, 2005.

The Managers understand that previous Dairy Market Loss Assistance Programs provided discretion to the Secretary to limit payments to individual dairy operations. It

is the intent of the Managers that this program shall be administered in the same manner, thereby limiting payments on an operation-by-operation basis. Accordingly, a producer might qualify for separate limits on separate operations.

The managers intend that in carrying out this section, the Secretary utilize information available through the Agricultural Marketing Service monthly milk marketing's by producers.

Chapter 2—Sugar

(36) Sugar Program

The House bill subsection (a) reauthorizes the sugar program through the 2011 crop year.

Subsection (b) terminates the marketing assessment on sugar effective October 1, 2001.

Subsection (c) provides the Secretary of Agriculture the discretion to reduce loan rates for U.S. sugar producers in the event that support for foreign competitors is reduced beyond that required under the Agreement on Agriculture.

Subsection (d) ensures that notification requirements do not frustrate the purposes of the nonrecourse loan program.

Subsection (e) authorizes nonrecourse loans on in-process sugars.

Subsection (f) requires the Secretary of Agriculture to administer the sugar program at no net cost to the federal government to the maximum extent practicable. The subsection also authorizes the CCC to accept bids from processors for the purchase of sugar inventory in exchange for reduced production.

Subsection (g) establishes reporting guidelines for producers and importers relative to yields and acreage planted and amounts imported. Requires reporting by sugar cane producers in proportionate share states.

Subsection (h) makes section 163 of the FAIR Act inapplicable to sugar. (Section 151)

The Senate amendment subsection (i) reauthorizes the sugar program through the 2006 crop year.

Subsection (c) terminates the marketing assessment on sugar effective October 1, 2001.

Subsection (a) provides the Secretary of Agriculture the discretion to reduce loan rates for U.S. sugar producers in the event that support for foreign competitors is reduced beyond that required under the Agreement on Agriculture.

Paragraph (2) of subsection (b) ensures that notification requirements do not frustrate the purposes of the nonrecourse loan program.

Subsection (e) authorizes nonrecourse loans on in-process sugars.

Subsection (f) requires the Secretary of Agriculture to administer the sugar program at no net cost to the federal government to the maximum extent practicable and subject to subsection (e)(3) (which bars the Secretary from imposing pre notification requirements as a condition to forfeiture). The subsection also authorizes the CCC to accept bids from processors for the purchase of sugar inventory in exchange for reduced production.

Subsection (g) establishes reporting guidelines for producers and importers relative to yields and acreage planted and amounts imported. Loan assistance is conditioned on reporting by sugar cane producers located in proportionate share states.

Subsection (j) makes section 163 of the FAIR Act inapplicable to sugar.

Subsection(b)(1) modifies provisions to assure that loan benefits are passed through to producers by allowing beet producers to contract minimum payments and by providing for the use of CCC funds to compensate producers in the event of bankruptcy or insolvency of the processor.

Subsection (h) allows substitutability of all refined sugar for re-export. (Section 141)

The Conference substitute adopts the Senate sugar provisions, with technical and clarifying amendments, except that the provision providing for the use of CCC funds to compensate producers in the event of processor bankruptcy or insolvency is excluded.

(37) Reauthorize Provisions of Agricultural Adjustment Act of 1938 Regarding Sugar

The House bill subsection (a) repeals repetitive reporting provisions.

Subsection (b) requires the Secretary to establish marketing allotments for domestically grown sugar to eliminate forfeitures through 2011.

Subsection (c) updates the allotment formula to take into account current U.S. import obligations. The subsection also assigns allotments between sugarcane and sugar beets. Finally the subsection authorizes the Secretary to suspend allotments whenever imports exceed a certain level.

Subsection (d) updates the base periods and other factors applicable to the allocation of sugarcane and sugar beet allotments among sugarcane and sugar beet processors, respectively.

Subsection (e) establishes procedures for the Secretary to reassign allotments if a processor cannot meet the allocation.

Subsection (f) prescribes the manner in which allotment disputes are settled and provides for certain adjustments in the event a processor closes.

Subsection (g) allows the Secretary to preserve certain acreage base history for a longer period and also defines the term ''offshore states''.

Subsection (h) lifts the suspension on allotments for the 2002 crop. (Section 152)

The Senate amendment subsection (a) repeals repetitive reporting provisions.

Subsection (b) requires the Secretary to establish marketing allotments for domestically grown sugar to eliminate forfeitures through 2006.

Subsection (c) updates the allotment formula to take into account current U.S. import obligations. The subsection also assigns allotments between sugarcane and sugar beets. Finally the subsection authorizes the Secretary to suspend allotments whenever imports exceed a certain level.

Subsection (d) updates the base periods and other factors applicable to the allocation of sugarcane and sugar beet allotments among sugarcane and sugar beet processors, respectively. Adds provisions for new entrant states. Provides formula for beet sugar allocation.

Subsection (e) establishes procedures for the Secretary to reassign allotments if a processor cannot meet the allocation.

Subsection (f) prescribes the manner in which allotment disputes are settled and provides for certain adjustments in the event a processor closes.

Subsection (g) allows the Secretary to preserve certain acreage base history for a longer period and also defines the term ''offshore states''.

Sec. 165(2)(A) strikes the suspension of price support authority for sugar. (Section 143)

The Conference substitute adopts the Senate sugar provisions, with technical and clarifying amendments.

Subsections (b)(1)(D) and (b)(2)(C) of section 359(e) of the Agricultural Adjustment Act of 1938, as amended by section 1403 of the conference agreement, provide for the reassignment of unused marketing allotments for cane sugar and beet sugar, respectively to imports of sugar under certain specified conditions. It is the intent of the conferees that in the event that any allotments are reassigned to imports, the appropriate agency shall accommodate the allotted imports by increasing the tariff-rate quota for sugar in an amount equal to the total amount of the allotments reassigned to imports. By doing so, the market balance sought by the allotment system should be maintained and will not result in a reduction in the overall allotment quantity, a suspension of the allotments, or any increase in the prospect of the forfeiture of domestically produced sugar to the Commodity Credit Corporation.

(38) Storage Facility Loans

The House bill subsection (a) requires the CCC to amend the Code of Federal Regulations to establish a sugar storage facility loan program. Subsection (b) requires the CCC to make such loans to processors of domestically produced sugar that have satisfactory credit history, that need increased storage, and that demonstrate an ability to repay the loan. Subsection (c) provides for a 7-year term for the loan. Subsection (d) requires the program be administered using the services, facilities, and funds of the CCC. (Section 153)

The Senate amendment subsection (a) requires the CCC to amend the Code of Federal Regulations to establish a sugar storage facility loan program. Subsection (b) requires the CCC to make such loans to processors of domestically produced sugar that have satisfactory credit history, that need increased storage, and that demonstrate an ability to repay the loan. Subsection (c) provides for a 7-year term for the loan. (Section 142)

The Conference substitute adopts the Senate provision.

(39) Reallocation of Sugar Quota

The Senate amendment requires the U.S. Trade Representative in consultation with the Secretary, by June 1 of each year, to determine the amount of the quota of cane sugar used by each qualified supplying country for that country for that fiscal year. The Trade Representative may reallocate the unused quota. (Section 144)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with technical amendments.

Chapter 3—Peanuts

(40) Definitions

The House bill defines terms necessary for implementation of this act, including counter-cyclical payment, effective price, historic peanut producer, fixed, decoupled payment, payment acres, peanut acres, payment yield, peanut producer, Secretary, State, target price, and United States. (Section 161)

The Senate amendment defines terms necessary for implementation of this act, including counter-cyclical payment, direct payment, effective price, historical peanut producers on a farm, income protection price, payment acres, peanut acres, payment yield, and peanut producer. (Section 151)

The Conference substitute adopts the House provision with an amendment that clarifies the definition of ''producer'', changes the term ''peanut acres'' to ''base acres for peanuts'', changes the term ''fixed, decoupled payment'' to ''direct payment'', and provides 2002 transitional payment language under the term ''payment acres''. (Section 1301)

(41) Establishment of Payment Yield, Peanut Acres, and Payment Acres for a Farm.

The House bill provides that the Secretary shall determine, for each historic peanut producer, the average yield for peanuts on each farm on which the historic peanut producer produced peanuts for the 1998 through 2001 crops years, excluding any crop year in which the producer did not produce peanuts.

If, for any of these four crop years in which peanuts were planted on a farm by the producer, the farm would have satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act 1999, the Secretary shall assign a yield for the producer for that year equal to 65 percent of the county yield, as determined by the Secretary. (Section 162)

The Secretary shall determine, for each historic peanut producer, the four-year average of acreage actually planted in peanuts by the historic peanut producer for harvest on one or more farms during crop years 1998, 1999, 2000, and 2001 and any acreage that the producer was prevented from planting to peanuts during such crops years because of drought, flood or other natural disaster, or other condition beyond the control of the producer, as determined by the Secretary.

If more than one historic peanut producer shared in the risk of producing the crop on the farm, the historic peanut producers shall receive their proportional share of the number of acres planted (or prevented from being planted) to peanuts for harvest on the farm based on the sharing arrangement that was in effect among the producers for the crop.

The Secretary shall make the determinations required by this subsection not later than 90 days after the date of the enactment of this Act. In making such determinations, the Secretary shall take into account changes in the number and identity of persons sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when the historic peanut producer is no longer living or an entity composed of historic peanut producers has been dissolved.

The Secretary shall give each historic peanut producer an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the producer to cropland on a farm.

The average of all of the yields assigned by historic peanut producers to a farm shall be deemed to be the payment yield for that farm for the purpose of making fixed, decoupled payments and counter-cyclical payments under this chapter.

Subject to subsection (e), the total number of acres assigned by historic peanut producers to a farm shall be deemed to be the peanut acres for a farm for the purpose of making fixed, decoupled payments and counter-cyclical payments under this chapter.

The opportunity to make the assignments described in subsection (b) shall be available to historic peanut producers only once. The historic peanut producers shall notify the Secretary of the assignments made by such producers under such subsections not later than 180 days after the date of the enactment of this Act.

The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

If the sum of the peanut acres for a farm, together with the base acres for the farm under subtitle A, any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program, and any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage, exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or base acres for one of more covered commodities for the farm as necessary so that sum of peanut acres and other covered acreage does not exceed the actual cropland acreage of the farm. The Secretary shall give the peanut producers on the farm the opportunity to select the peanut acres or base acres against which the reduction will be made.

In applying paragraph (1), the Secretary shall make an exception in the case of double cropping as determined by the Secretary (Section 162)

The Senate amendment provides that the Secretary shall determine, for each historical peanut producer, the average yield for peanuts on all farms of the historical peanut producer for the 1998 through 2001 crop years, excluding any crop year during which the producers did not produce peanuts.

If, for any of the crop years in which peanuts were planted on a farm by the historical peanut producer, the historical peanut producer has satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, the Secretary shall assign to the historical peanut producer a yield for the farm for the crop year equal to 65 percent of the average yield for peanuts for the previous 5 crop years.

Except as provided in paragraph (3), the Secretary shall determine, for the historical peanut producer, the 4-year average of acreage planted to peanuts on all farms for harvest during the 1998 through 2001 crop years, and any acreage that was prevented from being planted to peanuts during the crop years because of drought, flood or other natural disaster, or other condition beyond the control of the historical peanut producer, as determined by the Secretary.

If a county in which a historical peanut producer is located is declared a disaster area during 1 or more of the four crop years, for purposes of determining the 4–year average acreage for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 year of the crop years during which a disaster is declared (A) the State average of acreage actually planted to peanuts; or (B) the average of acreage for the historical peanut producer determined by the Secretary under paragraph (2)

The Secretary shall make the determinations required by this subsection not later than 90 days after the date of enactment of this section. In making the determinations, the Secretary shall take into account changes in the number and identity of historical peanut producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when a historical peanut producer is no longer living or an entity composed of historical peanut producers has been dissolved.

The Secretary shall provide each historical peanut producer with an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the historical peanut producer to cropland on a farm

The average of all of the yields assigned by historical peanut producers to a farm shall be considered to be the payment yield for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

Subject to subsection (e), the total number of acres assigned by historical peanut producers to a farm shall be considered to be the peanut acres for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter

Not later than 180 days after the date of enactment of this section, a historical peanut producer shall notify the Secretary of the assignments described in subsection (b).

The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

If the total of the peanut acres for a farm, together with the contract acreage for the farm under subtitle B, any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program, and any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agriculture commodity on the acreage, exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or contract acreage for one or more covered commodities for the farm as necessary so that the total of the peanut acres and other covered acreage does not exceed the actual cropland acreage of the farm. The Secretary shall give the peanut producers on the farm the opportunity to select the peanut acres or contact acreage against which the reduction will be made.

In applying paragraph (1), the Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm, as determined by the Secretary. (Section 151)

The Conference substitute adopts the House provision with an amendment. The amendment allows the historic peanut producer to elect to substitute for a farm, for not more than 3 of the 1998 through 2001 crop years in which the producer planted peanuts on the farm, the average yield for peanuts produced in the county in which the farm is located for the 1990 through 1997 crop years.

The amendment requires the historic peanut producer to assign average base acreage and average yield to a farm by March 31, 2003. In addition, the amendment sets a series of criteria that a historic peanut producer must meet for them to assign average base acreage and average yield across state lines. The Secretary shall provide notice to historic peanut producers regarding their opportunity to assign average peanut yields and average acreages to farms. The amendment states that the notice shall include: notice that the opportunity to make the assignments is being provided once, a description of the limitation of assigning average acres and average yields across state lines, and information regarding the manner in which the assignments must be made and the time periods and manner in which the notice of the assignments must be submitted to the Secretary.

The amendment further states the Secretary shall provide for an adjustment in the base acres for peanuts for a farm whenever a conservation reserve contract with respect to the farm expires or is voluntarily terminated, or the Secretary releases cropland from coverage under a conservation reserve contract. Also included is a provision to allow the owner of a farm to reduce at any time the base acres for peanuts assigned to the farm. (Section 1302)

The Managers are aware that AMTA contract acreage was not protected on acreage enrolled into CRP during CRP signups 15 and later. The Managers intend that the Secretary develop a method that provides for the restoration of base acreage on farms that permanently reduced contract acreage because of enrollment in CRP. Since soybeans and other oilseeds did not have contract acreage prior to this Act, the Managers expect the Secretary to treat soybeans and other oilseeds in a manner that is similar and consistent with other covered commodities. (Section 1302)

(42) Availability of Fixed, Decoupled Payments for Peanuts

The House bill provides that for each of the 2002 through 2011 crop years, the Secretary shall make fixed, decoupled payments to peanut producers on a farm. The payment

rate used to make fixed, decoupled payments with respect to peanuts for a crop year shall be equal to $36 per ton.

The amount of the fixed, decoupled payment to be paid to the peanut producers on a farm for a covered commodity for a crop year shall be equal to the product of the payment rate, the payment acres and the payment yield.

Fixed, decoupled payments shall be paid not later than September 30 of each of the fiscal years 2002 through 2011. In the case of the 2002 crop, payments may begin to be made on or after December 1, 2001.

At the option of a peanut producer, 50 percent of the fixed, decoupled payment for a fiscal year shall be paid on a date selected by the peanut producer. The selected date shall be on or after December 1 of that fiscal year, and the peanut producer may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

If a peanut producer that receives an advance fixed, decoupled payment for a fiscal year ceases to be a peanut producer before the date the fixed, decoupled payment would otherwise have been made by the Secretary, the peanut producer shall be responsible for repaying the Secretary the full amount of the advance payment. (Section 163)

The Senate amendment provides that for each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments to peanut producers on a farm with peanut acres under section 158B and a payment yield for peanuts under section 158B. The payment rate used to make direct payments with respect to peanuts for a fiscal year shall be equal to $0.018 per pound.

The amount of the direct payment to be paid to the peanut producers on a farm for peanuts for a fiscal year shall be equal to the product obtained by multiplying the payment rate, the payment acres, and the payment yield.

The Secretary shall make direct payments in the case of the 2002 fiscal year, during the period beginning December 1, 2001, and ending September 30, 2002; and in the case of each of the 2003 through 2006 fiscal years, not later than September 30 of the fiscal year.

At the option of the peanut producers on a farm, the Secretary shall pay 50 percent of the direct payment for a fiscal year for the producers on the farm on a date selected by the peanut producers on the farm. The selected date for a fiscal year shall be on or after December 1 of the fiscal year. The peanut producers on a farm may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

If any peanut producer on a farm that receives an advance direct payment for a fiscal year ceases to be eligible for a direct payment before the date the direct payment would have been made by the Secretary, the peanut producer shall be responsible for repaying the Secretary the full amount of the advance payment. (Section 151)

The Conference substitute adopts the House provision with an amendment to clarify payment rules for the 2002 crop year by directing the Secretary to make direct payments to historic peanut producers for the 2002 crop year. For each of the 2003 through 2007 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

The payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to $36 per ton. (Section 1303)

(43) Availability of Counter-Cyclical Payment for Peanuts

The House bill provides that during the 2002 through 2011 crop years for peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts whenever the Secretary determines that the effective price for peanuts is less than the target price.

The effective price for peanuts is equal to the sum of higher of either (A) the national average market price received by peanut producers during the 12–month marketing year for peanuts, as determined by the Secretary; or (B) the national average loan rate for a marketing assistance loan for peanuts in effect for the same period under this chapter; and the payment rate in effect under section 163 for the purpose of making fixed, decoupled payments.

The target price for peanuts is $480 per ton.

The payment rate for counter-cyclical payments is equal to the difference between the target price for peanuts and the effective price for the peanuts.

The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product of the payment rate, the payment acres, by the payment yield.

The Secretary shall make counter-cyclical payments for a peanut crop as soon as possible after determining that such payments are required for that crop year.

The Secretary may permit, and, if so permitted, a peanut producer may elect to receive, up to 40 percent of the projected counter-cyclical payment, as determined by the Secretary, to be made under this section for a peanut crop upon completion of the first six months of the marketing year for that crop. The peanut producer shall repay the Secretary the amount, if any, by which the partial payment exceeds the actual counter-cyclical payment to be made for that crop. (Section 164)

The Senate amendment provides for each of the 2002 through 2006 crops of peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the income protection price for peanuts.

The effective price for peanuts is equal to the total of the greater of either (A) the national average market price received by peanut producers during the 12–month marketing year for peanuts or (B) the national average loan rate for a marketing assistance loan for peanuts under section 158G in effect for the 12–month marketing year for peanuts under this chapter; and the payment rate in effect for peanuts under section 158C for the purpose of making direct payments with respect to peanuts.

The income protection price for peanuts is $520 per ton.

The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product obtained by multiplying the payment rate, the payment acres, by the payment yield.

The payment rate used to make counter-cyclical payments with respect to peanuts for a crop year shall be equal to the difference between the income protection price for peanuts and the effective price for peanuts.

The Secretary shall make counter-cyclical payments to peanut producers on a farm under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the projected counter-cyclical payment to be made under this section for a crop of peanuts on completion of the first six months of the marketing year for the crop. The peanut producers on a farm shall repay to the Secretary the amount, if any, by which the payment received by producers on the farm (including partial payments) exceeds the counter-cyclical payment the producers on the farm are eligible for under this section. (Section 151)

The Conference substitute adopts the Senate provision with an amendment to clarify payment rules for the 2002 crop year by directing the Secretary to make counter-cyclical payments to historic peanut producers for the 2002 crop year. For each of the 2003 through 2007 crop years for peanuts, the Secretary shall make counter-cyclical payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

The amendment changes the effective price definition to state the effective price for peanuts is equal to the sum of the higher of (a) the national average market price for peanuts received by producers during the 12–month marketing year for peanuts or (b) the national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this subtitle; plus the payment rate in effect under section 1303 for the purpose of making direct payments.

If before the end of the 12–month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) the option to receive partial payments of the counter-cyclical payment projected to be made for that crop.

When the Secretary makes partial payments for any of the 2002 through 2006 crop years the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop is harvested; the second partial payment shall be made not earlier than February 1 of the next calendar year; and the final payment shall be made as soon as practicable after the end of the 12–month marketing year for that crop.

When the Secretary makes partial payments available for the 2007 crop year the first partial payment shall be made after completion of the first 6 months of the marketing year for that crop; and the final partial payment shall be made as soon as practicable after the end of the 12–month marketing year for that crop.

In the case of the 2002 crop year, the first partial payment to an historic peanut producer may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary. The second partial payment may not exceed the difference between 70 percent of the revised projection of the counter-cyclical payment for the 2002 crop year and the amount of the first partial payment. The final payment shall be equal to the difference between the actual counter-cyclical payment to be made to the historic peanut producer and the amount of the partial payment already made to the historic peanut producers under clauses (i) and (ii).

For each of the 2003 through 2006 crop years, the first partial payment to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary. The second partial payment may not exceed the difference between 70 percent of the revised projection of the counter-cyclical payment for the 2002 crop year and the amount of the first partial payment. The final payment shall be equal to the difference between the actual counter-cyclical payment to be made to the producers for that crop year and the amount of the partial payment already made to the producers under clauses (i) and (ii) for that crop year.

For the 2007 crop year, the first partial payment to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for that crop year, as determined by the Secretary. The final payment for the 2007 crop year shall be equal to the difference between the actual counter-cyclical payment to be made to the producers for that crop year and the amount of the partial payment made to the producers under clause (i).

The producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) must repay the amount, if any, by which the partial payment exceeds the counter-cyclical payment to be made in that crop year. (Section 1304)

The target price for peanuts shall be equal to $495 per ton. (Section 1304)

(44) Producer Agreement Required As Condition On Provision of Fixed, Decoupled Payments and Counter-Cyclical Payments

The House bill provides that before the peanut producers on a farm may receive fixed, decoupled payments or counter-cyclical payments with respect to the farm, the peanut producers shall agree, in exchange for the payments to comply with applicable conservation and wetland protection requirements, to comply with the planting flexibility requirements, and to use the land on the farm, in an amount equal to the peanut acres for an agriculture or conserving use.

The Secretary may issue such rules as the Secretary considers necessary to ensure peanut producer compliance with the requirements of paragraph (1).

A peanut producer may not be required to make repayments to the Secretary of fixed, decoupled payments and counter-cyclical payments if the farm has been foreclosed on and the Secretary determines that the forgiving the repayments is appropriate to provide fair and equitable treatment.

This subsection shall not void the responsibilities of the peanut producer under subsection (a) if the peanut producer continues or resumes operation or control of the farm.

On the resumption of operation or control over the farm by the producer, the requirements of subsection (a) in effect on the date of foreclosure shall apply.

Except as provided in paragraph (4), a transfer or change in the interest of a peanut producer in peanut acres for which fixed, decoupled payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall be effective on the date of the transfer or change.

There is no restriction on the transfer of a farm's peanut acres or payment yield as part of a change in the peanut producers on the farm.

At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

If a peanut producer entitled to a fixed, decoupled payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

As a condition on the receipt of any benefits under this chapter, the Secretary shall require peanut producers to submit to the Secretary acreage reports.

In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Secretary shall provide for the sharing of fixed, decoupled payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis. (Section 165)

The Senate amendment provide that before the peanut producers on a farm may receive direct payments or counter cyclical payments with respect to the farm, the peanut producers on the farm shall agree during the fiscal year or crop year, respectively, for which the payments are received, in exchange for payments to comply with applicable highly erodible land conservation requirements, to comply with applicable wetland conservation requirements, to comply with planting flexibility requirements, and to agree to use a quantity of the land on the farm equal to peanut acres for an agriculture or conserving use.

The Secretary may promulgate such regulations as the Secretary considers necessary to ensure peanut producer compliance with paragraph (1).

The Secretary shall not require the peanut producers on a farm to repay a direct payment or counter-cyclical payment if a foreclosure has occurred with respect to the farm and the Secretary determines that forgiving the repayment is appropriate to provide fair and equitable treatment.

This subsection shall not void the responsibilities of the peanut producers on a farm under subsection (a), if the peanut producers on the farm continue or resume operation, or control, of the farm.

On the resumption of operation or control over the farm by the peanut producers on the farm, the requirements of subsection (a) in effect on the date of the foreclosure shall apply.

Except as provided in paragraph (5), a transfer of or change in the interest of the peanut producers on a farm in peanut acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination takes effect on the date of the transfer or change.

The Secretary shall not impose any restrictions on the transfer of the peanut acres or payment yield of a farm as part of a transfer or change described in paragraph (1).

At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the purposes of subsection (a), as determined by the Secretary.

If a peanut producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary.

As a condition on the receipt of any benefits under this chapter, the Secretary shall require the peanut producers on a farm to submit to the Secretary acreage reports for the farm.

In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis. (Section 151)

The Conference substitute provides that before producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the producers shall agree, in exchange for the payments to comply with applicable conservation requirements, applicable wetland protection requirements, planting flexibility requirements, to use the land on the farm in a quantity attributable to the base acres for an agricultural or conserving use and not for a nonagricultural commercial or industrial use, as determined by the Secretary and on noncultivated land attributable to the base acres, control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices.

The Secretary may issue rules to ensure compliance with these requirements.

At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of such subsection, as determined by the Secretary.

A transfer of (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made shall result in the termination of the payments with respect to bases acres, unless the transferee or owner of the acreage agrees to assume all obligations under conservation, wetland, planting flexibility, agriculture land use provisions and controlling noxious weeds provisions. The termination shall take effect on the date determined by the Secretary.

If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

A producer who receives direct payments, counter-cyclical payments, or marketing loan benefits is required to submit annual acreage reports with respect to all cropland on the farm to the Secretary.

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

When there is a transfer (or change in) the interest of a producer in base acres for which direct or counter-cyclical payments are made, the Managers intend for the Secretary to provide a time frame for the succession to occur that is farmer-friendly.

Acreage reports provide important information such as assisting in determining the eligibility of land to be accepted into the Conservation Reserve Program. The Managers are aware that in prior years, the Secretary has imposed penalties on producers that submit acreage reports that the Secretary later determines to be inaccurate. The Managers understand that under prior acreage limiting and acreage reduction programs there was a need for very accurate reporting. However, under this Act, with the exception of determining the amount of fruits, vegetables, and wild rice planted on base acreage, there is no such need or requirement for the level of accuracy. Therefore, under this provision the Managers do not intend for any penalty to be applicable to inaccurate acreage reports on covered commodities or peanuts, provided the producer has made a good faith effort to accurately report acreage. (Section 1305)

(45) Planting Flexibility

The House bill provides that generally, producers may plant any commodity on the peanut acres of a farm, except fruits and vegetables (other than lentils, mung beans, and dry peas), and wild rice.

Paragraph (1) shall not limit the planting of an agriculture commodity in (A) any region in which there is a history of double-cropping of peanuts with agriculture commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted; (B) on a farm that the Secretary determines has a history of planting agriculture commodities specified in paragraph (1) on peanut acres, except that fixed, decoupled payments and

counter-cyclical payments shall be reduced by an acre for each acre planted to such an agriculture commodity; or (C) by a peanut producer who the Secretary determines has an established planting history of a specific agriculture commodity specified in paragraph (1), except that the quantity planted may not exceed the peanut producer's average annual planting history of such agriculture commodity in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made); and fixed decoupled payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agriculture commodity. (Section 166)

The Senate amendment provides that generally, producers may plant any commodity on the peanut acres of a farm, except fruits and vegetables (other than lentils, mung beans, and dry peas), and in the case of the 2003 and subsequent crops of an agriculture commodity, wild rice.

Paragraph (1) shall not limit the planting of an agriculture commodity in (A) any region in which there is a history of double-cropping of peanuts with agriculture commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted; (B) on a farm that the Secretary determines has a history of planting agriculture commodities specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agriculture commodity; or (C) by the peanut producers on a farm that the Secretary determines has an established planting history of a specific agriculture commodity specified in paragraph (1), except that the quantity planted may not exceed the average annual planting history of the agricultural commodity by the peanut producers on the farm during the 1996 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary and direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agriculture commodity. (Section 151)

The Conference substitute adopts the House provision with an amendment that provides that the planting of fruits, vegetables (other than lentils, mung beans and dry peas) and wild rice shall be prohibited on base acreage unless the commodity, if planted, is destroyed before harvest.

The planting of fruits and vegetables produced on trees and other perennials shall be prohibited on base acres.

The Secretary shall establish a producer planting history for fruits, vegetables and wild rice planted by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years. (Section 1306)

(46) Marketing Assistance Loans and Loan Deficiency Payments for Peanuts

The House bill provides that for each of the 2002 through 2011 crop of peanuts, the Secretary shall make available to peanut producers on a farm non-recourse marketing assistance loans for peanuts produced on the farm. Any production of peanuts on a farm shall be eligible for a marketing assistance loan.

In carrying out this subsection, the Secretary shall make loans to a peanut producer that is otherwise eligible to obtain a marketing assistance loan, but for the fact the peanuts owned by the peanut producer are commingled with other peanuts in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producer obtaining the loan agrees to immediately redeem the loan collateral in accordance with section 166 of the Federal Improvement and Reform Act of 1996.

A marketing assistance loan and loan deficiency payments may be obtained at the option of the peanut producer through a designated marketing association of peanut producers that is approved by the Secretary; or the Farm Service Agency.

The loan rate for a marketing assistance loan for peanuts shall be equal to $350 per ton.

A marketing assistance loan for peanuts under subsection (a) shall have a term of nine months beginning on the first day of the first month after the month in which the loan is made. The Secretary may not extend the term of a marketing assistance loan under subsection (a).

The Secretary shall permit producers to repay a marketing assistance loan for peanuts at a rate that is the lesser of the loan rate for the commodity plus interest; or a rate that the Secretary determines will minimize loan forfeitures, accumulation of stocks, storage costs, and allow peanuts produced in the United States to be marketed freely and competitively.

The Secretary may make loan deficiency payments available to peanut producers who, although eligible to obtain a marketing assistance loan for peanuts, agree to forgo obtaining the loan for the peanuts in return for payments.

A loan deficiency payment shall be computed by multiplying the loan payment rate and the quantity of the peanuts produced by the peanut producers, excluding any quantity for which the producers obtain a loan under subsection (a).

The loan payment rate shall be the amount by which the loan rate exceeds the rate at which a loan may be repaid.

The Secretary shall make a payment under this subsection to a peanut producer with respect to a quantity of peanuts as of the earlier of (A) the date on which the peanut producer marketed or otherwise lost beneficial interest in the peanuts or (B) the date the peanut producer requests the payment.

As a condition of the receipt of a marketing assistance loan, the peanut producer shall comply with applicable conservation and wetland protection requirements, during the term of the loan.

To the extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with such activities in regard to other commodities.

This section terminates section 155 of the Federal Agriculture Improvement and Reform Act of 1996, which provided superseded price support authority. (Section 166)

The Senate amendment provides that for each of the 2002 through 2006 crops of peanuts, the Secretary shall make available to peanut producers on a farm non-recourse marketing assistance loans for peanuts produced on the farm. The producers on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

In carrying out this section, the Secretary shall make loans to peanut producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the peanuts owned by the peanut producers on the farm are commingled with other peanuts of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producers on a farm obtaining the loan agree to immediately redeem the loan collateral in accordance with section 158E.

A marketing assistance loan and loan deficiency payments may be obtained at the option of the peanut producers on a farm through (A) a designated marketing association of peanut producers that is approved by the Secretary, (B) the Farm Service Agency, or (C) a loan servicing agent approved by the Secretary.

The loan rate for a marketing assistance loan for peanuts shall be equal to $400 per ton.

A marketing assistance loan for peanuts under subsection (a) shall have a term of nine months beginning on the first day of the first month after the month in which the loan is made. The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

The Secretary shall permit peanut producers on a farm to repay a marketing assistance loan for peanuts at a rate that is the lesser of the loan rate for peanuts plus interest or a rate that the Secretary determines will minimize forfeitures, accumulation of stocks, storage costs; and allow peanuts produced in the United States to be marketed freely and competitively.

The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for payments under this subsection.

A loan deficiency payment shall be obtained by multiplying the loan payment rate by the quantity of the peanuts produced by the peanut producers on the farm, excluding any quantity for which the producers on a farm obtain a loan under subsection (a).

The loan payment rate shall be the amount by which the loan rate exceeds the rate at which a loan may be repaid.

The Secretary shall make a payment under this subsection to the peanut producers on a farm with respect to a quantity of peanuts as of the earlier of (A) the date on which the peanut producers on the farm marketed or otherwise lost beneficial interest in the peanuts, as determined by the Secretary or (B) the date the peanut producers on the farm request the payment.

As a condition of the receipt of a marketing assistance loan under subsection (a), the peanut producers on a farm shall comply during the term of the loan with applicable conservation and wetland protection requirements.

To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of the agreements or payment of the expenses for other commodities.

This section terminates Section 155 of the Federal Agriculture Improvement and Reform Act of 1996 is repealed. (Section 151)

The Conference substitute adopts the House provision with an amendment modifying the options the producer has for obtaining a marketing assistance loan and loan deficiency payments to not only include a designated marketing association and the Farm Service Agency, but also a marketing cooperative of producers.

Effective for the 2002 through 2006 crop of peanuts, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall use the funds of the Commodity Credit Corporation to pay storage, handling, and other associated costs. This authority terminates beginning with the 2007 crop of peanuts. Also included is nondiscriminatory language for individuals or entities seeking approval to store peanuts for which a marketing loan is made.

The amendment added language that a marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

The amendment added language on good faith exemptions to the beneficial interest requirement for the 2002 crop of peanuts. In the case of the producers on a farm that marketed or otherwise lost beneficial interest in the peanuts for which a marketing assistance loan was made under this section before repaying the loan, the Secretary shall permit the producers to repay the loan at the appropriate repayment rate that was in effect for peanuts under this subsection as of the date that the producers lost beneficial interest, as determined by the Secretary, if the Secretary determines the producers acted in good faith.

The amendment establishes a special rule for the 2002 crop year loan deficiency payments. For the 2002 crop year only, the Secretary shall determine the amount of the loan deficiency payment to be made to the producers on a farm with respect to a quantity of peanuts using the payment rate for peanuts as of the earlier of the following: the date on which the producers marketed or otherwise lost beneficial interest in the crop, as determined by the Secretary, or the date the producers request the payment.

The loan rate for a marketing assistance loan for peanuts shall be equal to $355 per ton. (Section 1307)

The Managers encourage the Department to continue its traditional practice of accounting for all commingled peanuts such that all peanuts stored commingled with peanuts covered by a marketing assistance loan are graded and exchanged on a dollar value basis unless it is the determination of the Secretary that the beneficial interest in peanuts covered by the marketing assistance loan have been transferred to other parties prior to demand for delivery.

(47) Quality Improvement

The House bill peanuts placed under a marketing assistance loan under section 167 shall be officially inspected and graded by Federal or State inspectors. Peanuts not placed under a marketing assistance loan may be graded at the option of the producer.

This section terminates the Peanut Administrative Committee and the Secretary is directed to establish a Peanut Standards Board for the purpose of assisting in the establishment of quality standards for peanuts. The authority of the Board is limited to assisting in the establishment of quality standards for peanuts. The members of the Board should fairly reflect all regions and segments of the peanut industry.

This section shall take effect with the 2002 crop of peanuts. (Section 168)

The Senate amendment provides that all peanuts placed under a marketing assistance loan under section 158G shall be officially inspected and graded by a Federal or State inspector. Peanuts not placed under a marketing assistance loan may be graded at the option of the peanut producers on a farm.

The Senate amendment provides that this section terminates the Peanut Administrative Committee. The Secretary shall establish a Peanut Standards Board for the purpose of assisting in the establishment of quality standards with respect to peanuts. The Secretary shall appoint members to the Board that, to the maximum extent practicable, reflect all regions and segments of the peanut industry. The Board shall assist the Secretary in establishing quality standards for peanuts.

This section shall apply beginning with the 2002 crop of peanuts. (Section 151)

The Conference substitute adopts the Senate provision with an amendment requiring all peanuts marketed in the United States to be officially inspected and graded by Federal or Federal-State inspectors.

The amendment clarifies the composition of the Peanut Standards Board, the terms for members, and provides language to transition from the Peanut Administrative Committee to the Peanut Standards Board. (Section 1308)

It is the Managers' intention that the definition of ''peanut industry representatives'' includes, but is not limited to, representatives of the manufacturers, shellers, buying points, marketing associations and marketing cooperatives.

The Managers expect the Secretary, when developing inspection and grading standards, to encourage the use of the latest technology and evaluation systems to eliminate costs and increase efficiency in the inspection and grading process. The Secretary should also encourage the use of the latest research and technology to assist in the elimination and prevention of aflatoxin.

(48) Payment Limitations

The House bill provides that separate payment limitations shall apply to peanuts with respect to fixed, decoupled payments, counter-cyclical payments, and limitations on marketing loan gains and loan deficiency payments.

The Senate amendment contains no comparable provision in Chapter 3.

The Conference substitute provides the total direct and counter-cyclical payments to a person for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton and rice may not exceed $40,000 and $65,000, respectively. The total marketing loan gains and loan deficiency payments for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton, rice, lentils, dry peas and small chickpeas that a person is entitled to receive is $75,000.

Provides for a separate direct and counter-cyclical payment limitation for peanuts of $40,000 and $65,000, respectively. Provides for a separate marketing loan gain and loan deficiency payments limitation for peanuts, wool, mohair and honey of $75,000.

Retains current rules on husband and wife, 3-entities, actively engaged and generic certificates.

Adopts the $2.5 million adjusted gross income means test.

The Conference substitute refers to levels of adjusted gross income or comparable measures of income. The Managers intend that the comparable measure provision be utilized when necessary and in cases of applicants for whom, because of their status under the Internal Revenue Code, adjusted gross income is not measured or reported. For example, participants who are organized as C Corporations, S Corporations, or as nonprofit organizations, the Managers intend for the Secretary to use this direction to adopt alternative income measurements that compare most closely to adjusted gross income. (Section 1309)

The Managers expect the Secretary to implement this provision in a manner that provides equitable treatment, to the maximum extent practicable to all producers regardless of the legal structure of their farming operation.

For purposes of subsection (b), the Managers expect the Secretary to determine the individual or entity to be ineligible only if the adjusted gross income or similar equivalent exceeds $2.5 million and less than 75 percent of the adjusted gross income is derived from farming, ranching or forestry operations as determined by the Secretary.

(49) Termination of Marketing Quota Programs for Peanuts and Compensation to Peanut Quota Holders for Loss of Quota Asset Value

The House bill repeals the marketing quota for peanuts, part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938.

The marketing quota as in effect the day before the date of enactment of this Act, shall continue to apply with respect to the 2001 crop of peanuts.

The Secretary shall offer to enter into a contract with eligible peanut quota holders for the purpose of providing compensation for the lost value of the quota on account of the repeal of the marketing quota program for peanuts. Under the contracts, the Secretary shall make payments to eligible peanut quota holders during fiscal years 2002 through 2006. The payments required under the contracts shall be provided in five equal installments not later than September 30 of each of the fiscal years 2002 through 2006.

The amount of the payment for a fiscal year to a peanut quota holder under a contract shall be equal to the product obtained by multiplying $0.10 per pound by the actual farm poundage quota (excluding seed and experimental peanuts) established for the peanut quota holder's farm for the 2001 marketing year.

The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act, relating to the assignment of payments, shall apply to the payments made to peanut quota holders under the contracts. The peanut quota holder making the assignment or the assignee, shall provide the Secretary with notice, in such a manner as the Secretary may require, of any assignment made under this subsection.

This section defines peanut quota holder as a person or enterprise that owns a farm that was eligible, immediately before the date of the enactment of this Act, to have a peanut quota established upon it; if there are not quotas currently established, would be eligible to have a quota established upon it for the succeeding crop year; or is otherwise a farm that was eligible for such a quota at the time the general quota establishment authority was repealed.

The Secretary shall apply this definition without regard to temporary leases or transfers or quotas for seed or experimental purposes. (Section 170)

The Senate amendment provides the effective beginning with the 2002 crop of peanuts, part VI of subtitle B of title III of the Agriculture Adjustment Act of 1938 is repealed.

This section and the amendments made by this section apply beginning with the 2002 crop of peanuts.

The Secretary shall offer to enter into a contract with peanut quota holders for the purpose of providing compensation for the lost value of quota as a result of the repeal of the marketing quota program for peanuts. Under a contract, the Secretary shall make payments to an eligible peanut quota holder for each of fiscal years 2002 through 2006. The payments required under the contracts shall be provided in 5 equal installments not later than September 30 of each of the fiscal years 2002 through 2006.

The amount of the payment for a fiscal year to a peanut quota holder under contract shall be equal to the product obtained by multiplying $0.11 by the actual farm poundage quota (excluding any quantity for seed and experimental peanuts) established for the farm of a peanut quota holder for the 2001 marketing year.

The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act, relating to assignment of payments, shall apply to the payments made to peanut quota holders under the contracts. The peanut quota holder making the assignment, or the assignee, shall provide the Secretary with notice, in such a manner as the Secretary may require, of any assignment made under this subsection.

This section defines peanut quota holder as a person or entity that owns a farm that (I)

held a peanut quota established for the farm for the 2001 crop of peanuts; (II) if there was not such a quota established for the farm for the 2001 crop of peanuts, would be eligible to have such a quota established for the farm for the 2002 crop of peanuts; (III) is otherwise a farm that was eligible for such a quota as of the effective date of the amendments made by this section.

The Secretary shall apply the definition of peanut quota holder without regard to temporary leases, transfers, or quotas for seed or experimental purposes. (Section 152)

The Conference substitute adopts the House provision with clarifying language to the quota holder definition. The quota compensation payment shall be $0.11 per year for a total of five years. The amendment gives an option to eligible peanut quota holders entitled to payments under a contract to receive the entire payment in a single lump sum.

The amendment adds disposal language to allow the Secretary to ensure that the disposal of peanuts for which a loan for the 2001 crop was made is carried out in a manner that prevents price disruptions in the domestic and international markets for peanuts.

The amendment adds language on the effect of termination on crop insurance policies. The subsection shall apply for the 2002 crop year only notwithstanding any other provision of law or crop insurance policy. The nonquota price election for segregation I, II, and III shall be 17.75 cents per pound and shall be used for all aspects of the policy relating to the calculations of premium, liability, and indemnities. For the purposes of quality adjustment only, the average support price per pound of peanuts shall be a price equal to 17.75 cents per pound. Quality under the crop insurance policy for peanuts shall be adjusted under procedures issued by the Federal Crop Insurance Corporation. (Section 1310)

SUBTITLE D—ADMINISTRATION

(50) Administration Generally

The House bill provides that:

(a) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall carry out this title through the Commodity Credit Corporation.

(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(c) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking, and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(d) PROTECTION OF PRODUCERS.—The protection afforded producers that elect the option to accelerate the receipt of any payment under a production flexibility contract payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212 note) shall also apply to the advance payment of fixed, decoupled payments and counter-cyclical payments.

(e) ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.—If the Secretary determines that expenditures under subtitles A, B, and C that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7))), as in effect on the date of the enactment of this Act, will exceed such allowable levels for any applicable reporting period, the Secretary may make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed, but in no case are less than, such allowable levels. (Section 181)

The Senate amendment provides that:

(a) IN GENERAL.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of title I and sections 456 and 508 and the amendments made by title I and sections 456 and 508 shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULE-MAKING.—In carrying out subsection (b), the Secretary shall use the authority provided under section 808 of title 5, United States Code.

Amends Section 161 of the FAIR Act to allow the Secretary to adjust the amount of domestic support to assure compliance with Uruguay Round obligations.

Requires the Secretary to report to Congress of intent to make adjustment and allows adjustment unless a joint resolution disapproving the adjustments is enacted by both Houses of Congress within 60 days.

Requires annual reports on domestic support by April 30 of each year. (Section 164 and 1099)

The Conference substitute adopts the House provision with an amendment that provides for the Secretary, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

Before making any adjustment, the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the determination made and the extent of the adjustment made.

The Conference has made it a priority to craft a program that provides assistance to producers in a way that is consistent with our obligations under the Uruguay Round Agreement on Agriculture. (Section 1601)

(51) Extension of Suspension of Permanent Price Support Authority

The House bill amends Section 171 of the FAIR Act.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Section 171(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(a)(1)) is amended by striking ''2002'' both places it appears and inserting ''2011''.

(b) AGRICULTURAL ACT OF 1949.—Section 171(b)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(b)(1)) is amended by striking ''2002'' both places it appears and inserting ''2011''.

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—Section 171(c) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(c)) is amended by striking ''2002'' and inserting ''2011''. (Section 182)

The Senate amendment amends Section 171 of the Fair Act. Section 171 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301) is amended—

(1) by striking ''2002'' each place it appears and inserting ''2006''; and

(2) in subsection (a)(1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively. (Section 165)

The Conference substitute adopts the House provision with an amendment. (Section 1602)

(52) Commodity Purchases

The Senate Amendment provides new mandatory spending for commodity purchases with a specific amount for specialty crops, for the Department of Defense nutrition program and for the Emergency Food Assistance Program. (Section 166)

The House Bill contains no similar provision.

The Conference Substitute adopts the Senate provision with an amendment to provide a minimum of $200 million per year from Section 32 funds for the purchase of fruits, vegetables and other specialty food crops. A minimum of $50 million per year of these funds is to be spent on the Department of Defense Fresh Program. And the Secretary shall submit a report not later than 1 year after the date of the enactment of this Act, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that analyzes by type the commodities purchased under this section as well as by type the commodities purchased using all other Section 32 funds. (Section 10603)

The Managers intend that the funds made available under this section are to be used for additional purchases of fruits and vegetables, over and above the purchases made under current law or that might otherwise be made without this authority. The Managers expect the $200 million to be a minimum amount for fruit and vegetable purchases under Section 32 funds; it is not intended to interfere with or decrease from Agricultural Marketing Service's historical purchases of fruits and vegetables [e.g. $243 million in 2001; $232 million in 2000] or to decrease or displace other commodity purchases. It is the Managers' further intention that tree nuts may be included in the Secretary's definition of ''other specialty food crops'' purchases for this section. The Managers intend that none of the amounts made available under this section for the purchases of fruits, vegetables, and other specialty food crops may be used to purchase apples for 2002 and 2003. The Secretary may continue to purchase apples under other existing authority.

The amendment requires that a minimum of $50 million from the $200 million made available under section 10603 be used exclusively for additional purchases of fresh fruits and vegetables for the schools through the ''DoD Fresh'' program. The Department of Agriculture currently provides $25 million in funding each year for the purchase of fresh fruits and vegetables for the schools, pursuant to existing authority under the School Lunch Act. Through a 1995 memorandum of agreement between the Agricultural Marketing Service, the Food & Consumer Service, and the Defense Personnel Support Center, the Department of Defense serves as the servicing agency for the procurement of these fresh fruits and vegetables through the ''DoD Fresh'' program. The Managers strongly support efforts to fully utilize this program to assist small businesses, specialty crop producers, and schools in providing greater quantities of fresh fruits and vegetables in USDA feeding programs, and expects

the Secretary to review the effectiveness of the program in meeting these goals on an ongoing basis.

(53) Hard White Wheat Incentive Payments

The Senate amendment amends Sec. 193 of the FAIR Act. For crop years 2003 through 2005, this section requires the Secretary to use $40 million of funds of the Commodity Credit Corporation to provide incentive payments to producers of hard white wheat. The program offers wheat producers an alternative crop to meet a growing international market opportunity. (Section 167)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that provides for the 2003 through 2005 crop years, a total of $20 million in hard white wheat incentive payments to growers that demonstrate that buyers and end-users are available for the wheat to be covered by the incentive payment. (Section 1616)

(54) Limitations

The House bill amends section 1001 of the Food Security Act of 1985 to delete the references to production flexibility contract and AMTA and include fixed, decoupled and counter-cyclical payment limitations. The total fixed, decoupled payments and counter-cyclical payments to a person may not exceed $50,000 and $75,000, respectively. The total of marketing loan gains and loan deficiency payments that a person is entitled to receive is $150,000.

Peanuts, honey and wool and mohair have limitations for the applicable programs separate from other commodities. (Section 183)

The Senate amendment amends Section 1001 of the Food Security Act of 1985. The total of direct and counter-cyclical payments that an individual or entity may receive during any fiscal year for program commodities shall not exceed $75,000. The total of marketing loan gains, forfeiture gains, gains from marketing certificates and loan deficiency payments that a person is entitled to receive for program crops, peanuts, honey and wool is $150,000 per crop year.

During a fiscal and corresponding crop year, the total amount of payments and benefits that a married couple may receive from direct, counter-cyclical and marketing loan is $75,000 and $150,000 respectively, plus a combined total of an additional $50,000. (Section 169)

The Conference substitute provides the total direct and counter-cyclical payments to a person for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton and rice may not exceed $40,000 and $65,000, respectively. The total marketing loan gains and loan deficiency payments for corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton, rice, lentils, dry peas and small chickpeas that a person is entitled to receive is $75,000.

Provides for a separate direct and counter-cyclical payment limitation for peanuts of $40,000 and $65,000, respectively. Provides for a separate marketing loan gain and loan deficiency payments limitation for peanuts, wool, mohair and honey of $75,000.

Retains current rules on husband and wife, 3–entities, actively engaged, generic certificates and adopts the $2.5 million adjusted gross income means test.

The Conference substitute refers to levels of adjusted gross income or comparable measures of income. The Managers intend that the comparable measure provision be utilized when necessary and in cases of applicants for whom, because of their status under the Internal Revenue Code, adjusted gross income is not measured or reported. For example, participants who are organized as C Corporations, S Corporations, or as non-profit organizations, the Managers intend for the Secretary to use this direction to adopt the use of income measure terms that compare most closely to adjusted gross income. The Managers expect the Secretary to implement this provision in a manner that provides equal treatment, to the maximum extent practicable across all producers regardless of the legal structure of their farming operation.

For purposes of subsection (b), the Managers expect the Secretary to determine the individual or entity to be ineligible only if the adjusted gross income or similar equivalent exceeds $2.5 million and less than 75 percent of the adjusted gross income is derived from farming, ranching or forestry operations as determined by the Secretary. (Section 1603)

(55) Adjustments of Loans

The House bill extends current authority to adjust loans so, to the maximum extent practicable, the average loan level for a commodity will be equal to the level of support determined appropriate under this Act. (Section 184)

The Senate amendment retains current law as section 162 of the FAIR Act with ''loan commodity'' reference. (Section 171)

The Conference substitute adopts the House provision. (Section 1606)

(56) Personal Liability of Producers for Deficiencies

The House bill amends Section 164 of the FAIR Act by striking ''this title'' and inserting ''this title and title I of the Farm Security Act of 2001''. The liability of a producer is limited if the collateral securing any nonrecourse loan is sold as long as the sale was not fraudulent. (Section 185)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1607)

(57) Extension of Existing Administrative Authority Regarding Loans

The House bill amends Section 166 of the FAIR Act. The full protection of marketing loan assistance to producers is extended under this Act. (Section 186)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that includes a reference to this Act. (Section 1608)

(58) Assignment of Payments

The House bill provides that producers may assign any payments received under this Act by providing notice in a manner prescribed by the Secretary. (Section 187)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 1612)

(59) Report on Effect of Certain Farm Payments

The House bill requires the Secretary to review the effects that payments under production flexibility contracts and market loss assistance payments have had, and that fixed, decoupled and counter-cyclical payments are likely to have, on the economic viability of producers and the farming infrastructure. The review shall include a case study on the effects these payments are likely to have on rice producers, millers and the economies of rice farming areas in Texas. (Section 187)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section ???)

(61) Reserve Stock Level

The Senate amendment reduces the reserve stock level for Flue-cured tobacco from 100 million pounds (farm sales weight) to 75 million pounds or 10 percent of the national marketing quota. (Section 162)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that reduces the reserve stock level for Flue-cured tobacco from 100 million pounds (farm sales weight) to 60 million pounds. (Section 1610)

(62) Farm Reconstitutions

The Senate amendment provides for the 2002 crop only, the Secretary shall allow special farm reconstitutions, in lieu of lease of tobacco quota. Requires a study on the effects of limitation on producers who move quota. (Section 163)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1611)

(63) Livestock Assistance Program

The Senate amendment authorizes appropriations of $500 million for each of fiscal years 2003 through 2008 for the livestock assistance program. (Section 168)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 10104)

(64) Restriction of Commodity and Crop Insurance Payments, Loans and Benefits to Previously Cropped Land

The Senate amendment restricts commodity and crop insurance payments to previously cropped land. To be eligible for benefits, land must have been planted, considered planted or devoted to an agricultural commodity (excluding forage, livestock, timber, forest products, or hay) at least 1 of the 5 crop years preceding the 2002 crop year, or at least 3 of the 10 crop years preceding the 2002 crop year, or at least 1 of the 20 crop years preceding 2002 crop year if the land has been maintained, using long-term crop rotation practices.

There are exceptions for land enrolled in the conservation reserve program and land under the jurisdiction of an Indian tribe. (Section 170)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(65) Reports of Equitable Relief and Misaction-Misinformation Requests

The Senate amendment requires the Secretary to submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a report the describes the requests for equitable relief. (Section 172)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that provides State Executive Directors of the Farm Service Agency and State Conservationists with the Natural Resource Conservation Service authority to grant relief in special circumstances. In addition, a report is required to be provided annually that describes for the previous calendar year, the number of requests for equitable relief and the disposition of the requests. (Section 1613)

(66) Estimates of Net Farm Income

The Senate amendment requires the Secretary to include—

''(1) an estimate of the net farm income earned by commercial producers in the United States; and

''(2) an estimate of the net farm income attributable to commercial producers of each of—

''(A) livestock;

''(B) loan commodities; and

''(C) agricultural commodities other than loan commodities.'' (Section 173)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1615)

(67) Commodity Credit Corporation Inventory

The Senate amendment authorizes the Commodity Credit Corporation to use of private sector entities when purchasing and selling commodities. (Section 174)

The House bill contains no comparable provision.

The Conference substitute accepts the Senate provision. (Section 1609)

(68) Agricultural Producers Supplemental Payments and Assistance

The Senate amendment authorizes the Secretary to make payments to persons who are eligible to receive assistance under Public Law 107–25 but who did not receive the payments or assistance prior to October 1, 2001.

The amount of payments or assistance shall not exceed the amount of payments or assistance the person would have been eligible to receive under Public Law 107- 25.

The House bill contains no comparable provision.

The Conference substitute accepts the Senate provision with an amendment to also include producers participating in 1998, 1999, 2000 or 2001 economic or disaster assistance programs that have not been paid. (Section 1617)

SUBTITLE E—PAYMENT LIMITATION COMMISSION

(69) Establishment of Commission

The Senate amendment establishes commission, specifies membership, establishes terms, meetings, quorum, and provides that the Secretary appoint one commissioner to serve as Chair. (Section 181)

The House bill contains no comparable provision.

The Conference substitute provides for the establishment of a Commission on the Application of Payment Limitations for Agriculture.

The Commission shall be composed of 10 members of which 3 members are appointed by the Secretary of Agriculture, 3 members by the Committee on Agriculture, Nutrition and Forestry of the Senate, 3 members by the Committee on Agriculture of the House of Representatives and the Chief Economist of the Department of Agriculture.

The Managers encourage the appointing authorities to ensure that the membership of the commission has a diversity of experiences and expertise on the issues to be studied by the Commission. (Section 1605)

(70) Duties

The Senate amendment requires the commission to conduct a comprehensive review of payment limitations. (Section 182)

The House bill contains no comparable provision.

The Conference substitute requires that the Commission conduct a study on the potential impacts of further payment limitations on the receipt of direct payments, counter-cyclical payments, and marketing loan gains and loan deficiency payments on farm income, land values, rural communities, agribusiness infrastructure, planting decisions, supply and prices of covered commodities and other agriculture commodities, including fruits and vegetables.

Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report containing the results of the study, including such recommendations as the Commission considers appropriate.

The Managers intend for the Commission to examine the feasibility of improving the application and effectiveness of payment limitation requirements, including the use of commodity certificates and unlimited forfeiture of loan collateral. (Section 1605)

(71) Powers

The Senate amendment authorizes the commission to hold hearings and obtain information from Federal agencies. (Section 183)

The House bill contains no comparable provision.

The Conference substitute provides that the Commission may hold such hearings, meet and act, take testimony and receive evidence the Commission considers advisable to carry out their duties. (Section 1605)

(72) Commission Personnel Matters

The Senate amendment provides for compensation of members. (Section 184)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1605)

(73) Federal Advisory Committee Act

The Senate amendment exempts the commission from the Federal Advisory Committee Act. (Section 185)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1605)

(74) Funding

The Senate amendment authorizes the Secretary to use not more than $100,000 of the funds of the CCC to carry out this subtitle. (Section 186)

The House bill contains no comparable provision.

The Conference substitute provides that the Commission may use the mail in the same manner and under the same conditions as other agencies of the Federal Government, allows the Secretary to provide appropriate office space and allows for the reimbursement of travel expenses. (Section 1605)

(75) Termination of Commission

The Senate amendment provides that the Commission terminates on the day after the Commission submits its report. (Section 187)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

SUBTITLE F—EMERGENCY AGRICULTURE ASSISTANCE

(76) Income Loss Assistance

The Senate amendment provides $500 million in emergency livestock assistance for 2001 losses. (Section 192)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(77) Market Loss Assistance for Apple Producers

The Senate amendment provides $100 million for apple producers for the loss of markets during the 2000 crop year and further specifies payment quantity and payment/eligibility limitations parameters. (Section 193)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to provide $94 million to apple producers for the loss of markets during the 2000 crop year, payment quantity parameters are retained, the Secretary shall not establish a payment limitation or an income eligibility limitation with respect to payments made on the payment quantity of 5 million pounds of apples produced on the farm; and promulgation of regulations and administration of this section will be exempt from the rulemaking requirements and Paperwork Reduction Act. Also provides $10 million as a grant to the State of New York to be used to support current onion producers in Orange County, New York, who have suffered losses to onion crops during one or more of the 1996 through 2000 crop years. (Section 10105)

(78) Commodity Credit Corporation

The Senate amendment authorizes the Secretary to use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle. (Section 194)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(79) Administrative Expenses

The Senate amendment authorizes the transfer of $50 million from the Treasury to the Department of Agriculture to pay salaries and expenses in carrying out this subtitle.(Section 195)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(80) Regulations

The Senate amendment authorizes the Secretary to promulgate rules and regulations to implement this subtitle. (Section 196)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(81) Emergency Requirement

The Senate amendment designates the entire amount necessary to carry out this subtitle as emergency spending. (Section 197)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

TITLE II—CONSERVATION

SUBTITLE A—CONSERVATION SECURITY PROGRAM

(1) Conservation Security Act

The Senate amendment establishes the Conservation Security Program (CSP) and provides the applicable definitions. (Section 201 (Section 1238))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. The Managers expect the Secretary to implement the CSP to encourage the widest participation possible at a level that ensures resources are protected at a non-degradation level. (Sec. 2001)

(2) Conservation Security Program

The Senate amendment establishes the CSP for fiscal years 2003 through 2006 to assist producers in implementing various conservation practices as applicable for each individual operation. Eligible lands include private cropland, grassland, prairie land, pasture land and rangeland and private forest land in agro-forestry practices.

The Senate amendment establishes three tiers of conservation contracts that provide flexibility to farmers. Eligible practices may include the continuation of some practices combined with the adoption of new practices. Producers must adopt or maintain practices to address a resource concern of the operation, such as soil or water quality.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. The CSP, which is open to all producers for maintaining or adopting practices on private agricultural land, will be established from fiscal years 2003 through 2007. Only private agricultural lands and forested land that is incidental to an agricultural operation is eligible for enrollment. Lands enrolled in the

Conservation Reserve Program (CRP), the Wetlands Reserve Program (WRP), or the Grasslands Reserve Program (GRP) and not eligible for enrollment, nor are lands that have not been cropped for more than four out of the past six years. This change is to help discourage producers from using the program as an inducement to cultivate land. Because this is a working lands program, producers will be allowed economic use of the land, in a manner consistent with the program. (Section 2001)

Agricultural producers are longtime stewards of America's lands. In establishing the CSP, the Managers recognize the need to support ongoing stewardship by providing incentive payments for producers to maintain and enhance conservation practices at a nondegradation level.

The Managers intend to assist agriculture producers to concentrate on resource problems, including soil, air, water, plant and animal (including wildlife) and energy conservation, on their particular operation using a broad array of conservation practices. Participation does not require a producer to address a locally-identified priority. Instead, a producer may receive an enhanced payment for addressing locally-identified priorities which will be determined by the state technical committees working with local working groups and agricultural producers. Overall, the Managers intend that the enhanced payments be used to ensure and optimize environmental benefits. The enhanced payments should reward producers who go beyond the minimum requirements of the program to address additional resource concerns.

The Managers intend that the Secretary shall provide base payments based on the average national rental rate for the specific land use type. The Managers encourage the Secretary to look at alternative approaches for a base payment that is not based on rental rates. In applying another appropriate rate to ensure regional equity, the Secretary shall not provide a rate lower than the national average rental rate.

The Managers intend the Secretary will not employ an environmental bidding or ranking system in implementing CSP and approve should approve a producer's contract that meets the standards of the program. The Managers are aware that many agricultural producers who want to adopt conservation practices have not had access to conservation program funding. Together, with the overall increase in funds for all conservation programs, agriculture producers who chose to employ conservation practices should have access to funding.

The Secretary should provide cost-share payments at a rate not exceeding 75 per cent. The Secretary should provide cost-share assistance at a comparable rate as that provided under the Environmental Quality Incentives Program for the same practices. In limiting cost-share for land-based structures, payments should be limited to those structures that are integral to the land-based conservation system.

The Managers expect the Secretary to implement the CSP in a manner that will allow all agricultural producers, including fruit and vegetable producers and livestock producers, to participate equitably in the program. The Managers also direct the Secretary to begin CSP at the full national level as soon as practicable.

While CSP is directed toward practices on working agricultural lands, the Managers recognize that some land use practices may involve alternative uses of the land, such as providing for wildlife habitat or the corners on center-pivot irrigation systems, and expect the Secretary to include these parcels, when incidental to the operation, as part of the CSP contract.

The Managers are aware of the unique conservation and production practices utilized by specialty crop growers throughout the United States. The Managers expect the Department to ensure that adequate resources are made available for specialty crop conservation practices under CSP. They also expect that, in carrying out the financial assistance provisions of various conservation programs the unique production practices involved in fruit and vegetable production, are taken into account when drafting and implementing regulations to carry out those programs.

(3) Partnerships and Cooperation

The Senate amendment allows the Secretary to designate special projects and enter into agreements with nonfederal entities to provide enhanced technical and financial assistance to be used by owners to meet the purposes of the Clean Water Act, Safe Drinking Water Act and Clean Air Act, and other Federal, state or local laws, and to address environmental issues associated with watersheds of special significance or other geographic areas of environmental sensitivity such as wetlands.

It also allows the Secretary to provide incentive payments to producers participating in special projects to encourage partnerships and sharing of technical and financial resources among owners, producers, government and non-governmental organizations and to adjust the application of eligibility criteria, approved practices, innovative conservation practices and other elements of the conservation programs to better reflect unique local circumstances, if consistent with environmental enhancement and purposes and requirements of the title. Participating parties must submit a plan to the Secretary. The purposes of the special projects include the installation of systems affecting multiple agricultural operations and innovative techniques. This provision directs the Secretary to use 5 percent of the funds made available for the EQIP to carry out special projects consistent with the purposes of EQIP. (Section 203) The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. The Secretary may enter into agreements to enhance technical and financial assistance provided to owners, operators, and producers to address natural resource issues related to agricultural production. The Secretary may provide incentives for special projects to encourage partnerships and enrollments of optimal conservation value. (Section 2003)

The Managers intend for the Secretary to use this authority to help producers avoid the need for further federal and state regulation to protect clean water and air. The Secretary is strongly encouraged to be proactive in establishing partnerships in critical areas such as the Chesapeake Bay.

(4) Administrative Requirements for Conservation Programs

(a) Good-faith reliance

The Senate amendment requires the Secretary to provide relief to owners, operators or producers injured by good faith reliance based on an action or on the advice of an employee of the Secretary.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision due to the adoption of a general good faith reliance provision covering both the commodity and conservation titles. (Section 2004)

(b) Education, assessment and evaluation

The Senate amendment requires the Secretary to provide education, outreach, training, monitoring, evaluation, and technical assistance to agricultural producers. Allows Secretary to enter contracts with nonfederal entities to provide these services.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Secretary has been providing education and outreach to agricultural producers, beginning farmers and ranchers and Indian tribes. The Managers intend that education, monitoring, and assessment of the programs under Subtitle D of the 1985 Food Security Act be conducted as a part of the technical assistance for these programs. In carrying out these activities, the Managers would also expect the Secretary to utilize the experience and expertise of outside entities such as, states (including state agencies and local units of government), educational institutions, and nonprofit groups with a demonstrated history of working with agricultural producers. The Managers expect $10 million per year from technical assistance funds for the conservation programs to be used for these purposes.

(c) Beginning and limited-resource farmers

The Senate amendment allows the Secretary to provide beginning farmers and ranchers and Indian tribes and limited-resource producer incentives to participate in conservation programs.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision for beginning farmers and ranchers. (Section 2004)

(d) Maintenance of conservation data

The Senate amendment requires the Secretary to maintain data concerning conservation plans and programs.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2004)

(e) Mediation

The Senate amendment requires the Secretary to provide aggrieved producers mediation services or an informal hearing on the matter.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2004)

(f) Privacy

The Senate amendment directs the Secretary to ensure the privacy of individual information provided to USDA to secure technical or financial assistance for conservation programs. Information may be released to the Attorney General to enforce programs. (Section 204)

The House bill amended the Freedom of Information Act to provide similar protections for producer-provided information.

The Conference substitute adopts the Senate provision with modification.

(g) Cooperation with tribal governments

The Senate amendment directs the Secretary to cooperate with the tribal government of Indian tribes when administering lands under the jurisdiction of an Indian tribe.

The House bill contains no comparable provision.

The Conference substitute deletes this provision due to the adoption of similar provisions in the Miscellaneous Title. (Section 2004)

(5) Reform and Assessment of Conservation Programs

The Senate amendment directs the Secretary to develop a plan for coordinating conservation plans and programs to facilitate implementation and delivery of conservation programs and provide a report to

Congress within 180 days after enactment of this Act. (Section 205)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. (Section 2005)

(6) Conservation Security Program Regulations

The Senate amendment states that the Secretary may promulgate regulations for implementation of the CSP upon enactment of this Act. (Section 206)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 2702)

(7) Conforming Amendments

The House bill reauthorizes the Environmental Conservation Acreage Reserve Program (ECARP) through 2011 and removes provisions establishing conservation priority areas. (Section 201)

The Senate amendment renames the ECARP the Comprehensive Conservation Enhancement Program (CCEP), reauthorizes the CCEP programs through 2006, and directs the Secretary to give priority to areas in which designated land would facilitate the most rapid completion of projects that are ongoing as of the date of the application. (Sections 207 and 211)

The Conference substitute adopts the Senate provision, with a modification that removes priority areas from CCEP as well as the reference to priority being given to the most rapid completion of projects. Also, the substitute extends the program to 2007. (Section 2006)

The Managers find that bobwhite quail are a valued traditional symbol of farmed landscapes, but their populations have declined by two-thirds since 1980. The Managers further find that the success of the Southeast Quail Study Group's new ''Northern Bobwhite Conservation Initiative'' is largely dependent upon land management actions by agricultural producers and non-industrial private forestland owners. The Managers further find that many conservation programs of this farm bill have large potential to contribute to bobwhite quail habitat objectives and encourage the Secretary to support the goal of restoring habitat for this species.

The Managers intend that the CRP, the CREP, the Wildlife Habitat Incentives Program (WHIP), the EQIP, the WRP, the GRP, the CSP and other USDA programs could be helpful in supplementing the Comprehensive Everglades Restoration Program. The Secretary is encouraged to work with appropriate state and federal officials to develop and implement a coordinated plan toward this end.

SUBTITLE B—CONSERVATION RESERVE PROGRAM

(1) Reauthorization

The House bill reauthorizes the CRP through 2011 and adds conservation and improvement of wildlife resources to the scope of the program's purpose. (Section 211)

The Senate amendment reauthorizes the CRP through 2006. (Section 212(a))

The Conference substitute adopts the House provision with a modification that extends the program to 2007. (Section 2101)

(2) Enrollment

The House bill modifies language on land eligibility to add: (1) marginal pasturelands devoted to natural vegetation in or near riparian areas or for similar water quality purposes, (2) land that the Secretary determines will contribute to the degradation of soil, water or air quality or poses an environmental threat if permitted to remain in production, (3) land where soil, water and air quality objectives cannot be achieved under the Environmental Quality Incentives Program (EQIP), and (4) land where enrollment would contribute to the conservation of ground or surface water. (Section 212(a))

The Senate amendment modifies language on vegetative cover, providing that in the case of marginal pastureland, an owner or operator shall not be required to plant trees if the land is to be restored as a wetland or with appropriate native riparian vegetation. (Sec. 212 (g))

The Conference substitute adopts the House provision with a technical change. Marginal pastureland should be devoted to appropriate vegetation, including trees, in or near riparian areas or for similar water quality purposes, including marginal pastureland converted to wetlands or established as wildlife habitat. (Section 2101)

The Conference substitute adopts the House provision on land which would contribute to degradation of soil, water or air quality if permitted to remain in production. The substitute also adopts the provision on land where enrollment would contribute to the conservation of ground or surface water, with modification that land may only be enrolled where the measure would provide a net savings in ground or surface water resources on the agricultural operation of the producer. This is a new factor, under CRP, that should not be given a significant increase in points under the Environmental Benefits Index. (Section 2101)

(3) Eligibility and Cropping History

The House amendment modifies the language on eligibility to limit enrollment of land that has not been in production for at least four years.

The Senate amendment modifies language on eligibility of highly-erodible cropland that cannot be farmed in accordance with a conservation plan, and requires that the land have a cropping history or be considered to have been planted for three of the six years preceding the enactment of this legislation, and modifies language on land eligibility to add: (1) the portion of land in a field in cases where more than 50 percent of the land in the field is enrolled as a buffer, and (2) land (including land with no cropping history) enrolled through the continuous sign-up program or Conservation Reserve Enhancement Program (CREP). (Section 212 (b))

The Conference substitute adopts the Senate provision, with modification requiring that land have a cropping history or be considered to have been planted for four of the six years preceding the enactment of this legislation to be eligible. The Managers are concerned about reports that producers are planting crops on non-cropped lands as a means of being eligible to participate in CRP. This language is intended to prevent the enrollment of these lands under CRP. (Section 2101)

The Conference substitute deletes the Senate provision on land, other than cropland, being enrolled in the continuous sign-up program. However, the Managers understand the Secretary is currently reviewing the land eligibility criteria, including the eligibility of non-cropland that could be restored to serve as buffers. The Managers expect the Secretary to do this examination expeditiously. (Section 212(b)) (Section 2101)

The Conference substitute adopts the Senate provision with modification on the eligibility of partial fields. The provision allows producers to enroll entire fields through the continuous CRP as buffers in cases in which more than 50 percent of the field is eligible for enrollment and the remainder of the field is infeasible to farm. The modification restricts payments on the remaining acreage to general sign-up rates. (Section 212 (b)(1)(B)) (Section 2101)

The Managers intend the USDA to allow prescribed burning and other measures that are intended to enhance forage for the benefit of pheasants and other wildlife species on land enrolled in the CRP.

In carrying out the CRP, the Managers direct the Secretary to evaluate qualifications and criteria relating to spring wind erosion of sandy soils not currently recognized by the Wind Erosion Equation.

The Managers expect the Secretary to develop ways to make land prone to frequent seasonal flooding, such as 3 out of the last 5 years, eligible for enrollment in the CRP, including, but not limited to, designating the area as a conservation priority area.

(4) Acreage Limitations

The House bill increases the acreage cap to 39.2 million acres. (Section 212(b))

The Senate amendment increases the acreage cap to 41.1 million acres. (Section 212 (c))

The Conference substitute adopts the House provision on raising the acreage cap to 39.2 million acres. (Section 2101)

(5) Priority Areas

The House bill deletes priority areas and requires that on the expiration of a CRP contract the land shall be eligible to be considered for re-enrollment in the program. (Section 212)

The Senate amendment modifies language regarding priority areas to direct the Secretary to give priority to areas in which designated land would facilitate the most rapid completion of projects that are ongoing and that meet the purposes of the program.

The Conference substitute adopts the Senate provision that retains priority areas. The Managers recognize that conservation benefits may increase from cumulative enrollment and encourages the Secretary to consider these cumulative benefits by enrolling lands in areas where land is currently enrolled. (Section 2101)

The Managers expect the Secretary to revisit the issue of how the CRP national priority area for the Prairie Pothole Region was determined and direct the Secretary to utilize the Prairie Pothole Joint Venture Implementation Plan map as the area to be considered the national CRP priority area for the Prairie Pothole Region.

The Conference substitute adopts the House provision on requiring land to be considered for re-enrollment in CRP. It is the intent of the Managers not to provide an automatic re-enrollment of these lands, but instead require that these lands go through the normal application process. (Section 2101)

(6) Balance of Natural Resources

The House bill requires the Secretary to do a rule making that balances CRP contracts between soil erosion, water quality and wildlife habitat. (Section 212)

The Senate amendment has no comparable provision

The Conference substitute adopts the House provision to conduct a rulemaking to achieve a balance between natural resource purposes. (Section 2101)

The Managers are concerned that a general sign-up has not taken place for several years. The Managers expect the Secretary to hold a general sign-up as soon as practicable.

(7) Hardwood Trees

The Senate amendment permits the Secretary to extend the duration of CRP contracts for an additional 15 years in the case of land devoted to hardwood trees. The Secretary may provide rental payments in an amount not exceeding 50 percent of the applicable rental payment before the contract was extended. For new CRP contracts with hardwood trees, the Secretary may allow 30–year contracts at reduced rates. The bill provides a one-year extension on 15–year contracts required to be terminated by statute. (Section 212 (d))

The House bill contains no comparable provision.

The Conference substitute strikes the Senate provision regarding longer-term contracts for hardwood trees, but the substitute adopts the Senate provision regarding one-year extensions. (Section 2101)

It has come to the attention of the Managers that CRP offers that include the planting of longleaf pines may not be receiving a weight equal to those assigned to other softwoods planted on CRP contract acres. The Managers encourage the Secretary to take such measures as may be necessary to ensure that a portion of land accepted for CRP contracts devoted to pine trees include longleaf pines.

(8) Irrigated Land Rates

The Senate amendment makes irrigated land eligible for enrollment at irrigated land rates unless the Secretary determines that other compensation is appropriate. (Section 212 (f))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2101)

(9) Signing and Practice Incentive Payments

The Senate amendment directs the Secretary to provide signing and practice incentive payments for landowners who implement a practice under the conservation buffer or CREP programs at the highest rate currently provided. (Section 212(i))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2101)

The Managers are concerned that the payments for practices may not reflect the conservation benefits of the practices. Grass wind strips, shelterbelts, living snow fences and wellhead protection are particular activities that should receive serious consideration for signing and practice incentive payments. The Managers strongly encourage the Secretary to re-examine the procedures used to determine the incentive payment. The Managers intend that the Secretary should continue current signing and practice incentive payments throughout the duration of this legislation.

(10) Payment Limits for Conservation Buffers and CREP

The Senate amendment creates an exception to the CRP payment limit for payments received for conservation buffers and the CREP. (Section 212(j))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2101)

(11) County Acreage Limitation

The Senate amendment exempts land enrolled under continuous sign-up from the limitation on the percentage of land in a county eligible for enrollment. (Section 212 (k))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2101)

(12) Report on Economic and Social Impacts

The Senate amendment requires the Secretary to submit a report to the House and Senate Agriculture Committees about the economic and social impacts on rural communities resulting from the CRP within 270 days from the date of enactment of this legislation. (Section 212(l)).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications that require the Secretary to submit the report within 18 months and require the Secretary to consider the economic value from recreational opportunities (including hunting and fishing). (Section 2101)

(13) Duties of Owners and Operators

The House bill permits landowners to maintain existing cover where practicable. In addition, it authorizes the Secretary to permit managed haying and grazing, wind turbines and biomass recovery as long as these activities are consistent with the conservation of soil, water quality and wildlife habitat. Finally, the House bill deletes the environmental use and alley-cropping provisions. (Section 213)

The Senate amendment permits owners of marginal pasture land not to plant trees if native prairie grass may be retained or restored or if land is restored as a wetland; directs the Secretary to permit harvesting or grazing for maintenance purposes, without a reduction in rental payment, on acres that are enrolled to establish conservation buffers and acres enrolled into the CREP in a manner that is consistent with the purposes of the CRP; allows the Secretary to permit an owner of CRP land, other than that enrolled under continuous sign-up, to install wind turbines on the land at a reduced rate; and modifies language regarding duties of participating landowners to say that an owner also agrees not to produce a crop for the duration of the CRP contract on any other highly erodible land without a cropping history that the owner owns or operates with exemptions of land used as a homestead or building site. (Section 212 (g), (h))

The Conference substitute adopts the House provision to permit landowners to continue with existing cover where practicable and consistent with wildlife reserve benefits of CRP. (Section 2101)

The Conference substitute adopts the House provision on managed haying (including for biomass) and grazing and wind turbines, with modification. USDA will permit, consistent with the conservation of soil, water quality and wildlife habitat, managed harvesting and grazing on the land at a reduced rate. Harvesting and grazing or other commercial use of the forage is permitted in response to a drought or other emergency. In addition, the Secretary shall ensure that all precautions are taken to protect against overgrazing or haying or use of land during a period that may adversely impact wildlife habitat or wildlife directly, especially ensuring that activities take place after nesting season is completed. USDA, with the State technical committees, will develop appropriate vegetation management requirements including appropriate harvesting and grazing periods. In determining the appropriate use of CRP lands for haying and grazing (including the frequency and time period), the Secretary shall require the State Technical Committees to consider the type of grass (shrubs, forbs or bushes) on the land as well as the local ecosystem. (Section 2101)

The Secretary shall permit wind turbines on CRP land, whether commercial in nature or not, in a manner that does not interfere with wildlife. In so doing, the Secretary may restrict the number and location of wind turbines that may be installed on a tract of land. The Secretary shall take special care when allowing wind turbines on small parcels of land, especially buffers, so that turbines are spaced in a manner that does not interfere with wildlife habitat, flyways or movement. (House Section 213(1)(C)) (Section 212 (h)(f))

The Conference substitute deletes the Senate provision requiring an owner to agree not to produce a crop for the duration of the CRP contract on any other highly erodible land without a cropping history that the owner owns or operates. (Section 2101)

The Conference substitute adopts the House provision to delete the environmental use and alley-cropping provisions.

(14) Reference to Conservation Reserve Payments

The House bill replaces the term rental payment with conservation reserve payment. (Section 214)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision. (Section 2101)

(15) Expansion of Pilot Program to All States

The House bill reauthorizes the project through 2011, directs the Secretary to carry out a project in each state and limits enrollment to not more than 150,000 acres in any state.

The Senate amendment reauthorizes the pilot program through 2006 in Minnesota, Montana, Nebraska, Iowa, North Dakota and South Dakota. Expands the maximum size of any wetland enrolled to 10 contiguous acres with not more than 5 acres being eligible for payment. (Section 212(e))

The Conference substitute adopts the House provision with modification. The Secretary shall carry out a nationwide program, limiting enrollment to 100,000 acres in any state and a million acres nationwide. After three years the Secretary may reallocate another 50,000 acres to interested states, based on their original allocation. The provision also expands the maximum size of any wetland enrolled to 10 contiguous acres with not more than 5 acres being eligible for payment. This change was made to facilitate enrollment of lands that meet the eligibility of the program and will achieve the goals of this program. The Secretary shall ensure that changes to regulations to the program do not have a significant impact on the original 6 states involved in the pilot program. (Section 2101)

In expanding the CRP Wetland Pilot nationwide, the Managers recognize that the playa lakes found throughout the Southern Great Plains states of Kansas, Oklahoma, Colorado, New Mexico and Texas, are also worthy of protection as they function as recharge points for the Ogalalla Aquifer, help in containing flood waters and provide habitat for hundreds of bird species. Playa lakes are the most significant topographical and hydrological attribute in the Southern Great Plains. Playa lakes are often dry enough to be farmed due to the annual precipitation rates and high evaporation rates that occur in the high plains.

(16) Water Conservation

The Senate amendment requires the Secretary to provide up to 500,000 acres for CREP for water conservation measures in California, Maine, Nevada, New Hampshire, New Mexico, Oregon, and Washington. (Section 215)

The House bill contains no comparable provision.

The Conference substitute strikes the Senate provision. (Section 2101)

The Managers encourage the Secretary to allow states to have flexibility in creating CREP programs.

SUBTITLE C—WETLANDS RESERVE PROGRAM

(1) Enrollment

The House bill allows the Secretary to enroll an additional 150,000 acres per year. Any acres not enrolled may be carried over to subsequent years. (Section 221)

The Senate amendment clarifies that technical assistance is provided under the WRP and allows the Secretary to raise the acreage cap to 2.225 million acres. Of this acreage, the Secretary may enroll not more than 25,000 acres per year in the Wetlands Reserve

Enhancement Program (WREP). (Section 214 (a) and (b))

The Conference substitute adopts the Senate provision with modification to increase the acreage cap up to 2.275 million acres. Also, the substitute requires the Secretary to enroll 250,000 acres per year to the maximum extent practicable. (Section 2202)

(2) Easements and Cost-Share Allocations

The House bill strikes language requiring the Secretary to enroll acres with numeric allocations to particular methods. Directs the Secretary to enroll acres through easements, restoration cost share agreements or both. (Section 221)

The Senate amendment has no comparable provision.

The Conference substitute strikes the House provision. It modifies current law to clarify that land can be enrolled with 30–year or permanent easements, restoration cost share agreements or both. The Conference substitute also continues to require the Secretary to enroll lands in proportion to landowner interest. (Section 1237(b)(2)(B)). (Section 2203)

(3) Reauthorization

The House bill extends the WRP through 2011. (Section 221)

The Senate amendment extends the WRP through 2006. (Section 214 (c))

The Conference substitute extends the WRP through 2007. (Section 2201)

(4) Wetlands Reserve Enhancement Program

The Senate amendment creates a WREP under which the Secretary may enter into cooperative with state or local governments, and with private organizations, to conduct wetland restoration activities that address critical environmental issues. (Section 214 (d))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2202)

(5) Technical Assistance, Monitoring and Maintenance

The Senate amendment clarifies that technical assistance includes monitoring and maintenance of the terms and conditions of the easement and the plan. (Section 214 (e))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. (Section 2203)

(6) Easements and Agreements

The House bill consolidates the language defining prohibited activities to prohibit the alteration of wildlife habitat and other natural features of such land, unless specifically permitted by the plan. Consolidates the language describing the length of a WRP easement to say that easements shall be consistent with applicable state law, and strikes redundant language stating that the Secretary can enroll land into the WRP using restoration cost-share agreements. (Section 222)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provisions on prohibited activities and length of easements. In addition, it strikes the redundant provision in current law regarding restoration cost-share agreements. (Section 2203)

(7) Duties of the Secretary

The House bill deletes a provision that requires the Secretary to give priority to obtaining permanent conservation easements and easements designed to protect and enhance habitat for migratory birds and other wildlife. (Section 223)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision. (Section 2203)

(8) Changes in Ownership: Agreement Modification; Termination

The House bill amends the language regarding changes in ownership to provide that no easement can be created on land that has changed ownership in the past 12 months unless: (1) the new ownership was acquired by will or succession as a result of the death of the previous owner, (2) the ownership change occurred due to foreclosure on the land and the owner of the land exercises a right of redemption from the mortgage holder in accordance with state law, or (3) the Secretary determines that the land was acquired under circumstances which give adequate assurances that such land was not acquired for the purposes of placing it in the WRP. (Section 223)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with a modification to replace the section on changes in ownership due to a foreclosure with new language. (Section 1237E(a)(2)) (Section 2204)

SUBTITLE D—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

(1) Purposes

The House bill strikes language describing the purpose of the EQIP as combining four previous conservation programs into a single program; strikes language regarding carrying out a program to maximize the environmental benefits per dollar expended; and rewords language about assisting farmers and ranchers who face the most serious environmental threats to providing assistance to farmers and ranchers to address environmental needs; adds air to the list of resources to be addressed; and replaces the terms farmers and ranchers with producers. (Section 231)

The Senate amendment rewrites the purposes of the EQIP to promote agricultural production and environmental quality as compatible national goals and to: (1) assist producers in complying with federal, state and local environmental laws, (2) avoid the need for regulatory programs, (3) provide assistance to producers for installing and maintaining conservation systems, (4) assist producers in making certain conservation changes, (5) facilitate partnerships between producers, government and nongovernmental organizations, and (6) consolidating and streamlining conservation planning; retains language regarding a program goal to maximize the environmental benefits per dollar expended; and includes air in the purposes of the EQIP. (Section 213(a))

The Conference substitute adopts the Senate provision on the purposes of the program with a modification to subsection (1) stating that the purposes of EQIP are to promote agricultural production and environmental quality as compatible goals and to optimize environmental benefits by assisting producers in complying with local, state and national regulatory requirements concerning soil, water, and air quality, wildlife habitat, and surface and ground water conservation. (Section 1240) (Section 2301)

The Conference substitute adopts the Senate provision with a modification changing the phrase conservation systems to conservation practices. (Section 1240(3)) (Section 2301)

The Managers expect the Secretary to continue carrying out EQIP with the goal of optimizing environmental benefits. (Section 213(a))

(2) Definitions

The House bill adds the term non-industrial private forestland to the definition of eligible land. Further, the House bill changes the definition of eligible land by striking reference to land that poses a serious threat and inserting that provides increased environmental benefits to air, soil, water or related resources, and adds the term non-industrial private forestland to the definition of producer. (Section 2302)

The Senate amendment defines the term eligible land to include private non-industrial private forestland, defines producer with the same meaning given to the term in the Agricultural Market Transition Act.

The definition section includes definitions for: beginning farmer and rancher, comprehensive nutrient management, eligible land, innovative technology, land management practice, livestock, maximize environmental benefits per dollar expended, practice, producer and structural practice. (Section 213(a))

The Conference substitute adopts the Senate definition of beginning farmer, land management practice, livestock, structural practice, and practice. (Section 2301)

The Conference substitute adopts the Senate definition of eligible land with an amendment that adds air to the list of protected resources but excludes specific threatening conditions. (Section 2301)

The Conference substitute deletes the Senate provisions defining innovative technology and comprehensive nutrient management plan. (Section 2301)

The Conference substitute deletes the Senate provisions defining managed grazing, innovative technology, producer, and program. The substitute also deletes the Senate provision defining the term ''maximize environmental benefits per dollar expended,'' thus striking the provision throughout the program. (Section 1240(A)(8)) (Section 2301)

(3) Establishment and Administration

The House bill re-authorizes the EQIP through 2011; amends the permissible term of EQIP contracts to allow for agreements ranging from one to ten years; amends language governing the selection process for structural practice applications. Strikes references to priorities established in the EQIP and factors to maximize the environmental benefits per dollar expended replaces with language directing the Secretary to base the selection process on achieving the purposes established under this subtitle; removes prohibition on large confined livestock operations getting cost-share assistance to build waste management facilities; and replaces the language regarding incentive payments with new language directing the Secretary to make incentive payments to encourage producers to perform multiple land management practices and to promote the enhancement of soil, water, wildlife habitat, air and related resources. Permits the Secretary to give great weight to practices that include residue, nutrient, pest, invasive species and air quality management. (Section 233)

The Senate amendment reauthorizes the EQIP through 2006; directs the Secretary to provide conservation education; amends the permissible term of EQIP contracts to allow for agreements ranging from three to ten years; prohibits a producer from entering into more than one contract for structural practices relating to livestock nutrient management from fiscal years 2002 through 2006; directs the Secretary to develop an application and evaluation process for awarding assistance that maximizes the environmental benefits per dollar expended; prohibits the Secretary from assigning a higher priority to an application based solely on the reason that it presents the least cost to the program; cost-share payments shall not exceed 75 percent of the cost of the practice; cost-

share payments to limited resource and beginning farmers shall not exceed 90%; removes prohibition on large confined livestock operations getting cost-share assistance to build waste management facilities; directs the Secretary to make incentive payments in an amount and rate determined to be necessary to encourage a producer to perform 1 or more practices; directs the Secretary to give incentive payments to producers to be used to obtain technical assistance associated with the development of any component of a comprehensive nutrient management plan from certified providers. (Section 213(a)) (Section 2301)

The Conference substitute adopts the Senate provision with modification providing incentive payments for producers who develop a comprehensive nutrient management plan. (Section 1240B(a)(2)) (Section 2301)

The Conference substitute deletes the Senate provision on education. (Section 1240B(a)(3)) (Section 2301)

The Conference substitute adopts the Senate provision with modification on the application and term of contracts. At a minimum, the contract should have a term of one year beyond the date of completion of the project. (Section 1240B(b)) (Section 2301)

The Conference substitute adopts the Senate provision on incentive payments with modification, by including a special rule for priority under incentive payments. (House Section 233(e)) (Section 2301)

The Conference substitute adopts the House provision by striking the provision on the application and evaluation process for awarding assistance that maximizes the environmental benefits per dollar expended. (House Section 233(c), Senate 213(a) (1240B(c))) (Section 2301)

The Conference substitute adopts the Senate provision to remove the bidding down procedure that assigns a higher priority to an application because it costs less. (Section 1240B(c)(4)) (Section 2301)

The Conference substitute adopts the Senate provision on increased cost-share payments for beginning and limited resource farmers. (Section 1240B(d)) (Section 2301)

The Conference substitute adopts the House provision on technical assistance in EQIP. All technical assistance will be addressed in Subtitle E in the Administration and Technical Assistance section. (Section 1240B(f)) (Section 2301)

(4) Evaluation of Offers and Payments

The House bill strikes existing language. Replaces with language directing the Secretary to give a higher priority to EQIP offers that: (1) aid producers in complying with federal and state environmental laws, (2) promote the use of animal manure or other similar soil amendments, and (3) encourage the utilization of sustainable grazing systems. (Section 234)

The Senate amendment directs the Secretary to give priority to applications that: (1) maximize the environmental benefits per dollar expended, (2) national conservation priority areas, (3) are provided in conservation priority areas, (4) are provided in special projects, or (5) include an innovative technology in connection with a structural practice or land management practice. (Section 213(a)) (Section 2301)

The Conference substitute adopts the Senate provision with modification on giving higher priority to applications that use cost-effective conservation practices and address national conservation priorities. (Section 1240C(a)(2)) (Section 2301)

The Conference substitute deletes the Senate provision on special projects and innovative technology. (Section 2301)

Inhibitor Technology.—To make efficient use of urea and ammonium fertilizers, reduce nitrate run-off and leaching, and the emission of ammonia and greenhouse gases, the incorporation of urease inhibitors and nitrification inhibitors into urea and ammonium containing fertilizers should be recommended as a best management practice.

Nutrient Management.—Since enactment of the Food, Agriculture, Conservation and Trade Act of 1990, Congress has been concerned about the impact federal, state and local environmental laws eventually would have on U.S. agricultural producers and their ability to maintain viable farming and ranching operations.

In the past few years, those laws, regulations and court orders have been focused on agriculture. Those provisions reflect a disconnect between regulators and agricultural producers as well as rural communities. In this posture, U.S. farmers and ranchers feel as though they are pressed against an inflexible wall of legal and environmental requirements. These requirements are issued from Washington in a top-down management style that attempts to fit all areas of the country into a national program. Congress has responded with financial and technical assistance implemented through the USDA.

In 1996, Congress created the EQIP to help farmers and ranchers meet environmental laws. The Managers believe EQIP is a valuable tool to help producers avoid the need for future regulation, and the Secretary shall manage the program to maximize this purpose. As legislation was developed to improve EQIP and provide additional resources to it, Congress was specifically concerned about how the U.S. livestock industry would meet new Clean Water Act requirements on animal feeding operations. In that regard, the Managers agree that nutrient management, especially animal waste management, is both a problem to address and a resource to be used. To that extent, the Managers encourage the Secretary to evaluate EQIP contract offers on their use of animal manures and other similar soil amendments that improve soil health, tilth, and water-holding capacity.

Managed Grazing.—The Managers further encourage the use of grazing systems, such as year-round, rotational or managed grazing systems, that enhance productive livestock operations.

(5) Duties of Producers

The Senate amendment requires producers to implement a conservation plan; not conduct any practices that defeat the purposes of the program; take actions upon termination of a contract and supply information to determine compliance, and submit a list of all confined livestock feeding operations wholly or partially-owned or operated by the applicant. (Section 213(a))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a modification removing the requirement to submit a list of all confined livestock feeding operations wholly or partially-owned or operated by the applicant. (Section 2301)

(6) Environmental Quality Incentives Program Plan

The House bill strikes language regarding practices and principles that the Secretary deems necessary. Replaces with language requiring the producer to submit a plan that provides or will continue to provide increased environmental benefits to air, soil, water or related resources. (Section 235)

The Senate amendment requires a producer to submit an EQIP plan that describes conservation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary. Confined livestock feeding operations with an animal waste system must develop and implement comprehensive nutrient management plans if applicable. (Section 1240E(a))

The Senate amendment requires the Secretary to eliminate duplication, to the maximum extent practicable, of planning activities under EQIP and other conservation programs. (Section 1240E(b))

The Conference substitute adopts the Senate provision with modification. All livestock producers that receive funding for animal waste manure systems must have a comprehensive nutrient management plan. The Managers believe that there will be few cases in which a comprehensive nutrient management plan will not be required. The Managers recognize the importance of comprehensive nutrient management plans for the proper use and storage of animal waste and for that reason require these plans. (Section 2301)

The Conference substitute also adopts the Senate provision on eliminating duplication. (Section 1240E(a), (b)) (Section 2301)

(7) Duties of the Secretary

The House bill requires the Secretary to provide technical assistance and cost-share payments for developing structural practices or land management practices. (Section 236)

The Senate amendment requires the Secretary to provide cost-share assistance and incentive payments for developing and implementing one or more practices. (Section 213 (a) (1240F)

The Conference substitute adopts the Senate provision. (Section 2301)

The Managers are aware of the unique conservation and production practices utilized by specialty crop growers throughout the United States. The Managers expect the USDA to ensure that adequate resources are made available for specialty crop conservation practices under the EQIP. The Managers also expect that, in carrying out the financial assistance provisions of the various conservation programs, the unique production practices involved in fruit and vegetable production are taken into account when drafting and implementing regulations to carry out those programs. In particular, the Managers would direct the Secretary when enrolling a producer who is already undertaking activities related to integrated pest management, make those ongoing activities eligible for financial assistance after the date of enrollment.

(8) Limitation on Payments

The House bill raises the payment limits to $50,000 in any fiscal year and $200,000 for any multi-fiscal year contract, strikes reference to the phrase ''maximization of environmental benefits per dollar expended'' in discussion of exceptions to the annual limit, and strikes prohibition on payment in the same fiscal year in which the contract is entered into. (Section 237)

The Senate amendment raises the payment limitations to $30,000 in any fiscal year and $150,000 for any multi-year contract of four or more years and permits payment during the first year of the contract. The Secretary may waive the annual limit. (Section 213 (a))

The Conference substitute adopts the House provision with modification. A producer may receive, directly or indirectly, up to $450,000 in any combination of contracts over the life of the farm bill. The Managers recognize that the Secretary may need to adjust cost-share percentages provided under a contract to maximize participation and optimize environmental benefits. (Section 2301)

(9) Ground and Surface Water Conservation

The House bill replaces the entire section with a new program within the EQIP providing cost-share, low-interest loans and incentive payments to encourage ground and

surface water conservation, and funds at $30 million in fiscal year 2002, $45 million in fiscal year 2003 and $60 million for fiscal years 2004 through 2011. (Section 238)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with modification. Water conservation activities that are eligible for incentive payments and cost-share include the lining of ditches and installation of piping, tail water return systems, low-energy precision irrigation systems, low-flow irrigation systems, off-stream and groundwater storage, and conversion from gravity or flood irrigation to higher efficiency systems. In addition, the Secretary may provide cost-share and incentive payments under this section only if the assistance will facilitate a conservation measure that results in a net savings in ground or surface water resources on the agricultural operations of the producers. (Section 2301)

Of the $600 million in funding made available for this program, the Secretary should make available $50 million per year to assist producers in the Klamath Basin.

In providing funding for water conservation incentives, the Managers recognize that the High Plains Aquifer underlying the states of Texas, New Mexico, Oklahoma, Kansas, Colorado, South Dakota, Wyoming, and Nebraska is a critical source of groundwater for agricultural and municipal uses. The Managers encourage the Secretary to give producers in the High Plains Aquifer the highest priority for funding under this program. The communities on the High Plains depend on the Aquifer as their major water supply. Due to the scope and significance of this geological feature, there is a need for regional efforts to address groundwater management in the High Plains Aquifer. The Managers urge the Secretary to work with state water or conservation agencies and agricultural producers in the High Plains region to coordinate federal assistance with state programs and to encourage cooperation between states in implementing conservation incentives and water reduction practices.

(10) Desert Terminal Lakes

The Conference substitute directs the Secretary to transfer $200 million to the Bureau of Reclamation to be used to provide water to at-risk natural desert terminal lakes. These funds cannot be used for the purchase or lease of water rights. (Section 2507)

(11) Conservation Grants

The Senate amendment allows the Secretary to use up to $100 million in each of fiscal years 2003 through 2006 for competitive grants that are intended to stimulate innovative approaches to leveraging federal investment in environmental enhancement and protection through the use of the EQIP. Funds not obligated by April 1st of the fiscal year shall be used to carry out other activities under EQIP. (Section 213 (a) (Section 1240H)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision by authorizing the Secretary to provide innovation grants. The Managers encourage the Secretary to allow funding for these grants, including for practices that foster markets for nutrient trading and for the continued implementation and acceleration of programs for demonstrating innovative nutrient management technology systems for animal feeding operations. (Section 2301)

This section has been included as a discretionary use of EQIP funds to foster the adoption of innovative, cost effective approaches to addressing a broad base of conservation needs.

This Managers intend that these grants be used to provide for the use of incentives to farmers—as opposed to regulations—to address some of the nation's most difficult conservation needs. By establishing market-based incentives, an efficient mechanism is created to improve water quality and create environmentally beneficial income alternatives for farmers.

By leveraging Federal funds through competitive grants, the Managers expect other sectors of the economy, such as States, and the conservation and philanthropic communities will be engaged in helping find and deliver the best solutions to environmental needs.

(12) Southern High Plains Aquifer Groundwater Conservation

The Senate amendment creates a southern High Plains Aquifer groundwater conservation program. Directs the Secretary to provide cost-share payments, incentive payments and groundwater education assistance to producers that draw water from the southern High Plains Aquifer. Funds at $15 million for fiscal year 2003, $25 million for fiscal years 2004 and 2005, $35 million for fiscal year 2006 and $0 for fiscal year 2007. Funds not expended by April 1st of each fiscal year shall be made available for other states under EQIP. (Section 213(a) section 1240I)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision, but recognizes the importance of providing producers access to funds to aid their efforts in water conservation. (Section 2301)

(13) Pilot Programs

The Senate amendment creates a drinking water suppliers pilot program in selected watersheds to allow the Secretary to work cooperatively with local water utilities to improve water quality. The Secretary shall also carry out a nutrient reduction pilot program in the Chesapeake Bay watershed for fiscal years 2003 through 2006 to reduce nutrient loads in the Chesapeake Bay. Funds at $10 million for fiscal year 2003, $15 million for fiscal year 2004, $20 million for fiscal year 2005, $25 million for fiscal year 2006 and $0 for fiscal year 2007. Funds not obligated by April 1st shall be made available under EQIP. (Section 213(a) (Section 1240J(a), (b))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision on the drinking water suppliers pilot program. In so doing, the Managers believe that coordination with third parties, including drinking water suppliers should be encouraged. Any projects which involve drinking water suppliers and EQIP participants should encouraged. (Section 1240J(a)) (Section 2301)

The Conference substitute deletes the Senate provision on the nutrient reduction pilot program.

(14) Section 11

The Senate amendment amends Section 11 of the Commodity Credit Corporation (CCC) Charter Act to exclude transfers and allotments for conservation technical assistance from the current limitation. (Section 213(c))

The House bill contains no comparable provision.

The Conference deletes the Senate provision. The Managers understand the critical nature of providing adequate funding for technical assistance. For that reason, technical assistance should come from each individual program. (Section 2301)

(15) Water Benefits Program

The Senate amendment states that the Secretary shall establish a Water Benefits Program, run through the Natural Resources Conservation Service (NRCS), in Nevada, California, New Mexico, Oregon, Washington, Maine and New Hampshire for cost-share payments for practices, including irrigation efficiency infrastructures and conversions from a water-intensive crop to a crop that requires less water, aimed at conservation of water to benefit fish and wildlife, with special emphasis on threatened and endangered species. (Section 1240R)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

SUBTITLE E—FUNDING AND ADMINISTRATION

(1) Reauthorization

The House bill reauthorizes these programs through 2011. (Section 241)

The Senate amendment has no comparable provision.

The Conference substitute reauthorizes the CCEP programs through 2007. (Section 2701)

(2) Funding

The House bill funds EQIP at $1.025 billion in fiscal years 2002 and 2003, $1.2 billion in fiscal years 2004, 2005 and 2006, $1.4 billion in fiscal years 2007, 2008 and 2009, and $1.5 billion fiscal years 2010 and 2011. (Section 242)

The Senate amendment funds EQIP at $500 million in fiscal year 2002, $1.3 billion in fiscal year 2003, $1.45 billion in fiscal years 2004 and 2005, and $1.5 billion in fiscal year 2006 and $850 million in fiscal year 2007. (Section 213(b))

The Conference substitute funds EQIP at $400 million in fiscal year 2002, $700 million in fiscal year 2003, $1 billion in fiscal year 2004, $1.2 in fiscal years 2005 and 2006, and $1.3 billion in fiscal year 2007. (Section 2701)

(3) Allocation for Livestock Production

The House bill extends the allocation of 50 percent of the EQIP funding to livestock through 2011. (Section 243)

The Senate amendment removes the allocation formula.

The Conference substitute adopts the House provision with modification to allow 60 percent for practices related livestock and 40 percent for practices related to crops through fiscal year 2007. (Section 2701)

(4) Administration and Technical Assistance

The House bill broadens the exception to the acreage limitation by striking the requirement that operators in the county be having difficulties complying with a conservation plan, and requires the Secretary to reevaluate the provision of and amount of technical assistance made available under CRP, WRP and EQIP. (Section 244)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with modification. The Managers provide that funds for technical assistance shall come directly from the mandatory money provided for conservation programs under Subtitle D. (Section 2701)

In order to ensure implementation, the Managers believe that technical assistance must be an integral part of all conservation programs authorized for mandatory funding. Accordingly, the Managers have provided for the payment of technical assistance from program accounts. The Managers expect technical assistance for all conservation programs to follow the model currently used for the EQIP whereby the Secretary determines, on an annual basis, the amount of funding for technical assistance. Furthermore, the Managers intend that the funding will cover costs associated with technical assistance, such as administrative and overhead costs.

(5) Third-Party Providers

The House bill requires the Secretary to develop a system for approving third-party

providers to give technical assistance within six months of the enactment of this subsection. (Section 244)

The Senate amendment requires the Secretary to establish provisions for increased technical assistance by nonfederal providers, including certification of providers (without undermining private certification organizations). The Secretary may also enter cooperative agreements with state, local and nongovernmental groups to provide technical assistance. The Secretary shall require certification (including payment of a fee) for providers of technical assistance and offer waivers for both certification and fee payment. The Secretary shall establish an advisory committee with federal, state, local and private representatives charged with advising the Secretary on third-party technical assistance. (Section 204(f))

The Conference substitute adopts the House provision with modification. The Managers strongly encourage the Secretary to design a certification program for approving individuals and entities to provide technical assistance that includes individuals currently providing technical assistance through agreements or contracts, including cooperative agreements and memorandums of understanding. Persons that have provided technical assistance through a previous agreement such as a memorandum of understanding contract or cooperative agreement with the Secretary may continue to provide technical assistance. Their certification should be evaluated according to the criteria established by the regulations. In addition, the Secretary may request the services of, and enter into a cooperative agreement or a contract with, non-federal entities, a state water quality agency, a state fish and wildlife agency, a state forestry agency, a state conservation agency or conservation district, a land grant institution or other institutions of higher learning, or any other governmental or non-governmental organization. (Section 2701)

Today there is considerable interest in both the private and public sectors to provide technical assistance for USDA conservation programs. In the past, USDA has been the primary provider of technical assistance to conservation program participants. However, it will be difficult to meet the increased demand for technical services as financial assistance increases over the life of the farm bill. The potential volume of many new, as well as returning, USDA conservation program participants may overwhelm the assistance available through existing resources. To meet this demand, assistance from third-party providers will be needed.

It is the intent of the Managers that the third-party technical assistance certification program will result in a pool of individuals and organizations and agencies that are qualified to provide technical assistance to producers related to the development and implementation of conservation practices. The Managers intend for the Secretary to seek to optimize the delivery of technical assistance through public and private sources, and in conjunction with USDA staff, to effectively, efficiently, and expeditiously deliver conservation programs.

The Managers intend that third-party vendors accepting federal technical assistance payments will follow all the applicable Federal laws. Furthermore, the Managers intend for third parties to accept the appropriate liability for the adequacy of their plans, practice designs, and implementation procedures, and to comply with all appropriate privacy and confidentiality requirements.

It is the Managers intent in this section that third-party private providers may certify that the technical assistance meets USDA standards, but it is not intended as a certification for approval of program payment.

SUBTITLE F—OTHER PROGRAMS

(1) Private Grazing Land and Conservation Assistance

The House bill adds sustainable grazing systems to the list of activities eligible for assistance. (Section 251)

The Senate amendment reauthorizes program to 2006. (Section 217 (Section 1240P))

The Conference substitute adopts the Senate provision, with a modification to remove the findings section. The substitute reauthorizes the program through 2007. (Section 2501)

(2) Wildlife Habitat Incentives Program

The Senate amendment allows the Secretary to provide cost-share payments and technical assistance to landowners to develop and enhance wildlife habitat. Funds the Wildlife Habitat Incentive Program (WHIP) at $50 million in fiscal year 2002, $225 million for fiscal year 2003, $275 million for fiscal year 2004, $325 million for fiscal year 2005, $355 million for fiscal year 2006, and $50 million for fiscal year 2007. The amendment reserves at least 15 percent of funds for projects to benefit endangered, threatened and sensitive species, allows the Secretary to establish a pilot program using up to 15 percent of the funds to enroll lands for at least 15 years for essential habitat, and allows the Secretary to provide grants to individuals or nonprofit groups that lease public lands for enhancing wildlife habitat, if the work on the public land if it directly benefits private land. (Section 217)

The House bill funds WHIP at $25 million in fiscal year 2002, $30 million in fiscal years 2003 and 2004, $35 million in fiscal years 2005 and 2006, $40 million in fiscal year 2007, $45 million in fiscal years 2008 and 2009, and $50 million in fiscal years 2010 and 2011. (Section 252)

The Conference substitute adopts the House amendment with modification. Cost-share payments will be made to landowners to develop upland wildlife, wetland wildlife, threatened and endangered species, fish and other types of wildlife habitat. Up to 15 percent of annual funds under this section may be for increased cost-share payments to producers to protect and restore essential plant and animal habitat using agreements with a duration of at least 15 years. The Managers strongly encourage the Secretary to continue using at least 15 percent of funds for threatened and endangered species. (Section 2502)

The Conference substitute funds the program as follows: $15 million for fiscal year 2002; $30 million for fiscal year 2003; $60 million for fiscal year 2004; $85 million for each of fiscal years 2005 through 2007. (Section 2502)

Where private lands adjoin public lands that are leased by the same producer, the Secretary may provide WHIP assistance if the conservation purpose directly benefits the adjacent private lands.

(3) Farmland Protection Program

(a) Acreage and eligibility

The House bill strikes the acreage limitation, and makes agricultural land that contains historic or archaeological resources eligible for enrollment. (Section 253)

The Senate amendment strikes the Farmland Protection Program (FPP) from the 1996 FAIR Act and moves to the 1985 Farm Bill, strikes the acreage limitation, expands the definition of eligible land, and makes agricultural land that contains historic or archaeological resources eligible for enrollment. (Section 218)

The Conference substitute adopts the Senate provision. (Section 1238H(1)) (Section 2503)

The Conference substitute adopts the Senate provision with clarification that forested land can only be enrolled if it is an incidental part of the agricultural operation. (Section 1238H(2)) (Section 2503)

FPP has been a successful program and the Managers' intent is that it continue to protect the nation's best working agricultural lands. Although the name of the FPP shall remain the same for the purpose of continuity, the purpose of the program has been expanded to also include grazing, pasture, range, and forestland that is a part of an agricultural operation.

In order to ensure that all states can participate in the program, the Managers have added non-profit organizations as eligible entities. In addition, the Managers recognize the need to protect important historic and archaeological resources located on farms and ranches.

(b) Funding

The House bill increases funding to $50 million per year in FY 2002 through 2011. (Section 253)

The Senate amendment increases FPP funding to $150 million in fiscal year 2002, $250 million in fiscal year 2003; $400 million in fiscal year 2004, $450 million for fiscal year 2005, $500 million in fiscal year 2006, and $100 million for fiscal year 2007. (Section 218)

The Conference substitute funds the program as follows: $50 million for fiscal year 2002, $100 million for fiscal year 2003, $125 million for fiscal years 2004 and 2005, $100 million for fiscal year 2006, and $97 million for fiscal year 2007. (Section 2503)

(c) Purchase of conservation easements

The House bill clarifies entities that are eligible to receive funding for the purchase of conservation easements. (Section 253)

The Senate amendment clarifies entities that are eligible to receive funding for the purchase of conservation easements. (Section 218)

The Conference substitute adopts the Senate provision. (Section 2503)

The Managers expect the Secretary to utilize funds out of the FPP to protect from development the farm operated by American Airlines Captain John Ogonowski, the pilot of AA Flight 11 that was hijacked on September 11, 2001. The Managers direct the Secretary to work with the Dracut Land Trust, Incorporated, in Dracut, Massachusetts, to preserve this prime farmland as a working memorial to Captain Ogonowski. The Managers understand that the Dracut Land Trust would intend to keep a portion of the farm available for the New Entry Sustainable Farming Project that assists immigrant farmers from Cambodia, a project that Captain Ogonowski was deeply involved with from its inception.

(d) Market viability grants

The Senate amendment allows the Secretary to use up to $10 million annually to provide matching market viability grants. The grantee must provide matching funds, limits federal cost-share to 50 percent of the appraised fair market value of the easement. (Section 218)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification allowing for authorization of funding for market viability grants. (Section 218(b)) (Section 2503)

(4) Resource Conservation and Development Program

The House bill provides permanent authorization for the Resource Conservation and Development (RC&D) program and makes technical and conforming changes necessary to the program. (Section 254)

The Senate amendment provides permanent authorization for the RC&D program

and makes technical and conforming changes necessary to the program. (Section 216)

The Conference substitute adopts the Senate provision with the modification that Senate amendment section 1532(e) will be struck, thereby disallowing an RC&D Council from using another person or entity to assist in developing and implementing an area plan. (Section 2504)

(5) Grassland Reserve Program

(a) Establishment

The House amendment establishes a Grasslands Reserve Program (GRP) under which the Secretary may enroll up to 2 million acres (1 million acres of restored grassland, 1 million acres of virgin (never cultivated) grassland) using ten, fifteen and twenty-year contracts as well as thirty-year and permanent easements.

The Senate amendment establishes a GRP under which the Secretary may enroll up to 2 million acres of natural grassland or land that was historically natural grassland using thirty-year rental agreements, easements or permanent easements.

The Conference substitute adopts the House provision with modification that the total number of acres shall not exceed 2 million acres of restored, improved, or natural grassland, rangeland and pastureland, including prairie. The Secretary shall enroll not less than 40 contiguous acres of land using ten-year, fifteen-year, twenty-year and thirty-year contracts as well as thirty-year and permanent easements. The Secretary may provide a waiver for smaller tracts of land in the case of exceptional acreage that meets the purposes of the program. (Section 2401)

The Managers expect the Secretary to use 40 percent of the funds to conduct the sign-up and enrollment for the ten, fifteen, and twenty-year GRP contracts in a manner similar to the method currently used by the Secretary for the CRP. This should allow for enrollment competition that will limit the cost per acre but encourage the producer to maintain or initiate sound grazing practices commonly used in the local area. For long-term agreements and easements, the Managers intend that the sign-up be conducted in a manner similar to the WRP. The standards for grazing should be no more stringent than those used in the CRP, the CSP or the FPP. All grasslands should receive equitable treatment in the sign-up and enrollment process.

(b) Funding

The House amendment provides $254 million in funding. Not more than one-third of this money may be used to acquire permanent easements.

The Senate amendment directs that funding shall be provided through the CCC.

The Conference substitute adopts the House provision with modification that 60 percent of this money may be used to enter into thirty-year agreements and acquire thirty-year and permanent easements. (Section 2401)

(c) Eligible practices

The House bill permits common grazing practices where consistent with maintaining the viability of natural grass and shrub species indigenous to that locality, allows for haying, mowing or haying for seed production except during the nesting season for birds in the local area which are in significant decline or are conserved pursuant to state or federal law as determined by NRCS. The bill also permits the construction of firebreaks and fences. The House bill prohibits the production of any agricultural commodity (other than hay) and any other activity that would disturb the surface of the land covered by the agreement.

The Senate amendment permits common grazing practices where consistent with maintaining the viability of natural grass, shrub, forb and wildlife species indigenous to that locality and allows for haying, mowing or haying for seed production except during the nesting or brood-rearing season for birds in the local area which are in significant as determined by NRCS. It permits the construction of firebreaks and fences and gives emphasis to support for native grassland and land containing shrubs or forb, grazing operations, and plant and animal bio-diversity under the threat of conversion. The Senate amendment prohibits the production of any agricultural commodity (other than hay) and any other activity that would disturb the surface of the land covered by the agreement. The Secretary together with the State technical committee shall establish criteria for ranking applications, but shall emphasize support for grazing operations, biodiversity and lands under greatest threat of conversion.

The Conference substitute adopts the House provision with modification. (Section 2401)

The Managers intend that the Secretary shall permit common grazing practices. In permitting such activities, the Managers intend that the Secretary will allow for maintenance and necessary cultural practices common to grazing systems utilized throughout the various regions of the country. These management practices may include such things as: controlled burning, aeration, over-seeding, reseeding, planting of new native species or any other practice as determined by the Secretary to be necessary for grazing management. Beyond maintenance, the Managers intend that the Secretary will permit haying, mowing, or harvesting for seed production, subject to appropriate restrictions for completion of the nesting season for birds in the local area which are in significant decline or are conserved pursuant to state or federal law, as determined by the NRCS state conservationist.

(d) Payments

The House amendment directs that contract payments shall be made annually in an amount that is not more than 75 percent of the grazing value of the land. Easement payments may be made as a single payment or a series of annual payments. In the case of a permanent easement, the payment shall be equal to the fair market value of the land less the grazing value of the land encumbered by the easement. With respect to a thirty-year easement, the payment shall be equal to 30 percent of the fair market value of the land less the grazing value of the land for the period that the land is encumbered by the easement. In addition to incentive payments, the Secretary is authorized to provide cost-share assistance for restoration projects. In the case of virgin grassland, these payments may not exceed 90 percent of the restoration costs. With respect to restored grasslands, these payments may not exceed 75 percent of such costs. (Section 255)

The Senate amendment establishes payments for permanent easements that shall equal the fair market value of the land less the grazing value and for 30-year easements, 30% of the fair market value of the land less the grazing value. 30-year rental agreements shall be equal, to the maximum extent possible, to the payment for 30-year easements. The Secretary shall provide up to 75% of cost-share for restoration of grassland. The Secretary may permit an eligible private organization or state agency to hold and enforce an easement. (Section 219)

The Conference substitute adopts the House provision with modification to use the Senate formula for thirty-year agreements as well as thirty-year and permanent easements. (Section 2401)

(6) Farmland Stewardship Program

The House bill establishes a new program to use federal conservation programs in conjunction and cooperation with state and local conservation efforts, and enables the Secretary to implement or combine together the features of the WRP, WHIP, FPP, the new Forest Land Enhancement Program (FLEP) or other conservation programs where feasible. (Section 256)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision. (Section 2502)

(7) Small Watershed Rehabilitation Program

The House bill authorizes appropriations to fund the program at $15 million annually for fiscal year 2002 and each succeeding fiscal year. (Section 257)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision, providing $275 million over the length of this legislation and reauthorizes the program. (Section 2505)

(8) Provision of Assistance For Repaupo Creek Tide Gate and Dike Restoration Project, New Jersey

The House bill directs the Secretary, acting through NRCS, to provide assistance for planning and implementation of the Repaupo Creek Tide Gate and Dike Restoration Project. (Section 258)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision. (Section 2501)

(9) Conservation Corridor Demonstration Program

The Conference substitute adopts a new provision not contained in either bill that requires the Secretary of Agriculture to establish a conservation corridor demonstration program on the Delmarva Peninsula in the states of Delaware, Maryland and Virginia located on the east side of the Chesapeake Bay. A state, local government or combination of states must submit a plan and commit resources in order to participate in the program that is designed to demonstrate local conservation and economic cooperation using existing agriculture and forestry conservation programs of the Department of Agriculture.

The Managers intend that this new program may use only conservation program funds for which they are authorized and annually appropriated by the Congress.

SUBTITLE G—MISCELLANEOUS

(1) Grassroots Source Water Protection Program

The Senate amendment authorizes $5 million annually from fiscal years 2002 to 2006 for a national grassroots water protection program to more effectively use technical capabilities of each state rural water association that operates a well-head or groundwater protection program. (Section 217 (Section 1240Q))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) Underserved States

The Conference substitute adopts a provision adding $10 million per year for USDA's Agriculture Management Assistance Program for fiscal years 2003 through 2007. The program assists states found by USDA to be under-served in the Agricultural Risk Protection Act of 2000.

(3) Organic Agriculture Research Trust Fund

The Senate amendment establishes an Organic Agriculture Research Trust Fund.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with funding of $3 million a year through the life of the bill. (Section 231)

(4) Establishment of National Organic Research Endowment Institute

The Senate amendment states that the Secretary shall establish a National Organic Research Endowment Institute.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(5) Allocation of Conservation Funds by State

The Senate amendment states that the Secretary shall, to the maximum extent possible, provide each state with a minimum of $12 million annually from conservation programs. Each state shall be provided $5 million from EQIP and a minimum of $7 million from other conservation programs administered by the Secretary. Any funds not obligated under this provision by April 1 of the fiscal year shall be available to carry out activities under Subtitle D. (Section 241)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modification. Before April 1 of each fiscal year, priority for funding for conservation programs, excluding CRP, CSP and WRP, shall be given to approved applications in any state that has not received cumulative conservation funding for the fiscal year of at least $12 million. The Managers understand that only participants who qualify under the individual program from which funds will be provided shall be eligible to receive this priority under this program.

(6) Watershed Risk Reduction

The Senate amendment states that the Secretary, acting through NRCS, shall cooperate with landowners and land users to conduct projects (including the purchase of flood plain easements) to safeguard lives and property from floods, drought, and the products of erosion on any watershed. Priority shall be given to any project or activity that is carried out on a flood plain adjacent to a major river and there is authorized to be appropriate $15 million for each of fiscal years 2002 through 2006. (Section 217 (Section 1240N))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(7) Great Lakes Basin Program For Soil Erosion and Sediment Control

The Senate amendment authorizes the Secretary of Agriculture, in consultation with the Great Lakes Commission, and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army to carry out a program in the Great Lakes basin for soil erosion and sediment control. There is an authorization of appropriations of $5 million for each of the fiscal years 2002 through 2006. (Sec. 12400)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(8) Cranberry Acreage Reserve Program

The Senate amendment states that the Secretary shall establish a program to purchase permanent easements on wetlands or buffer strips adjacent to a wetland that is environmentally sensitive and has or is used for cultivation of cranberries. The purchase price should reflect the range of values for agricultural and non-agricultural lands. The section authorizes appropriations of $10 million. (Section 261)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision and moves the item to the Miscellaneous Title of this legislation.

(9) Klamath Basin

The Senate amendment provides that the Secretary shall, in coordination with the Secretary of the Interior, establish the Klamath Basin Interagency Task Force composed of relevant federal agencies to use conservation programs to address the environmental and agricultural needs of the Klamath Basin. (Section 262)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision, however, funding is provided to assist producers in the Klamath Basin under the new section 1240I, Ground and Surface Water Conservation.

The Managers encourage the U.S. Department of Agriculture to make full use of specific funding of $50,000,000 for the Klamath Basin contained in the new water conservation program to help farmers and ranchers with cost-share assistance, incentive payments and technical assistance.

(10) State Technical Committees

The Senate amendment expands and updates membership of State Technical Committee to include NRCS (instead of the Soil Conservation Service) as chair, Farm Service Agency, land grant colleges and universities, and forestry experts. (Section 1261)

The House bill contains no comparable provision

The Conference substitute deletes the Senate provision.

The Managers strongly encourage updating the involvement of interested experts, including those with expertise in forestry and land grant colleges. Also, the Managers are concerned about reports that in some states, members of state technical committees are not fully included. The Managers strongly encourage the Secretary to ensure that chairpersons of the committee strive to increase involvement.

SUBTITLE H—REPEALS

(1) Provisions of the Food Security Act of 1985

The House bill repeals various authorities including the wetlands mitigation-banking program (1222(k)), environmental easement program (chapter 3 of subtitle D), conservation farm option (chapter 5 of subtitle D) and tree planting initiative (1256). Repeals various provisions of the CRP and WRP. (Section 261)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(2) National Natural Resources Conservation Foundation Act

The House bill repeals subtitle F of Title III of the 1996 FAIR Act. (Section 262)

The Senate amendment permits the Secretary to authorize the Foundation to use, license or transfer symbols, slogans and logos of the Department. Requires that all revenues be transferred to NRCS account to carry out conservation operations. (Section 221)

The Conference substitute adopts the Senate provision with a modification to authorize the Foundation to license logos of the Foundation and explicitly prohibits the licensing of any symbol or logo of a government entity. (Section 2506)

TITLE III—TRADE

(1) Market Access Program

The House bill reauthorizes the Market Access Program through 2011 and increases funding to $200 million. (Section 301)

The Senate amendment reauthorizes MAP through 2006, and increases MAP funding to: $100 million in 2002, $120 million in 2003, $140 million in 2004, $180 million in 2005, and $200 million in 2006. It also establishes priority for new program participants and programs in emerging markets for amounts above $90 million and authorizes the new Quality Export Initiative to identify high quality U.S. agricultural products. This initiative will be subject to appropriations. (Section 322)

The Conference substitute adopts the Senate provision on reauthorization through 2007, at the following annual funding levels: $100 million in 2002, $110 million in 2003, $125 million in 2004, $140 million in 2005, and $200 million in 2006 and subsequent years. It establishes that proposals submitted by new program participants and programs in emerging markets shall receive consideration equal to that given to current program participants for new funds made available. It includes no provision dealing with the Quality Export Initiative program. (Section 3103)

(2) Food for Progress

The House bill includes the following: reauthorizes Food for Progress through 2011; increases the limits on Commodity Credit Corporation funding for administrative costs to $15 million; increases the limits on Commodity Credit Corporation funding for transportation costs related to distribution of commodities to $40 million; excludes from the limitations on tonnage in Section 1110(g) of Food for Progress those commodities furnished on a grant basis or on credit terms under title I of the Agricultural Trade Development Act of 1954; increases limits on amounts of commodities to 1,000,000 metric tons; encourages the President to approve agreements that provide commodities to be made available for distribution or sale on a multi-year basis; allows for the use of U.S. dollars and other currencies for the monetization of commodities by authorizing the President to use ''proceeds''; adds a new provision that encourages the Secretary to finalize program agreements and requests before the beginning of the relevant fiscal year; and requires the Secretary to provide the House Committee on Agriculture, House Committee on International Relations and the Senate Committee on Agriculture, Nutrition and Forestry a list of approved programs, countries and commodities, and the total amounts of funds approved for transportation and administrative costs related to Food for Progress by November 1 of the relevant fiscal year. (Section 302)

The Senate amendment includes the following: rewrites Food for Progress as a new Title VIII of the 1978 Agricultural Trade Act called ''Food for Progress and Education Programs,'' authorized through 2006; permits USDA to provide agricultural commodities to support introduction or expansion of free trade enterprises in recipient country economies; defines eligible commodities as ''agricultural commodities (including vitamins and minerals) acquired by the Secretary or the Corporation for disposition in a program authorized under this title''; provides that not more than $55 million of the funds made available may be used to cover non-commodity costs, of which not more than $12 million may be used to cover administrative costs; establishes a 400,000 MT minimum tonnage per year for the program; allows multi-year PVO agreements and certified institutional partners status for PVO's; allows monetization in U.S. dollars; encourages timely and streamlined approval programs; directs the Secretary to make program announcements before the beginning of the fiscal year; requires eligible organizations with agreements under this title to submit reports to the Secretary containing such information as is required relating to the use of

commodities and funds provided for said agreements; requires that assistance under this title shall be coordinated with other forms of foreign assistance under the mechanism designated by the President; requires the Secretary to ensure that each eligible organization is optimizing the use of donated commodities, as follows: (1) taking into account the needs of target populations in recipient countries; (2) working with recipient countries and institutions or groups within those countries to design mutually acceptable programs; (3) monitor and report on distribution and sale of eligible commodities using accurate and timely reporting methods; (4) periodically evaluate the eligible organization's program effectiveness; and (5) consider means of improving program operation.

Agricultural commodities shall be made available under this title without regard to political, geographic, ethnic, or religious identity of the recipient. The Secretary is barred from providing commodities under any agreement that requires or permits the distribution or handling of those commodities by any military forces, except when non-military channels are not available and the Secretary deems that conditions require such distributions occur.

The Senate amendment also authorizes the appropriation of such sums as may be necessary to carry out the title, plus permits the use of P.L. 480 Title I funds; Provides that all commodities related expenses must be in addition to any other P.L. 480 assistance. (Section 325)

The Conference substitute adopts the House bill provisions in the following areas: (1) the program is reauthorized through 2007; (2) an exclusion from the limitation on tonnage for those commodities furnished on a grant basis or on credit terms under title I; (3) encouragement of the President to finalize agreements before the beginning of the relevant fiscal year, and provision by the President to the relevant Committees a list of approved programs, countries, and commodities by December 1 of the relevant fiscal year; (4) definition of eligible commodities, and (5) funding levels for the program, both for non-commodity costs and administrative expenses.

The Conference substitute adopts the following House provisions with modifications. The President was encouraged to approve agreements on a multi-year basis; the provision was expanded to include all eligible organizations rather than just PVO's and to encourage multi-country agreements as well, subject to the availability of commodities.

The Conference substitute adopts the Senate provisions on monetization of commodities in U.S. dollars, on minimum tonnage. In recognition of the Senate provision on certified institutional partners, the Conference substitute adopts language to streamline, improve and clarify the application, approval, and implementation processes pertaining to agreements under the Food for Progress program. It also requires the Department to undertake consultation with the relevant Congressional Committees within one year of enactment of the Act on the Department's progress in achieving streamlining. Unlike the certified institutional partners provisions, the streamlining provisions will apply equally to all eligible organizations, whether or not they have previously participated in the program.

The Conference substitute amends the existing Food for Progress Act of 1985, rather than establishes a new Title VIII of the Agricultural Trade Act of 1978. Out of the Senate amendment, it incorporates a definition section in the statute, establishes quality assurance requirements, and requires the President to ensure that each eligible organization is optimizing the use of donated commodities, as follows: (1) taking into account the needs of target populations in recipient countries; (2) working with recipient countries and institutions or groups within those countries to design mutually acceptable programs; (3) monitor and report on distribution and sale of eligible commodities using accurate and timely reporting methods; and (4) periodically evaluate the eligible organization's program effectiveness. It also establishes the purposes of the program. (Section 3106)

The Managers are aware of the Food Aid Review conducted by the Administration, which is a continuing process of review of all foreign food aid programs. The Administration plans to make several changes beginning in FY 2003, which include USDA administering all government-to-government programs as a result of funding Food for Progress programs through Title I and USAID administering most private voluntary programs through Title II.

Under the current Food for Progress statute, eligible organizations include private voluntary organizations, cooperatives, other non-governmental and intergovernmental organizations, as well as foreign governments. In providing additional resources and establishing a minimum tonnage requirement for the Food for Progress program under this section, the Managers wish to see the program accessible to all eligible organizations submitting proposals. The Administration's ongoing food aid review should take this into consideration. In many circumstances, the institutional experience of private voluntary organizations and other organizations may be crucial in determining the success or failure of projects in emerging markets under the Food for Progress program.

(3) Surplus Commodities for Developing or Friendly Countries

The House bill authorizes the use of U.S. dollars and other currencies for the monetization of commodities and requires the Secretary to publish in the Federal Register by October 31 of each fiscal year an estimate of the total commodities available under this section for that fiscal year and encourages the Secretary to finalize agreements by Dec. 31. (Section 303)

The Senate amendment authorizes the use of U.S. dollars and other currencies for the monetization of commodities, strikes subparagraph 416(b)(8)(A), allows direct delivery of commodities to milling or processing facilities in recipient countries, with proceeds of transactions going to eligible organizations to carry out the approved project, permits PVO's to apply to become certified institutional partners, and provides that PVO's may submit multi-country proposals. (Section 334)

The Conference substitute adopts the House provision with respect to monetization and requiring the Secretary to report by October 31 the commodities available under this section for that fiscal year. The Conference substitute adopts the Senate provision with respect to encouraging submission of multi-country proposals, expanded to include all eligible organizations rather than just PVO's, and to encourage multi-year agreements as well, subject to the availability of commodities. The conference substitute omits the Senate provision on direct delivery of commodities.

The Conference substitute also adopts the Senate provision on certified institutional partners, with the following changes: within 270 days, the Secretary shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify the application, approval, and implementation processes pertaining to agreements under Section 416(b). It also requires the Secretary to undertake consultation with the relevant Congressional Committees within one year of enactment of the Act on the Secretary's progress in achieving streamlining. These new procedures will apply equally to all eligible organizations, whether or not they have previously participated in the program. (Section 3201)

The Managers believe that the use of donated American agricultural commodities to support rural electrification overseas is a highly appropriate use of surplus commodity monetization, particularly where the USDA's own rural electrification expertise can be added to the on-going efforts of American electric cooperatives to ''export'' the successful rural electrification model that was established with the Rural Electrification Administration. The Conferees encourage the Secretary of Agriculture to direct a more aggressive rural electrification development effort as part of USDA's monetization programs under section 416(b) of the Agricultural Act of 1949, including collaboration with other international development agencies in leveraging funds to build on the successful experience of American electric co-op projects in less developed countries.

(4) Export Enhancement Program

The House bill extends the Export Enhancement Act through 2011 at the current funding level. (Section 304)

The Senate amendment extends the Export Enhancement Act through 2006 at the current funding level and expands definition of unfair trade practices to include (1) pricing practices by an exporting state trading enterprise that ''are not consistent with sound commercial practices conducted in the ordinary course of trade,'' or (2) changing U.S. ''export terms of trade through a deliberate change in the dollar exchange rate of a competing exporter.'' (Section 323)

The Conference substitute adopts the House provision with respect to reauthorization of the program through 2007. The Conference substitute adopts the Senate provision on unfair trade practices, with the following changes: amends paragraph (2) to clarify the type of state trading enterprise covered by this definition, drops the exchange rate reference, and inserts the following list of activities: subsidies that decrease market opportunities for United States exports or unfairly distort agricultural markets to the detriment of the United States; unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology; unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; other unjustified technical barriers to trade; rules that unfairly restrict imports of United States agricultural products in the administration of tariff rate quotas; and the failure of a country to adhere to the provision of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements. (Section 3104)

(5) Foreign Market Development Cooperator Program

The House bill includes the following: reauthorizes the Foreign Market Development Cooperator Program through 2011; authorizes such sums as may be necessary to carry out this title, and in addition to any sums appropriated, authorizes $37 million from the Commodity Credit Corporation for each of fiscal years 2002 through 2011 to carry out the program; directs the Secretary to carry out the Foreign Market Development Cooperator

Program with a significant emphasis on the importance of exporting value-added agricultural products to emerging markets; specifies that the Secretary shall report to the House Committees on Agriculture and International Relations, and the Committees on Agriculture, Nutrition and Forestry and Foreign Relations of the Senate, on the funding and success of the Foreign Market Development Cooperator Program. (Section 305)

The Senate amendment contains the following: reauthorizes Foreign Market Development Cooperator Program through 2006; authorizes, from the Commodity Credit Corporation: $37.5 million for 2002, $40 million for 2003, and $42.5 million for 2004, 2005 and 2006; establishes priority for new program participants and programs in emerging markets for amounts above $35 million. (Section 324)

The Conference substitute adopts the Senate provision on reauthorizing the program through 2007, and establishes that proposals submitted by new program participants and programs in emerging markets shall receive consideration equal to that given to current program participants for additional funds made available. The substitute authorizes, from the Commodity Credit Corporation, $34.5 million for each fiscal year between 2002 and fiscal year 2007.

The Conference substitute adopts the House provision with respect to a significant emphasis on value-added products, with clarification that the emphasis required is a 'continued significant emphasis', to recognize that USDA already places a significant emphasis on value-added, accounting for about one-third of the program. It also requires a report on funding and success of the Foreign Market Development Cooperator Program to the relevant Congressional Committees. (Section 3105)

(6) Export Credit Guarantee Program

The House bill reauthorizes the Export Credit Guarantee Program through 2011, and continues for fiscal years 2002 through 2011 the current requirement that not less than 35 percent of the export credit guarantees issued be used to promote the export of processed or high-value agricultural products. (Section 306)

The Senate amendment reauthorizes Export Credit Guarantee Program through 2006, continues for fiscal years 2002 through 2006 the current requirement that not less than 35 percent of the export credit guarantees issued be used to promote the export of processed or high-value agricultural products; extends terms of repayment for the supplier credit guarantee program from 180 days to 12 months, and requires Secretary to provide a report, one year after enactment of the law, on the status of multilateral export credit negotiations at the WTO and OECD. (Section 321)

The Conference substitute adopts the Senate provision and reauthorizes the program through 2007. It changes the subsection that requires the Secretary to provide a report on multilateral export credit negotiations to requiring the Secretary and the United States Trade Representative to regularly consult with the relevant House and Senate Committees on that issue. The substitute also changes the new terms of repayment for the supplier credit guarantee program from 12 months to 360 days, if an authorization of appropriations to fund loan terms greater than current length of 180 days is provided. (Section 3102)

(7) Food for Peace Program and the International Food Relief Partnership Act

The House bill reauthorizes the Food for Peace Program and the International Food Relief Partnership Act through 2011, and adds conflict prevention as a program objective. (Section 307)

The Senate amendment reauthorizes the Food for Peace Program and the International Food Relief Partnership Act through 2006, and adds conflict prevention as a program objective. (Section 311)

The Conference substitute adopts the House provision, reauthorizing the program through 2007. Program approvals should be based on the potential benefits of the program on food security and the choice of the appropriate commodity for the intended use. (Section 3011)

(8) Non-emergency Assistance

The Senate amendment adds a new provision under ''(b) Nonemergency Assistance'' requiring the Administrator to foster program diversity by encouraging eligible organizations to propose and implement plans that address 1 or more aspects of Food for Peace and incorporate a variety of program objectives to assist development in foreign countries. (Section 302)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with an amendment clarifying that plans shall address program objectives specified in Section 201 of the Agricultural Trade, Development and Assistance Act of 1954. (Section 3002)

(9) Funding

The House bill provides that the funding for transportation, storage and handling of P.L. 480 commodities shall be not less than 5 percent and not more than 10 percent of the funds made available under title II in each fiscal year. (Section 307)

The Senate amendment provides that the funding for transportation, storage and handling of P.L. 480 commodities shall be not less than 5 percent and not more than 10 percent of the funds made available under title II in each fiscal year. (Section 302)

The Conference substitute adopts the Senate provision. (Section 3002)

(10) Private Voluntary Organization Authority (PVO)

The House bill grants PVO's authority to submit multi-country proposals. (Section 307)

The Senate amendment grants PVO's authority to submit multi-country proposals. Also requires US-AID or USDA, as applicable, to establish a process enabling PVO's and cooperatives that can demonstrate their capacity to carry out the programs, to qualify as ''certified institutional partners,'' which would entitle them to use streamlined application procedures, including expedited review, to receive commodities. (Section 302)

The Conference substitute adopts the House provision with the following changes: the inclusion of all eligible organizations rather than just PVO's and to encourage multi-year agreements as well.

The Conference substitute also adopts the Senate provision with the following changes: within one year after enactment of this Act, requires the Administrator to establish streamlined guidelines and application procedures for programs under Title II, to be effective for fiscal year 2004, to the maximum extent practicable, for resource allocation for existing projects and for new project proposals. It also requires US-AID to undertake stakeholder consultation using statutory procedures, as well as consultation with the relevant Congressional Committees, within six months of enactment, on the Agency's progress in achieving streamlining. A report is to be submitted within 270 days on progress achieved in modernizing US-AID's information management, procurement, and financial management systems to accommodate Title II needs. (Section 3002)

(11) Use of U.S. Dollars

The House bill allows PVO's to use U.S. dollars when monetizing commodities in foreign countries. (Section 307)

The Senate amendment allows the use of U.S. dollars when monetization is done in foreign countries. (Section 303)

The Conference substitute adopts the Senate provision on permitting eligible organizations to monetize commodities in U.S. dollars in foreign countries. (Section 3003)

(12) Minimum Level of Commodities

The House bill increases the minimum level of commodities available to 2,250,000 metric tons. (Section 307)

The Senate amendment increases the minimum level of commodities available from 2,025,000 MT to: 2,100,000 metric tons for 2002; 2,200,000 metric tons for 2003; 2,300,000 metric tons for 2004; 2,400,000 metric tons for 2005; and 2,500,000 metric tons for 2006. It also adds crude degummed soybean oil to list of value-added commodities under Title II. (Section 304)

The Conference substitute adopts the House provision, with a change to 2,500,000 metric tons per year as the minimum level of commodities beginning in fiscal year 2002.

The Conference substitute adopts a new provision, changing the sub-minimum requirement for non-emergency programs to 1,875,000 tons annually (Section 3004)

The Managers ask the Administrator to examine the commodities currently shipped under Title II non-emergency programs, and determine which ones qualify as value-added products to satisfy the sub-minimum requirement under Section 204(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724).

(13) Food Aid Consultative Group

The House bill reauthorizes the food aid consultative group through 2011. (Section 307)

The Senate amendment reauthorizes the food aid consultative group through 2006. (Section 305)

The Conference substitute adopts the House provision, reauthorizing the consultative group through 2007. (Section 3005)

(14) Title II Spending

The House bill eliminates the $1 billion cap on spending for Title II. (Section 307)

The Senate amendment raises the cap on Title II spending from $1 billion to $2 billion annually. (Section 306)

The Conference substitute adopts the House provision. (Section 3006)

(15) Duties of the Administrator of US–AID

The House bill requires that the Administrator of US-AID make decisions on program proposals, received from PVO's, not later than 120 days after receipt. (Section 307)

The Senate amendment requires that the Administrator of US–AID make decisions on program proposals, received from PVO's, not later than 120 days after receipt, requires the Administrator to treat proposed policy determinations the same as guidelines, and allows direct delivery of commodities to milling or processing facilities in recipient countries, with proceeds of transactions going to eligible organizations to carry out the approved project. (Section 307)

The Conference substitute adopts the Senate provision, with the technical change that the 120 day period begins after submission of the proposal to the Administrator rather than receipt of the proposal by the Administrator, and that to the maximum extent practicable, the Administrator is encouraged to make decisions on program proposals within that period. The annual policy guidance letter issued by the Administrator shall be subject to notice and comment requirements. The conference substitute omits the

Senate provision on direct delivery of commodities. (Section 3007)

The Managers note that at present, milling or processing facilities located in or near countries receiving food aid are occasionally unable to process commodities or arrange for the monetization of commodities because the non-governmental organizations coordinating or arranging the food aid delivery do not interact on a timely basis with the milling or processing facilities. This often leads to delay and inefficiencies in the food aid program.

The streamlining of procedures and regulatory requirements, and acceleration of the approval and review of projects involving food aid programs administered by USDA and US–AID are a priority in this legislation. It is equally important that participating non-governmental organizations also expedite the delivery of their projects by consulting with milling or processing facilities prior to filing project applications with USDA or US–AID. It is necessary for USDA, US–AID, and participating non-governmental organizations to act in concert to streamline and expedite procedures and activities to achieve a more effective and timely food aid delivery process.

(16) Funding for Stockpiling and Rapid Transportation, Delivery, and Distribution of Shelf-Stable Prepackaged Foods

The House bill reauthorizes at current funding level through 2011. (Section 307)

The Senate amendment reauthorizes at current funding level through 2006. (Section 308)

The Conference substitute adopts the House provision, reauthorizing the funding through 2007. (Section 3008)

(17) Sale Procedure

The House bill adds a new subsection, (l), to section 403 that provides that (b) and (h) shall apply to titles II and III of Food for Peace, section 416(b) of the Agricultural Act of 1949, and section 1110 of the Food and Security Act of 1985. It also allows for monetization in the sales to generate proceeds under these designated sections and titles. (Section 307)

The Senate amendment adds a new subsection, (l), to section 403 that provides that (b) shall apply to section 416(b) of the Agricultural Act of 1949, and title VIII of the Agricultural Trade Act of 1978. It also allows for monetization in the sales to generate proceeds under these programs, and defines reasonable market price for purposes of monetization of commodities. (Section 310)

The Conference substitute adopts the House provision with respect to sale procedure and adopts the Senate provision with respect to reasonable market price. (Section 3009)

The reasonable market price provision requires that commodities be sold at a reasonable market price in the economy where the commodity is to be sold. This would generally be the locally prevailing price for the same or a similar commodity.

The Managers understand that, as with commercial sales, the actual sales price will be affected by product quality and delivery and payment terms. There are two primary purposes for this provision. The first is to ensure that commodities are sold at the prevailing local market price, rather than imposing an arbitrary formula approach.

The Managers believe that a relatively inflexible formula approach is undesirable because in situations in which local prices are above the formula value, the formula does not maximize proceeds from sales of commodities. Conversely, in cases in which the formula produces a price significantly above locally prevailing prices, no sales are likely to result, to the possible detriment of program operations in recipient countries.

The second reason for this provision is to bring consistency to the approaches currently used by US–AID and USDA. The Managers understand that although the two agencies generally operate in different countries at different times, some monetization programs may overlap. The Managers expect that, should this occur, the two agencies will consult to ensure that, to the extent possible, a uniform sales price is established. More generally, the Managers expect the two agencies to adopt methodologies for determining a reasonable market price that will tend to produce similar results in determining sales prices.

Finally, the Managers note that this provision is intended to be consistent with the goal of maximizing proceeds from commodity sales. In deciding whether to approve a proposed sale of commodities at the local market price, the Managers expect that both agencies will take into account the prevailing U.S. and world market prices of a commodity, including U.S. acquisition costs, transportation costs, and any localized factors that might result in significant differences between prevailing local market prices and those prices that would be expected to prevail in a pure free market. In cases in which high-quality U.S. agricultural products are purchased for the program, it should be noted that the market in the recipient country may not be sufficiently sensitive to fully reflect quality premiums.

(18) Lamb Program

The Senate amendment permits the Secretary to establish a program to provide live lamb on an emergency food relief basis to Afghanistan. (Section 309)

The House bill contains no comparable provision.

The Conference substitute incorporates the Senate provision into another section of this title dealing with a report on use of perishable commodities in food aid programs. (Sec. 3207)

(19) Reauthorize Limits on Funding for Prepositioning

The House bill reauthorizes limits on funding for prepositioning through 2011. (Section 307)

The Senate amendment reauthorizes limits on funding for prepositioning through 2006. (Section 311)

The Conference substitute adopts the Senate provision, reauthorizing the funding through 2007. (Section 3010)

(20) Authority for Paying Transportation Costs Under Title II Non-Emergency Program

The House bill adds a provision providing the authority for the US–AID Administrator to pay for transportation costs for non-emergency assistance under Title II, and only to least developed countries. (Section 307)

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 3012)

(21) Expiration Date

The House bill extends the expiration date to December 31, 2011. (Section 307)

The Senate amendment extends the expiration date to December 31, 2006. (Section 312)

The Conference substitute adopts the House provision, reauthorizing the program through fiscal year 2007. (Section 3011)

(22) Reauthorize Farmer-to-Farmer Program

The House bill reauthorizes the Farmer-to-Farmer Program through 2011 at the current funding level of 0.4 percent of the funds made available under titles I and II of P.L. 480 (Section 307)

The Senate amendment reauthorizes the Farmer-to-Farmer Program through 2006 and increases the share of P.L.–480 title I and title II funding which can be diverted for support of the program from 0.4 to 0.5 percent. (Section 314)

The Conference substitute adopts the House provision, reauthorizing the program through 2007 and the Senate provision that increases funding for the program. (Section 3014)

(23) Micronutrient Fortification Pilot Program

The Senate amendment re-authorizes the micronutrient fortification pilot program. (Section 313)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with technical corrections, also adding folic acid as a fortifying element that can be used under the program. The US–AID sponsored ''Micronutrient Assessment Project'' study (report issued in 1999), found significant quality problems in fortified food aid commodities, including low micronutrient levels and the loss of highly labile vitamins. A US–AID-sponsored ''Micronutrient Compliance Review of Fortified P.L. 480 Commodities'' (report issued in 2001) found that while progress has been made, additional follow-up is needed to assure adequate micronutrient levels in the fortified commodities and to standardize procedures used to test and monitor for compliance. Additional concerns, such as lack of shelf-life information, bioavailibility and package durability have also been reported. The organization that conducted the 1999 and 2001 assessments uses an effective approach of engaging technical experts from food industries to improve the quality and nutritional content of food products for developing countries. This provision calls on the Administrator, in consultation with the Secretary, to use the same mechanism to follow-up on the 2001 compliance review recommendations to improve and assure the quality of fortified food aid commodities. (Section 3013)

(24) Emerging Markets

The House bill reauthorizes the Emerging Markets program through 2011, and increases the amount of assistance the Secretary shall provide for the Agricultural Fellowship Program from $10 million to $13 million. (Section 308)

The Senate amendment reauthorizes the Emerging Markets program at current levels through 2006, but does not increase the amount of assistance. (Section 332)

The Conference substitute adopts the Senate provision reauthorizing the program through 2007. (Section 3203)

(25) Bill Emerson Humanitarian Trust

The House bill extends the Bill Emerson Humanitarian Trust Act through 2011. (Section 309)

The Senate amendment extends the Bill Emerson Humanitarian Trust Act through 2006. (Section 331)

The Conference substitute adopts the Senate provision, reauthorizing the program through 2007. (Section 3202)

(26) Technical Assistance for Specialty Crops

The House bill establishes an export assistance program to address barriers to the export of United States specialty crops; provides direct assistance through public and private sector projects; and technical assistance to remove, resolve, and/or mitigate sanitary or phytosanitary and related barriers to trade. It also gives priority to time sensitive and market access projects based on the trade effect and trade impact and authorizes $3 million annually from the Commodity Credit Corporation. (Section 310)

The Senate amendment directs USDA to assist U.S. exporters harmed by ''unwarranted and arbitrary'' barriers to trade due

to marketing of biotechnology products, food safety, disease, or other SPS concerns and authorizes appropriations of $1 million annually through 2006. (Section 333)

The Conference substitute adopts the House provision, with funding provided at $2 million per year from the Commodity Credit Corporation. (Section 3205)

(27) Farmers From Africa and Caribbean Basin Program

The House bill authorizes $10 million for the President to establish and administer bilateral exchange programs whereby U.S. farmers and farming specialists provide technical advice and assistance to eligible farmers in Africa and the Caribbean Basin countries. (Section 311)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision, to be incorporated into the existing Farmer-to-Farmer program, authorizing appropriations, while allowing the Administrator to use up to five percent of those appropriated funds to cover administrative expenses in operating the program. (Section 3014)

(28) George McGovern-Robert Dole International Food for Education and Child Nutrition Program

The House bill authorizes the President to direct the provision of U.S. agricultural commodities and financial and technical assistance for foreign preschool and school feeding programs to reduce hunger and improve literacy (particularly among girls) and nutrition programs for pregnant and nursing women and young children. It also authorizes the appropriation of such sums as may be necessary each year through FY2011. The President has the authority to designate the administering federal agency. For this program, eligible recipients are PVO's, cooperatives, governments and their agencies, and other organizations. Funds may be used to pay commodity transportation and storage costs, in-country activities that enhance the programs, and certain providers' administrative expenses. The House bill specifies a list of priorities for program funding and provides guidelines for application process, encourages multilateral involvement and private sector involvement, and requires assurances that local production and marketing in recipient countries are not disrupted. Annual reports to Congress are required. (Section 312)

The Senate amendment requires the establishment of an International Food for Education and Nutrition Program, as a separately funded program within the new Food for Progress title, whereby USDA may provide commodities and technical and nutrition assistance for programs that improve food security and enhance educational opportunities for preschool and primary school children in the recipient countries. USDA is authorized to use not more than $150 million per year for four years to carry out this program. Eligible organizations are PVO's, cooperatives, nongovernmental organizations, or foreign countries, as determined by USDA. Permitted uses of funds, and various other requirements not specified here are the same as those that apply to Food for Progress activities generally. The Senate amendment includes a ''graduation requirement'' to provide for continuation of the program when funding terminates. It also encourages other donor and private sector involvement and requires an annual report to Congress. (Section 325(c))

The Conference substitute adopts the House bill provisions, with the following modifications: (1) accepts Senate provisions on graduation; (2) accept Senate language on availability of funds for internal shipping, transportation, and handling costs, and (3) provides $100 million in mandatory funding for fiscal year 2003 to continue existing pilot projects. The program is to be named the McGovern-Dole International Food for Education and Child Nutrition program. (Section 3107)

The Managers expect that mandatory funds provided for fiscal year 2003 will be utilized to continue the operation of projects approved under the pilot program.

(29) Study on Fee for Services

The House bill instructs the Secretary to report to Congress on the feasibility of instituting a program charging fees to cover the costs of services performed abroad on matters within the authority of the Department of Agriculture administered by the Foreign Agriculture Service. (Section 313)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with the clarification that the report would address the feasibility of a program that charged fees would be assessed only for services performed beyond those already provided by the Foreign Agricultural Service as part of an overall market development strategy for a particular country or region. (Section 3208)

(30) National Export Strategy Report

The House bill directs the Secretary to prepare a long-range comprehensive agricultural trade strategy and to report to the House Committees on Agriculture and International Relations, and the Senate Committee on Agriculture, Nutrition and Forestry, on the activities the Department of Agriculture has undertaken to implement the National Export Strategy Report. (Section 314)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision, changing the report to consultations with relevant Congressional Committees which will occur within six months of enactment, and every two years subsequently. (Section 3206)

(31) Exporter Assistance Initiative

The Senate amendment authorizes development of a federal website to assist aspiring exporters to learn all they need to know about getting started. An authorization of appropriations is provided at the following levels: $1 million for each of 2003 and 2004 and $500,000 for 2005 and 2006. (Section 326)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, amended to instruct the Secretary to maintain a website to assist exporters or potential exporters of U.S. agricultural products. No appropriations are authorized. (Section 3101)

The Managers observe that knowledge about legal and regulatory requirements that apply to the export of an agricultural product is basic to any transaction. This applies to the country in which the exporter is located and the importing foreign country. Many countries already provide at least this much assistance to private exporters. In the United States, a small exporter that cannot afford to hire a trade consultant has been forced to navigate among numerous Federal laws and regulations that impact an export transaction. Today, the Internet provides a propitious vehicle for making such information accessible. The Foreign Agricultural Service at USDA has developed a website that provides information about USDA programs that may affect the exporter, recommendations on how to develop a marketing plan, and tariff and sanitary/phytosanitary requirements of several countries. However the website does not alert the small exporter to U.S. laws such as, for example, the Corrupt Practices Act that may impact the export. Linkage to the website of the Treasury Department for detailed information about the Corrupt Practices Act is also necessary. A new Government website, 'FirstGov', provides access to the Department of the Treasury's website, but the FAS website does not provide a link to FirstGov.

Other U.S. agencies such as the Treasury Department's Office of Foreign Assets Control and the Commerce Department's Bureau of Export Administration enforce laws and regulations which bear on international business transactions involving agricultural products. Access to the websites of these agencies is also necessary to ensure that a potential or current exporter has access to a maximum amount of information relevant to the international commercial transaction. A small exporter needs more than just information about U.S. laws and regulations. Information about tariff and non-tariff regulations of importing countries is needed. Information about private companies in this country and abroad that may impact a marketing plan and decision to proceed with the export transaction is also necessary. A new website established by USDA, the Export Directory of U.S. Food Distribution Companies, provides a good start. The Secretary of Agriculture is directed to improve and maintain the FAS website consistent with the requirements of this provision and to coordinate the content of this website with the agency responsible for the FirstGov website. The Secretary is further directed to improve the FAS website so that an exporter may connect to links with oversees governmental, private sector, and non-profit sector websites that provide information on market opportunities, marketing requirements and restrictions, product preferences, foreign legal considerations, and other information that may assist the exporter with marketing an agricultural product in a foreign market.

(32) Biotechnology and Agriculture Trade Program

The Senate amendment requires USDA to establish a program to assist exporters facing problems with biotech-based agricultural products. The Senate amendment requires $15 million of CCC funding per year through 2006. (Section 333)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision establishing a stand-alone program, providing an authorization of appropriations. The provision is also revised to reflect a narrower purpose than the original Senate provision, focusing on technical assistance in addressing barriers to trade. (Section 3204)

(33) Agricultural Trade with Cuba

The Senate amendment strikes restrictions on private financing of sales of food and medicine to Cuba that were established in the FY 2001 Agricultural Appropriations bill. (Section 335)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(34) Sense of Congress Regarding Agricultural Trade

The Senate amendment establishes Congressional priorities and concerns for bilateral and multilateral agricultural trade negations. (Section 336)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, changing it to reflect the Sense of the Senate rather than the Congress. Similar priorities are also reflected in

the Trade Promotion Authority bill (H.R. 3005) passed by the House in 2001. (Section 3210)

(35) Report on Use of Perishable Commodities in Food Aid

The Senate amendment requires the Secretary to report on transportation, storage, and funding deficiencies that limit the use of perishable and semi-perishable commodities in USDA international food aid programs. (Section 337)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with technical changes and adds a requirement to examine the cost of shipping live lambs and other animals for use in U.S. food aid programs. (Section 3207)

(36) Sense of Senate Regarding Foreign Assistance Programs

The Senate amendment notes past success of U.S. foreign assistance in helping democratize developing nations and create U.S. commercial customers, and urges increased role of such programs in countries with impoverished and disadvantaged populations that are the breeding grounds for terrorism. (Section 338)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, changing it to reflect the Sense of the Congress rather than the Senate. (Section 3209)

TITLE IV—NUTRITION

(1) Short Title

The Senate Amendment names Title IV the Food Stamp Reauthorization Act of 2001. (Section 401)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4001)

SUBTITLE A—FOOD STAMP PROGRAM

(2) Simplified Definition of Income

The House bill adds new types of income exclusions: at state option, education assistance that is required to be excluded under its Medicaid rules; ''state complementary assistance program payments'' that are excluded under Medicaid rules; and at state option, any income the state does not consider when determining eligibility for cash assistance under its Temporary Assistance for Needy Families (TANF) program or eligibility for medical assistance under its Medicaid program. Under the third exclusion authority, states are specifically not permitted to exclude earned income, various Social Security Act payments (e.g., Supplemental Security Income (SSI), Social Security disability and retirement benefits, and foster care and adoption assistance payments), or other types of income the Secretary judges essential to equitable eligibility determinations. (Section 401)

The Senate amendment adds new income exclusions: education assistance, ''state complementary assistance program payments,'' same as the House bill with technical differences and at state option; any types of income the state does not consider when determining eligibility for or the amount of cash assistance under its TANF program or eligibility for medical assistance under its Medicaid program. Under the third exclusion authority, states are specifically not permitted to exclude wages or salaries, various Social Security Act payments, regular payments from a government source (such as unemployment benefits and general assistance), workers' compensation, child support payments (for the recipient), or other types of income the Secretary judges essential to equitable eligibility determinations. It is the intent of this provision to align, to the extent possible, with Medicaid and TANF rules and that the Secretary will only add additional types of income that are judged to be absolutely essential to make equitable determinations of eligibility in the food stamp program. (Section 412)

The Conference substitute adopts the Senate provision. (Section 4102)

The Managers intend that this provision will allow states to eliminate consideration of any types of income they do not consider when judging eligibility for temporary assistance to needy families (TANF) cash assistance or those required to be covered by Medicaid. It does not include items that are included in the definition of income but part of which are disregarded for the purposes of TANF and Medicaid by state agencies.

(3) Standard Deduction

The House bill establishes multiple standard deductions equal to 9.7 percent of the federal poverty income guideline amounts used for food stamp income eligibility determinations in FY2002. The new standard deductions would remain fixed over time. It also requires that the new standard deductions not be less than the current amount for each jurisdiction or greater than 9.7 percent of the FY2002 poverty guideline amounts for a 6–person household. In the case of the Virgin Islands, the new standard deductions would be similar to those for the 48 states and the District of Columbia. In the case of Guam, a special rule would maintain standard deduction levels at about twice the levels for the 48 states and the District of Columbia. (Section 402)

The Senate amendment establishes multiple standard deductions equal to an increasing percentage of the inflation-indexed federal poverty income guideline amounts used for food stamp income eligibility determinations: for FY2002–FY2004, the new standard deductions would equal 8 percent of each year's poverty guideline amounts; for FY2005–FY2007, the new standard deductions would equal 8.5 percent of each year's poverty guideline amounts; for FY2008–FY2010, the new standard deductions would equal 9 percent of each year's poverty guideline amounts; and for FY2011and each following year, the new standard deductions would equal 10 percent of each year's poverty guideline amounts. The Senate amendment also requires that the new standard deductions not be less than the current amount for each jurisdiction or greater than the applicable percentage (noted above) of the poverty guideline amounts for a 6–person household. In the case of the Virgin Islands, the new standard deductions would be similar to those for the 48 states and the District of Columbia. In the case of Guam, a special rule would maintain standard deduction levels at about twice the levels for the 48 states and the District of Columbia. (Section 171(c)(2), replacing Section 413)

The Conference substitute adopts the House provision with an amendment that sets the standard deduction equal to 8.31 percent of the inflation-indexed federal poverty income guideline used for food stamp income eligibility determinations and includes comparable provisions for the Virgin Islands and Guam. (Section 4103)

(4) Transitional Food Stamps for Families Moving From Welfare

The House bill provides, at state option, for 6 months of transitional food stamp benefits for families no longer eligible to receive Temporary Assistance for Needy Families (TANF). Households could receive transitional benefits for up to 6 months after termination of cash assistance, regardless of whether their certification period expires during the transitional period. The transitional benefit amount would be equal to the monthly allotment households received in the month immediately prior to termination. Households receiving transitional benefits could apply for food stamps under regular rules at any time during the transitional period. In the final month of the transitional period, states could require a household to cooperate in a re-determination of eligibility in order to receive continued benefits.

Transitional benefits would not be allowed for (1) households sanctioned under food stamp rules for intentional program violations, failure to cooperate, failure to meet work requirements, transferring assets to gain eligibility, failure to perform an action required under a federal, state, or local means-tested public assistance program, multiple receipt of food stamp benefits, or failure to fulfill child-support-related requirements and (2) households sanctioned for failure to perform an action required by federal, state, or local law relating to TANF cash assistance. (Section 403)

The Senate amendment permits states to provide transitional food stamp benefits to households who cease to receive TANF cash assistance. Under this option, households could receive transitional benefits for up to 6 months after termination of cash assistance, without regard to normal eligibility reviews or termination of an eligibility review period. During the transitional period, food stamp benefits generally would be frozen, without required reports of changed circumstances. Transitional benefits would be equal to the monthly allotment received in the month immediately prior to termination adjusted for (1) the change in household income because of termination of cash assistance and (2) any changes in circumstances that could increase household benefits (if the household elects to report them). In the final month of the transitional period, states could require a household to cooperate in a re-determination of eligibility in order to receive continued benefits.

Transitional benefits would not be allowed for households (1) losing eligibility under food stamp rules for intentional program violations, failure to cooperate or meet work-requirements, post-secondary students, transferring assets to gain eligibility, failure to perform an action required by a means-tested assistance program, receipt of multiple benefits, fleeing felons, or failure to fulfill child-support-related requirements, (2) sanctioned for failure to perform an action required by a federal, state, or local TANF law, or (3) in any state-designated category. (Section 429)

The Conference substitute adopts the Senate provision with an amendment that allows households to receive transitional benefits for up to 5, instead of up to 6, months after termination of cash assistance, without regard to normal eligibility reviews or termination of an eligibility review period. In addition, transitional benefits are equal to the monthly allotment received in the month immediately prior to termination, adjusted for the change in household income because of termination of cash assistance but not adjusted for any other changes in circumstances that could increase household benefits and which the household may report. The Conference substitute retains the House bill language that enables households receiving transitional benefits to apply for food stamps under regular rules at any time during the transitional period. (Section 4115)

(5) Quality Control Systems

The House bill reforms the food stamp quality control program to require the Secretary to use a 95 percent statistical probability (lower bound) in calculating state

error rates. States with a total payment error rate (lower bound) between 6 percent and the national performance measure (plus 1 percentage point) receive no special treatment, but have to develop and implement corrective action plans to reduce errors. The bill provides that, in determining sanctions against states for high error rates, sanctions are delayed until the third consecutive year in which a state's error rate (lower bound) exceeds the national average error rate by more than 1 percentage point.

Sanctions are figured as follows: First, the state's potential total liability amount is calculated. This is the difference between its total payment error rate (point estimate) and the national performance measure plus one percentage point, multiplied by the dollar value of benefits issued in the state for the year. Then, the state's actual penalty/sanction is calculated. This assessment is ''scaled'' according to how far above 10 percent the state's total payment error rate (point estimate) is.

The House bill also requires the Secretary to measure states' performance with respect to (1) compliance with deadlines for prompt determinations of eligibility and issuance of benefits and (2) the percentage of negative eligibility decisions that are made correctly for each of fiscal years 2002 through 2007. It provides for ''excellence bonus payments'' of $1 million each to (1) the 5 states with the highest combined performance in the 2 measures noted above and (2) the 5 states whose combined performance in the 2 measures noted above is most improved for each of fiscal years 2002–2007. (Section 404)

The Senate amendment reforms the system that measures the degree to which states make erroneous eligibility and benefit decisions so that only states with serious, persistent problems would be sanctioned. For states with error rates below 6 percent, enhanced federal matching is reduced for 2001 and then discontinued in subsequent years. States with a total payment error rate between 6 percent and the national average plus 1 percentage point would receive no special treatment. All states are required to develop and implement corrective action plans to reduce payment errors. Each year, the Secretary is required to investigate the administration of the food stamp program in states with a total payment error rate above the national average plus one percentage point, unless sufficient information is already available to review the state's administration. A ''good cause'' exception is provided. If the investigation/review results in a determination that the state has been ''seriously negligent'' (under standards promulgated by the Secretary), the state has to pay a fine (''initial sanction'') that reflects the extent of negligence (again, under standards promulgated by the Secretary) not to exceed 5 percent of the federal match for state administrative costs. States with a total payment error rate above the national average plus 1 percentage point are assessed fiscal penalties if they have been the subject of an investigation/review or sanctioned for high error rates in each of the 2 preceding years. This effectively sanctions states with a payment error rate above the national average plus 1 percentage point for 3 consecutive years, in the third year as in the House bill. Sanctions are figured in the same way as is done in the House bill.

Beginning with error rates calculated for FY2002, the Senate amendment establishes in law a requirement that the Secretary adjust states' total payment error rates to take into account any increases in errors because a state serves high percentages of households with earnings or households containing non-citizens. The adjustments are similar to those carried out under current policy for states subject to penalties/ sanctions; however, they are somewhat more liberal in the measurement standard they use to identify states with ''high'' proportions of error-prone households, likely qualifying more states for an adjustment. For error rates figured for FY2003 and later years, additional adjustments to states' total payment error rates are permitted, as the Secretary determines consistent with achieving the purposes of the Food Stamp Act. (Section 431)

The Senate amendment beginning with FY2002, requires the Secretary to measure states' performance with respect to the proportion of households with children having (a) income below 130 percent of the federal poverty income guidelines and (b) annual earnings of at least half the full-time minimum wage equivalent who receive food stamps. Beginning with FY2002, it also requires the Secretary to measure states' performance with respect to four additional measures established by the Secretary in consultation with the National Governors Association, the American Public Human Services Association, and the National Conference of State Legislatures. The additional four measures must be established not later than 180 days after enactment, and at least 1 measure must relate to the provision of timely and appropriate services to food stamp applicants and recipients.

In FY2003 and each following year, it requires the Secretary to make ''high performance bonus payments'' totaling $6 million for each of the 5 measures noted above. For each measure, payments (allocated by caseload size) are to be made to the 6 states with (1) the greatest improvement in performance, (2) the highest level of performance, or (3) a combination of greatest improvement and highest performance. Among the 6 states chosen for payments under each measure, payments are allocated according to caseload size.

The Senate amendment prohibits bonus payments to states subject to a quality control system sanction for that fiscal year and it provides that the Secretary's determinations relating to whether and in what amount bonus payments are made are not subject to judicial review. (Section 433)

The Conference substitute adopts the Senate provisions with amendments. In general, the new system eliminates features of current law under which approximately half the states must be assessed sanctions each year, reconfigures the formula for determining sanction amounts, delays any sanctions until a state has shown a persistently high error rate, explicitly recognizes a policy for new investment in improved administration by states with high error rates, places some limits on the Secretary's ability to excuse payment of sanctions, and replaces the current system for rewarding states with very low error rates with a requirement to pay bonuses to states that exhibit exemplary administrative performance. The major features of the Conference substitute are as follows.

Threshold for potential sanctions: The threshold for sanctions is set at 105 percent of the national average, rather than the national average as under current law.

Calculation of state error rates: A state is not considered to be above the threshold unless there is a 95 percent statistical certainty that the state's error rate is truly above the threshold.

Sanction Notification and Method of Payment: When the Secretary determines that a state must pay a sanction, the state agency, the Governor, and the state legislature must be notified. The Chief Executive Officer of the state subject to a sanction must remit the amount of the sanction or the state's letter of credit will be reduced.

Corrective action plans: States with combined error rates of 6 percent or more are required to provide a corrective action plan to the Secretary.

Time period for sanctions: States will not have a sanction amount calculated until the second consecutive year in which their error rates exceed the threshold. If, in the following year, they still exceed the threshold, they will be required to pay an amount the Secretary has determined to be at risk.

State liability: States' potential liability amounts will equal dollar issuance multiplied by ten percent of the amount by which a state's error rate exceeds a six percent threshold. Under the Conference substitute, the Secretary has the authority to resolve the liability (calculated for the second consecutive year in which the state exceeds the threshold) in one of three ways: require the state to reinvest up to 50 percent of the liability; hold up to 50 percent of the liability ''at risk,'' to be paid as a sanction by the state the following year only if the state's error rate continues to exceed the threshold; or to waive any amount that is not reinvested or held at risk. If a state fails to reduce its error rate to below the threshold for a third consecutive year, it must pay its 'at-risk' amount to the federal government. The Secretary may settle amounts required to be reinvested.

Waivers, Adjustments and Appeals: The Secretary retains the authority to waive any amount of a state's potential liability and to make adjustments to claims against states. States continue to have the full right to appeal liability amounts.

Enhanced funding and bonus payments: Enhanced funding is eliminated for Fiscal Year 2003 and beyond and replaced by bonuses to states. The Secretary must issue regulations regarding the criteria for bonus awards for FY2005 and succeeding years. Performance criteria specified in legislation include those related to actions taken to correct errors; reduce rates of error; and improve eligibility determinations, including in the area of service delivery (such as timeliness and a low rate of improper denials). The Secretary is directed to solicit concrete ideas within these general areas from state agencies and organizations that represent state interests prior to issuing proposed regulations. For FY2003 and FY2004, the Secretary is provided the authority to issue guidance to the state regarding criteria for bonus awards.

Effective dates: The new policy is effective for error rates measured in FY 2003 and sanctions and enhanced funding laws and regulations are unchanged for FY2002 and prior years. (Sections 4118 and 4120)

(6) Simplified Application and Eligibility Determination Systems

The House bill requires the Secretary to spend up to $9.5 million to provide grants to states to develop and implement programs that improve the food stamp application and eligibility determination process. (Section 405)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to establish a program of grants to states and other eligible entities to simplify food stamp application and eligibility determination systems and to improve access to the food stamp program. The Secretary would be required to fund grants totaling up to $5 million per year for projects: to coordinate application and eligibility procedures; establish methods for applying and determining eligibility that use electronic alternatives; otherwise improve program administration; or improve access to the Program. Grants could not be made for on-going costs and

preference would be given to government/non-government partnerships.

In addition to the types of projects described in the amendment, the Managers believe that other types of projects may be permissible under this section. These projects include but are not limited to:

(a) establishing a single site at which individuals may apply for food stamp benefits, supplemental security income, Medicaid, states' children's health insurance program benefits, WIC benefits and benefits under other programs as determined by the Secretary;

(b) developing systems to enable increased participation in the provision of benefits under the food stamp program through farmers' markets, roadside stands, and other community-supported agriculture programs, including wireless electronic benefit transfer systems and other systems appropriate to open-air settings where farmers and other vendors sell directly to consumers;

(c) encouraging consumption of fruit and vegetables by developing a cost-effective system for providing discounts for purchases of fruit and vegetables made through use of electronic benefit transfer cards; or,

(d) reducing barriers to participation by individuals, with emphasis on working families, eligible immigrants, elderly individuals, and individuals with disabilities.

The Conference substitute repeals existing grant authority (Section 17(i)), dependent on appropriations, in the expectation that similar grants may be made under this new authority. (Section 4116)

(7) Authorization of Appropriations: Employment and Training Programs

The House bill reauthorizes the existing food stamp employment and training program through FY2011. It sets the annual amount of unmatched federal funds at the current FY2002 level of $165 million. It also preserves the current requirement to use at least 80 percent of unmatched federal funding for able-bodied adults without dependents (ABAWDs). (Section 406(a))

The Senate amendment extends the requirement for unmatched federal funding for employment and training programs through FY2006; and sets the basic amount of unmatched federal funding at $90 million a year for FY2002–FY2006.

In addition to the basic $90 million a year, the Senate amendment requires the Secretary to allocate up to $25 million a year for FY2002–FY2006 to reimburse states for services to able-bodied adults without dependents (ABAWDs). In order to be eligible for a share of this unmatched funding, a state must (1) exhaust its basic funding allocation and (2) make and comply with a commitment to offer an employment/training placement (''position'') to all applicant/recipient ABAWDs who are in the last month of their 6–month eligibility period under ABAWD work rules and not eligible for an exemption.

The Senate amendment rescinds any unmatched federal funding provided through FY2001 unless obligated by a state before enactment. However, the new $90 million basic grant money would remain available until expended, while the new $25 million ABAWD grant money would not. It also provides that the basic $90 million a year in unmatched federal funding be allocated among states according to a formula established and adjusted by the Secretary that takes into account their ABAWD populations; and eliminates the requirement to use at least 80 percent of unmatched federal funding for ABAWDs.

The Senate amendment eliminates the ''maintenance of effort'' requirement, whereby states must maintain expenditures on employment and training programs at a level not less than FY 1996 spending in order to receive a portion of their allocation of unmatched federal funding; and eliminates the authority for the Secretary to set reimbursement levels for each qualifying employment and training slot that a state offers or fills. (Section 434)

The Senate amendment eliminates the $25 per-month limit on the amount that states provide to participants in employment and training programs for transportation and other costs (other than dependent care costs) that are reasonably necessarily and directly related to their participation. (Section 169(c)(3)) It also eliminates the limit on federal matching payments for these costs. (Section 169(c)(4))

The Conference substitute adopts the Senate provision with technical changes, and amendments to: provide unmatched funding through FY2007, reduce the allocation from ''up to $25 million a year'' to ''up to $20 million a year'' to reimburse states for services provided only to ABAWDs, and eliminate the requirement that states must exhaust their basic funding allocation before being eligible for a share of this unmatched funding. (Section 4121)

(8) Authorization of Appropriations: Cost Allocation

The House bill extends the required reduction in federal matching payments to states for administrative costs through FY2011. (Section 406(b))

The Senate amendment extends the required reduction in federal matching payments to states for administrative costs through FY2006. (Section 435(a))

The Conference substitute adopts the House provision with an amendment to reauthorize the required reduction in federal matching payments to states for administrative costs through FY2007. (Section 4122)

(9) Authorization of Appropriations: Cash Payment Pilot Projects

The House bill extends the authority for cash payment projects through FY2011, if the state requests. (Section 406(c))

The Senate amendment extends authority for cash payment projects through FY2006, if the state requests. (Section 435(b))

The Conference substitute adopts the House provision with an amendment to extend the authority for cash payment projects through FY2007, if the state requests. (Section 4122)

(10) Authorization of Appropriations: Outreach Demonstration Projects

The House bill extends the authority for outreach demonstration projects through FY2011. (Section 406(d))

The Senate amendment extends the authority for outreach demonstration projects through FY2006. (Section 435(c))

The Conference substitute repeals the authority for outreach demonstration projects and replaces it with new grant authority found in Section 4116. (Section 4122)

(11) Authorization of Appropriations

The House bill extends the authorization of appropriations for the Food Stamp Act through FY2011. This includes the food stamp program as well as the Food Distribution Program on Indian Reservations. (Section 406(e))

The Senate amendment extends the authorization of appropriations for the Food Stamp Act through FY2006. This includes the food stamp program as well as the Food Distribution Program on Indian Reservations. (Section 435(d))

The Conference substitute adopts the House provision with an amendment to extend the authorization of appropriations for the Food Stamp Act through FY2007. This includes the food stamp program as well as the Food Distribution Program on Indian Reservations. (Section 4122)

(12) Puerto Rico and Territory of American Samoa

The House bill extends Puerto Rico's nutrition assistance block grant through FY2011, retaining annual indexing for food-price inflation using changes in the cost of the Thrifty Food Plan. It also authorizes the use of up to $6 million to pay for upgrading and modernizing electronic data processing systems and implementing systems to simplify eligibility determinations without regard to the regular 50 percent administrative cost matching requirement. (Section 406(f))

The House bill extends American Samoa's nutrition assistance grant through FY2011 and increases the size of the annual grant to $5.75 million in FY2002 and $5.8 million a year for FYs 2003–2011. (Section 406(g))

The Senate amendment consolidates funding for Puerto Rico's nutrition assistance block grant and American Samoa's nutrition assistance grant and establishes the consolidated ''mandatory'' grant through FY2006. The base consolidated grant amount would be $1.356 billion (FY2002), which would then be adjusted for food-price inflation using changes in the cost of the Thrifty Food Plan starting with FY2003. Under the terms of the consolidated grant, Puerto Rico would receive 99.6 percent of the annual total. Of the amount paid to Puerto Rico in FY2002, up to $6 million could be used to pay for upgrading and modernizing electronic data processing systems, implementing systems to simplify eligibility determinations, and operating electronic benefit transfer systems without regard to the regular 50 percent administrative cost matching requirement. Not later than 270 days after enactment, the Senate amendment requires the GAO to develop and submit a report to Congress that: describes the similarities and differences (in program administration, rules, benefits, and requirements) between the regular Food Stamp program and Puerto Rico's nutrition assistance program; specifies the costs and savings associated with each similarity and difference; and? states the recommendation of the GAO as to whether additional funding should be provided to carry out Puerto Rico's nutrition assistance program. Effective on the date of submission of the report, it authorizes additional appropriations for the new consolidated nutrition assistance block grant at a level of $50 million a year.

Under the terms of the consolidated grant, American Samoa would receive .4 percent of the annual total. (Section 439)

The Conference substitute adopts the Senate provision with a number of amendments: authorizing the consolidated grant through FY2007; deleting reference to the report and authorization for appropriations; increasing the base consolidated grant amount by (approximately $10 million per year for Puerto Rico) to $1.401 billion in FY2003; allowing carryover of up to two-percent of funds; allowing the one-time authority to use $6 million for upgrading and modernizing electronic data processing systems, implementing systems to simplify eligibility determinations, and operating electronic benefit transfer systems without regard to the regular 50 percent administrative cost matching requirement, in either FY2002, FY2003 or in both years. (Section 4124)

(13) Authorization of Appropriations: Assistance for Community Food Projects

The House bill extends the authority for community food project grants through FY2011 and increases the amount reserved to $7.5 million a year, beginning in FY2002. (Section 406)

The Senate amendment extends the authority for community food project grants

through FY2006; and maintains the amount reserved at $2.5 million a year. It also increases the federal share of projects' costs to 75 percent.

The Senate amendment broadens the list of projects that must be given preference by: modifying the 4th preference category to projects that encourage long-term planning activities and multi-system, interagency approaches with multi-stakeholder collaborations, that build the long-term capacity of communities to address their food and agriculture problems (such as food policy councils and food planning associations); and adding a 5th preference category of projects that meet (through grants not exceeding $25,000 each) specific neighborhood, local, or state food and agriculture needs including: needs for infrastructure improvement and development (purchase of equipment for production, handling, or marketing of locally produced food), needs for planning for long-term solutions, or needs for the creation of innovative marketing activities that mutually benefit farmers and low-income consumers. (Section 440)

The Conference substitute adopts the House provision with amendments to increase funding for the projects to $5 million per year, extend the authority for community food project grants through FY2007, and add additional language describing other purposes for community food projects which must meet specific state, local, or neighborhood food and agriculture needs, including needs for infrastructure improvement and development; planning for long-term solutions; or, the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.

The Conference substitute includes language from former Senate section 443 (''Innovative Programs for Addressing Common Community Problems'') as a new subsection (h) and provides funding for additional years such that not later than 90 days after enactment, and on October 1 of each of fiscal years 2003 through 2007, the Secretary must allocate $200,000 out of the funds made available under this section, to implement subsection (h), and to remain available until expended. The Conference language permits the Secretary in selecting a non-governmental organization (NGO) to carry out this provision to either contract with that NGO or provide a grant to that NGO indicating the responsibilities to be completed for the $200,000. (Section 4125)

As was the case with the Senate amendment, the Managers intend that the NGO selected by the Secretary to carry out this subsection shall: be experienced in gathering relevant information about successful innovative programs; be experienced in working with other targeted entities (NGOs, federal agencies, states, and political subdivisions) and be experienced in providing information about such innovative programs; and be experienced in operating a national information clearinghouse. In addition, the Managers intend that the NGO selected under subsection (h) shall contribute in-kind resources toward implementation of any contract or grant and should be prepared to coordinate with targeted entities and with the Community Food Security Coalition.

(14) Authorization of Appropriations: Availability of Commodities for Emergency Food Assistance Programs

The House bill extends the requirement to purchase commodities for The Emergency Food Assistance Program (TEFAP) through FY2011 and increases to $140 million a year through FY2011 the amount of commodities the Secretary must purchase for TEFAP. Beginning in FY2002, the House bill requires the Secretary to use $10 million a year of the TEFAP funds to pay for direct and indirect costs related to processing, storing, transporting, and distributing commodities, including gleaned commodities. (Section 406(i))

The Senate amendment extends the requirement to purchase commodities for TEFAP through FY2006 and increases the amount reserved for TEFAP to $110 million a year for FY2002–2006. The provision setting aside $10 million a year is the same as the House bill, but through FY2006. (Section 441)

The Conference substitute adopts the House funding level of $140 million a year with an amendment extending the purchasing requirement through FY2007, eliminating the $10 million a year set-aside, and increasing the authorization of appropriations from $50 million to $60 million a year for direct and indirect costs related to processing, storing, transporting, and distributing commodities, including gleaned commodities. (Section 4126)

SUBTITLE B—COMMODITY DISTRIBUTION

(15) Distribution of Surplus Commodities to Special Nutrition Projects

The House bill extends this requirement through FY2011. (Section 441)

The Senate amendment reauthorizes the commodity distribution program through FY2006. (Section 451(c))

The Conference substitute adopts the Senate provision with an amendment to reauthorize the program through FY2007. (Section 4203)

(16) Commodity Supplemental Food Program

The House bill reauthorizes the commodity supplemental food program through FY2011. (Section 442)

The Senate amendment reauthorizes the commodity supplemental food program through FY2006. (Section 451(a))

The Senate amendment also replaces the current rule limiting administrative payments to 20 percent of the Commodity Supplemental Food Program (CSFP) appropriation with a requirement for ''grants per caseload slot.'' The amendment requires the Secretary to provide each state CSFP agency (from discretionary funds for the current year or carried over) an administrative grant per assigned caseload slot, as follows: for FY2003, the grant would be $50 per assigned caseload slot adjusted for the percentage change in the state and local government price index of the Bureau of Economic Analysis between the 12–month period ending June 30, 2001, and the 12–month period ending June 30, 2002. For later years, the per-slot grant would be adjusted in the same manner. (Section 451(b))

The Conference substitute adopts the Senate provision with amendments reauthorizing the program through FY2007; requiring the Secretary to use the FY2001 fiscal year grant-per-assigned slot as the baseline from which the administrative cost grant per assigned caseload slot is calculated, rather than using $50 as the base; requiring the Secretary to spend the amount necessary to permit all states that began to participate in the Commodity Supplemental Food Program in the FY2000 caseload cycle to participate at a caseload level not less than their originally assigned caseload through the FY2002 caseload cycle , as determined by the Secretary. Funding from the Commodity Credit Corporation (CCC) is provided to permit the Secretary to alleviate an unusual situation that has arisen in two states that have recently implemented the CSFP. This is a one-time emergency use of CCC funds and is not intended as a precedent for drawing on the CCC to supplement appropriations for the CSFP. (Section 4201)

(17) Emergency Food Assistance

The House bill reauthorizes TEFAP administrative cost appropriations through FY2011 and revises the definition of costs to be covered to include the costs to the states related to the processing, storage, transporting, and distributing commodities. (Section 443)

The Senate amendment reauthorizes TEFAP administrative cost appropriations through FY2006 and revises the definition of costs to be covered to include the costs to the states related to the processing, storage, transporting, and distributing commodities. (Section 451(d))

The Conference substitute adopts the House provision with an amendment to reauthorize TEFAP administrative costs through FY2007. (Section 4204)

SUBTITLE C—MISCELLANEOUS PROVISIONS

(18) Hunger Fellowship Program

The House bill establishes an independent agency of the Legislative Branch of the U.S. government, the Congressional Hunger Fellows Program. (Section 461)

The Senate amendment establishes a Congressional Hunger Fellowship. This formalizes an internship program already being carried out by the Congressional Hunger Center and funded under annual appropriations bills. (Section 462)

The Conference substitute adopts the House provision but deletes a reference to ''a commitment to social change'' as a required attribute for fellows. In addition, it directs the program to make available to the General Accounting Office the salaries of the Executive Director and personnel, in addition to the other materials already included, to carry out audits. (Section 4404)

(19) General Effective Date

The House bill designates that the amendments made by this title shall take effect on October 1, 2002, unless otherwise specified. (Section 462)

The Senate amendment designates that the amendments made by this title shall take effect on September 1, 2002, except that a state agency may elect to implement any or all of the amendments on October 1, 2002. (Section 464)

The Conference substitute adopts the House provision. (Section 4405)

(20) Payment limitations; Nutrition and Commodity Programs

The Senate amendment increases the cap on the amount that may be claimed as an excess shelter expense deduction. For FY2003, the cap would be $390 a month for the 48 states and the District of Columbia, $624 for Alaska, $526 for Hawaii, $458 for Guam, and $307 for the Virgin Islands. For FY2004–FY2009, amounts would be annually adjusted for changes in the Consumer Price Index for All Urban Consumers (CPI–U). Effective, FY2010, the cap is eliminated. (Section 169(c)(2))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(21) Encouragement of Payment of Child Support

The Senate amendment permits states to (1) exclude completely from a household's counted income any legally obligated child support payments made by a household member (before calculating any deductions) or (2) continue to deduct them in the calculation of net income (as under current law). Regardless of a state's exclusion or deduction choice, the Senate amendment requires the Secretary to establish simplified procedures that allow a state option to determine the amount of child support paid. These must include procedures that permit states to rely on information from state child support enforcement agencies about

payments made in prior months in lieu of obtaining current information from the household. The amendment also allows states to freeze the amount of any child support payment exclusion or deduction until the eligibility of the household is re-determined. (Section 411)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment and an amendment that deletes the state option to freeze the amount of child support payment exclusion or deduction. In addition, states are allowed to rely on information from child support enforcement agencies about payments made in prior months. (Section 4101)

(22) Simplified Determination of Housing Costs

The Senate amendment mandates that states treat any required payment to a landlord as a housing or shelter cost when determining a household's shelter expenses for application of the excess shelter expense deduction. The payments are included without regard to the specific charges they cover. It also permits states to allow homeless households not receiving free shelter throughout the month to choose a standard shelter deduction from income (set by law at $143 a month) in lieu of any excess shelter expense deduction. Sates could deny this deduction to households with extremely low shelter costs. Homeless households would continue to be permitted to choose the regular excess shelter expense deduction that is based on actual shelter costs. (Section 414)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that strikes the section mandating that states treat any required payment to a landlord as a housing or shelter cost when determining a household's shelter expenses for application of the excess shelter expense deduction. It does, however, permit states to allow homeless households not receiving free shelter throughout the month to receive a standard deduction from income in lieu of any excess shelter expense deduction.

The Conference substitute deletes the Senate provision that allows all required payments to landlords to count as eligible shelter costs for the purpose of calculating a food stamp excess shelter expense deduction. The Secretary should review current rules governing allowable shelter costs and their implementation and identify any means, within existing authority, to modify or communicate these rules in a manner that makes the determination of eligible shelter costs less complicated and error prone for food stamp participants and eligibility workers. (Section 4105)

(23) Simplified Utility Allowances

The Senate amendment allows states choosing to make standard utility allowances (SUAs) mandatory to do so without regard to the current metered public housing and prorating rules. SUAs could be used in lieu of actual costs for all households incurring a heating or cooling expense and covered by a mandatory SUA without having to determine their utility metering status or prorated expenses. (Section 415)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4104)

(24) Simplified Procedure for Determination of Earned Income

The Senate amendment allows states to elect to determine monthly-earned income by multiplying weekly income by 4 and biweekly income by 2. The amendment requires states making this election to adjust the earned income deduction (normally 20 percent of earnings) downward for all households with earnings to the extent necessary to prevent the election from resulting in increased benefit costs consistent with standards promulgated by the Secretary. (Section 416)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(25) Simplified Determination of Deductions

The Senate amendment establishes a state option to disregard most types of changes in household circumstances that affect the amount of those deductions until the next determination of eligibility. The amendment makes clear that states are not permitted to disregard (1) any reported change in residence or (2) under standards prescribed by the Secretary, any change in earned income. (Section 417)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. States will be able to disregard changes in: household size; the costs for dependent care; the amount of child support payments; medical expenses for elderly or disabled individuals; and shelter costs, unless they were the result of a move. (Section 4106)

(26) Simplified Definition of Resources

The Senate amendment requires the Secretary to promulgate regulations under which a state may exclude any types of financial resources that it does not consider when determining eligibility for cash assistance under its TANF program, or medical assistance under its Medicaid program. This authority would not allow the exclusion of cash, vehicles (except to the extent states already are allowed to use their TANF standard to exclude vehicles), and readily available amounts in any account in a financial institution, or any similar type of resource the Secretary judges essential to equitable determinations of eligibility. The intent of this provision is to align with, to the extent possible, Medicaid and TANF rules. The Secretary will only count types of resources that are required by law or judged to be absolutely essential to equitable determinations of eligibility in the food stamp program. (Section 418)

The Senate amendment also adds households with disabled members to those covered by the current $3,000 liquid asset limit applied to the elderly. (Section 171(c)(1))

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions. (Section 4107)

(27) Alternative Issuance Systems in Disasters

The Senate amendment allows the Secretary to adjust issuance systems in disaster situations to take into account any conditions that make reliance on EBT systems impracticable, effectively permitting the issuance of cash or other forms of benefits. (Section 419)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4108)

The Managers expect the authority provided in this section for alternative issuances in disaster programs will only be used in the most extreme circumstances, after the Secretary, working with the state, has exhausted all other means of benefit delivery and determined that electronic systems cannot be restored in a timely fashion and that the use of food coupons is impractical.

(28) State Option to Reduce Reporting Requirements

The Senate amendment allows states to establish semi-annual reporting requirements for any household, independent of the presence of earners or other characteristics. However, households required to report less often than once each 3 months are required to report, in a manner prescribed by the Secretary, if their income exceeds the food stamp gross income eligibility limit (130 percent of the federal poverty income guidelines). (Section 420)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4109)

(29) Benefits for Adults Without Dependents

The Senate amendment changes the ''3-months-out-of-36 months'' rule to make able-bodied adults without dependents (ABAWDs) ineligible if, during the preceding 24 months they received benefits for 6 months while not meeting work-related requirements. ABAWDS ineligible under this new ''6-months-out-of-24-months'' rule may become eligible during any period in which they work 20+ hours a week, participate in a work program 20+ hours a week, or participate in a workfare program. In implementing the new ''6-months-out-of-24-months'' rule, states are required to disregard any period before enactment during which an individual received food stamps.

The Senate amendment changes the definition of a qualifying work program to include job search or job search training programs if (1) they meet standards set by the Secretary to ensure that participants are continuously and actively seeking private-sector employment and (2) no position is available for the participant in another employment or training program. (Section 421)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(30) Preservation of Access to Electronic Benefits

The Senate amendment requires that no benefits provided through EBT systems be taken ''off-line'' (or otherwise made inaccessible) because of inactivity until at least 180 days have elapsed since the recipient household last accessed the account. Where benefits are taken off-line or made inaccessible, it requires that the household be sent a notice that explains how to reactivate benefits and offers assistance if the household is having difficulty doing so. These requirements apply to states as they enter into EBT contracts. (Section 422)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(31) Cost Neutrality for Electronic Benefit Transfer Systems

The Senate amendment eliminates the current requirement that EBT systems not cost the federal government more than the prior paper issuance systems. (Section 423)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4110)

The Managers encourage the Department to continue its cost containment and competition efforts and its efforts to work with the states on this issue. Information about these efforts will be provided in the report detailed in Section 4110.

(32) Alternative Procedures for Residents of Certain Groups' Facilities

The Senate amendment provides a state option that allows the provision of an inflation-adjusted standardized monthly benefit

to residents of group homes, rather than going through the individualized benefit calculation for each resident. The group homes that are eligible include those for the disabled; shelters for battered women/children or the homeless, and substance abuse treatment centers. Recipients' benefits are calculated according to standardized procedures established by the Secretary and take into account benefits typically received by recipients in these group living facilities.

States shall issue benefits to the facility (as an authorized representative), and the Secretary shall establish procedures to ensure that the facility does not receive a greater proportion of a recipient's monthly benefits than the proportion of the month during which the recipient lived there.

Group living facilities are required to (1) notify the state when a recipient departs and (2) notify the recipient that the recipient is eligible for continued benefits and should contact the state about continuation of benefits.

On receiving notification that a recipient has departed a group living facility, the state is required to issue the recipient a benefit allotment covering the remainder of the month (calculated in a manner prescribed by the Secretary) unless the recipient re-applies for food stamps or the state cannot locate the recipient. The state also is permitted to issue a benefit allotment for the month following departure calculated under the standardized procedures used to set the amount received while the departed recipient lived in the group living facility. Recipients who have left group facilities and re-apply for food stamps will have their benefits determined under regular food stamp rules. (Section 424)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to convert this provision to a pilot program that tests, at the request of a state agency or state agencies, the feasibility of the alternative procedures for determining allotments for residents of groups living in certain group facilities. If an insufficient number of pilot projects are proposed by state agencies or the Secretary concludes that this is not in the best interest of the food stamp program, the Secretary must inform the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, and will not implement this provision nationwide. (Section 4112)

(33) Redemption of Benefits Through Group Living Arrangements

The Senate amendment allows the Secretary to authorize group living facilities to redeem food stamp benefits through direct use of EBT cards, if they are equipped with ''point-of-sale'' devices. This provision allows authorized group living facilities to continue a practice they have been carrying out using waiver authority. (Section 425)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4113)

(34) Availability of Food Stamp Program Applications on the Internet

The Senate amendment requires states to make food stamp applications available on their agencies' Internet websites in each language in which printed applications available. (Section 426)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the effective date for this provision to 18 months after enactment of this Act. Section 504 of the Rehabilitation Act requires state agencies to make their web sites accessible to people with disabilities. The requirement includes ensuring that documents are in a format in which browsers for the visually impaired can read them, and that they can be converted to Braille documents; that graphic elements that convey meaning have text explanations available; and that English language text is also available in other languages, as appropriate. Many states have already adopted standards that comply with this requirement. States should, therefore, not incur additional costs to put their food stamp application forms on their web sites. (Section 4114)

(36) Simplified Determinations of Continuing Eligibility

The Senate amendment provides for procedures for re-determining recipient households' continuing eligibility that are consistent with re-determination procedures in other programs serving low-income families. It replaces assigned certification periods and the rules governing recertification with new ''eligibility review periods'' under which states periodically review the eligibility status of recipient households. Eligibility review periods are up to 12 months (or 24 months if all adult household members are elderly or disabled), and states are required to have at least 1 contact with each household every 12 months. Eligibility review periods are not necessarily assigned to each household when their eligibility is established. Instead, states are mandated to periodically require each household to cooperate in a re-determination of eligibility. Each re-determination is based on information supplied by the household and has to conform to standards established by the Secretary, and the interval between redeterminations cannot exceed 12 or 24 months. Where households are found ineligible (or eligible for a reduced amount) in their re-determination, they can continue to receive benefits until the conclusion of any fair hearing process. (Section 427)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(37) Clearinghouse for Successful Nutrition Education Efforts

The Senate amendment requires the Secretary to (1) ask states for descriptions of successful nutrition education programs for the food stamp and other nutrition assistance programs, (2) make them available on the Agriculture Department's website, and (3) inform states of their availability on the website. (Section 428)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. In March 2002, the U.S. Department of Agriculture unveiled a Website that features a clearinghouse for nutrition education efforts described in the Senate amendment.

(38) Delivery to Retailers of Notices of Adverse Action

The Senate amendment permits notices of adverse action against retailers to be delivered by any form of delivery that the Secretary determines will provide evidence of delivery. (Section 430)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4117)

(39) Improvement of Calculation of State Performance Measures

The Senate amendment changes the deadline for completion of error-rate determinations and arbitration of state-federal differences to May 31st; it also changes the deadline for the determination of final error rates and claims against states to June 30th. (Section 432)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4119)

(40) Coordination of Program Information Efforts

The Senate amendment permits states to use Temporary Assistance for Needy Families (TANF) funds to conduct food stamp information informational activities. (Section 436)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers understand that, to further the purposes of TANF, it is current policy to allow states to use TANF (and ''maintenance of effort'') funds for food stamp informational activities directed to families, long as they do not also charge these same costs to the food stamp program. The Managers expect the Secretary and the Secretary of Health and Human Services to issue guidance that clearly informs states of this policy.

(41) Expanded Grant Authority

The Senate amendment extends the Secretary's waiver authority to cover any and all contracts and grants authorized under this section. (Section 437)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4123)

(42) Access and Outreach Pilot Programs

The Senate amendment requires the Secretary to make grants to states and other entities to pay the federal share (75 percent) of the cost of projects to improve access to food stamp benefits or outreach to eligible individuals. It authorizes appropriations totaling $3 million for FY2003–FY2005 for pilot programs and requires the Secretary to evaluate funded projects, but limits spending on evaluations to no more than 10 percent of funds made available. Criteria for selecting grantees are to be developed by the Secretary and include a record of serving low-income individuals, ability to reach hard-to-serve populations, innovative proposals in the application, and the development of public-private partnerships and community linkages. Preference is required for project partnerships between states and private/public entities (e.g., food banks, community-based organizations, public schools and health clinics, nonprofit health or welfare agencies). At least 1 grantee has to be selected from each Food and Nutrition Service (FNS) region and additional rural or urban areas chosen by the Secretary. The Secretary is not required to select grantees where an insufficient number of applications have been received. (Section 438)

The House bill contains no comparable provision.

The Conference substitute combines Section 405 of the House Bill with Section 438 of the Senate amendment, as described in Section 4116: ''Grants for simple application and eligibility determination systems and improved access to benefits.''

(43) Use of Approved Food Safety Technology

The Senate amendment bars the Secretary from prohibiting the use of ''any technology that has been approved by the Secretary or the Secretary of Health and Human Services'' in acquiring commodities for distribution through TEFAP, the Food Distribution Program on Indian Reservations (FDPIR), the Commodity Supplemental Food Program (CSFP), and programs under the Richard B.

Russell National School Lunch Act and the Child Nutrition Act. This bar is effective on enactment. (Section 442)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment that clarifies that the Secretary cannot prohibit the use of any technology to improve food safety that has been approved or is otherwise allowed by the Secretary or the Secretary of Health and Human Services. In implementing this provision, the Secretary is not expected to set aside established, well-founded procurement practices. (Section 4201)

The Managers expect the Secretary to continue to make commodity purchases, taking into consideration the acceptability by recipients of products purchased and considering the relative costs of products available for purchase.

(44) Innovative Programs Addressing Common Community Problems

The Senate amendment requires the Secretary to offer a contract to a non-governmental organization to coordinate with federal agencies, states, political subdivisions, and nongovernmental organizations (''targeted entities'') to develop, and recommend to the targeted entities, innovative programs for addressing ''common community problems'' including loss of farms, rural poverty, welfare dependency, hunger, the need for job training, juvenile crime prevention, and individuals' and communities' need for self-sufficiency. The organization must be selected competitively and must (1) be experienced in working with targeted entities and organizing workshops that demonstrate programs to targeted entities, (2) be experienced in identifying programs that effectively address ''common community problems,'' (3) agree to contribute in-kind resources and provide targeted entities information free of charge, (4) be experienced in and capable of receiving information from (and communicating with) targeted entities throughout the U.S., and (5) be experienced in operating a national information clearinghouse that addresses ''common community problems.'' It also makes available to the Secretary mandatory funding totaling $400,000 to carry out the contract in two installments effective on enactment.

This Senate provision was based in part on a project (called ''Reinvesting in America'') in which a non-profit group headquartered in New York, called World Hunger Year, gathered information about successful innovative local programs and then advised other NGOs, communities, or city, state or federal agencies (targeted entities) about these successful projects and about how to replicate them. This turned out to be a very efficient approach because other communities or agencies would be aware of the lessons learned by the community that originated the idea. World Hunger Year held ''replication workshops'' in which they advised these targeted entities about how to replicate those successful programs in other areas. World Hunger Year officials also provided information about some of these programs to the Community Food Security Coalition and to federal Departments. (Section 443)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Conference substitute includes a variation of this provision in House Section 440, as described in Section 4125.

(45) Report on Use of Electronic Benefit Transfer Systems

The Senate amendment requires the Secretary to submit a report to Congress on (1) difficulties relating to use of EBT systems, (2) the extent of fraud and the types of fraud that exist, and (3) the efforts being made by the Secretary, retailers, EBT contractors, and states to address difficulties and fraud in EBT systems. The report is due no later than one year after enactment. (Section 444)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that changes the elements to be included in the report. The report will include: a description of the status of statewide EBT implementation in the food stamp program; an indication of the number of vendors that currently hold an EBT-related contract with the states; information on the number of states that are working with multiple vendors and a description of how responsibilities are divided among the various vendors and other organizations within a given state; an explanation of the reasons any state is not operational statewide by October 1, 2002, how these issues are being addressed, and the expected date for statewide EBT operations; a description of the issues faced by any states that have awarded a second EBT contract in the last two years and the steps taken to resolve them; a description of the issues faced by any states that will award a second EBT contract within the next two years and strategies they are considering to address these issues; initiatives being considered or taken by USDA, food retailers, EBT vendors, and client advocates to address any outstanding issues with respect to EBT systems; and an examination of areas of potential advances in electronic benefit delivery in the next 5–10 years including but not limited to access to electronic benefits in farmers' markets, increased use of EBT transaction data to identify and prosecute fraud, and the fostering of increased EBT vendor competition to ensure cost-containment and optimal service. (Section 4111)

(46) Vitamin and Mineral Supplements

The Senate amendment adds dietary supplements that ''provide exclusively 1 or more vitamins or minerals'' to the food items that may be purchased with food stamp benefits.

Not later than April 1, 2003, the amendment requires the Secretary to contract with a scientific research organization to study and develop a report on technical issues, economic impacts, and health effects associated with allowing individuals to use food stamp benefits to purchase dietary vitamin-mineral supplements. The report is to be submitted to the Secretary no later than 2 years after the contract is entered into. The Senate amendment authorizes $3 million for the report. At a minimum, the report is to examine: the extent to which problems arise in the purchase of vitamin-mineral supplements with EBT cards; the extent of any difficulties in distinguishing vitamin-mineral supplements from herbal and botanical supplements (for which food stamp benefits may not be used); whether recipients spend more on vitamin-mineral supplements than non-recipients; the extent to which vitamin-mineral supplements are substituted for other foods purchased with food stamp benefits; the proportion of the average food stamp allotment that is being used to purchase vitamin-mineral supplements; and the extent to which the quality of recipients' diets has changed as the result of allowing them to use food stamp benefits to purchase vitamin-mineral supplements. (Section 445)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(47) Partial Restoration of Benefits to Legal Immigrants

The Senate amendment makes legal permanent residents under age 18 eligible for food stamps without regard to date of entry. It also exempts them from requirements that their sponsors' financial resources be deemed to them in determining food stamp eligibility. The Senate amendment also reduces the work history requirement for legal permanent residents' eligibility for food stamps to 16 quarters (4 years); removes the 7–year limit on eligibility for refuges and people seeking asylum, Cuban/Haitian entrants, certain aliens whose deportation is being withheld for humanitarian reasons, and Vietnam-born Americans fathered by U.S. citizens; and makes eligible legal permanent residents receiving government disability benefits regardless of date of entry so long as they meet any non citizen test applied by the program under which they receive benefits. (Section 452)

Effective April 1, 2003, the Senate amendment makes eligible individuals who have continuously resided in the U.S. as ''qualified aliens'' for a period of 5 years or more beginning on the date on which the qualified alien entered the U.S. However, eligibility based on this new 5–year residence rule would not apply in the case of an alien who enters the country illegally and remains illegally for a period of one year or more (or has been an ''illegal alien'' for one year or more) unless the alien has continuously resided in the U.S. for a period of 5 years or more as of the ''date of enactment.'' (Section 170(b) and (c))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that eliminates the provision that restricts application of the new 5–year residence rule by denying it to aliens who enter the country illegally and remain illegally for a period of one year or more. The substitute also eliminates the provision that changes the work history requirement provision for legal permanent residents' from 40 quarters (in current law) to 16 quarters and the removal of the 7–year limit on the length of time that refugees and people seeking asylum may participate in the program. The Managers note that application of the new 5–year residence rule to refugees and asylees has the same effect as lifting the 7–year limit. (Section 4401)

(48) Commodities for School Lunch Programs

The Senate amendment extends, until FY2004, provisions of current law that remove a mandate that any ''bonus'' commodities acquired for agricultural support purposes and donated to schools be counted toward a minimum requirement that 12 percent of all school lunch assistance be in the form of commodities. The provision, therefore, mandates that only entitlement commodities count toward the 12 percent requirement through FY2003. (Section 453)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision. (Section 4301)

(49) Eligibility for Free and Reduced-Price School Meals: Military Housing

Effective on enactment and through FY2003, the Senate amendment requires that, in cases where military personnel live in ''privatized'' housing, their housing allowance not be counted as income in determining eligibility for free and reduced-price school meals. (Section 454)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4302)

(50) Eligibility for Assistance Under the Special Supplemental Nutrition Program From Women, Infants, and Children

Effective on enactment, the Senate amendment adds an option for states to exclude

any housing allowance in cases in which military personnel live in ''privatized'' housing whether on base or off base. (Section 455)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4306)

(51) Report on Conversion of the WIC Program Into an Individual Entitlement Program

The Senate amendment requires, no later than December 31, 2002, a report from the Secretary to the House Committee on Education and the Workforce and the Senate Committee on Agriculture, Nutrition, and Forestry that analyzes the conversion of the WIC program from a discretionary program into an individual entitlement program. It also requires the Secretary to use funds made available to carry out the WIC program to fund the cost of the report. (Section 456)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

The Managers expect that, in preparation for child nutrition programs' reauthorization in FY2003, the Department will work with the Congressional Budget Office, the Office of Management and Budget and others to review the current WIC funding approach and alternative approaches to ensure an appropriate level of funding is available throughout the fiscal year. Also in preparation for this legislation, the Managers encourage the continued development, refinement, and testing of a national standard for WIC electronic benefit transfer (EBT) transactions. The Managers encourage the completion of work on a national standard for WIC EBT transactions prior to WIC reauthorization.

In addition, the Managers understand that several states differentiate between 100 percent fruit juice and blended 100 percent fruit juices in formulating an approved WIC list. The Managers are aware that a number of factors are considered by a state when selecting products for its approved WIC list. The Managers encourage states not to limit the availability of eligible food choices of WIC participants, and strongly urge states to evaluate objectively the merits of WIC-eligible food products. The Managers encourage the Department to provide guidance to the states, making them aware that blended 100 percent fruit juices are permissible WIC products.

(52) Use of Commodities for Domestic Feeding Programs

The Senate amendment provides that, notwithstanding any provision of law concerning commodity donations, any commodities acquired in the conduct of CCC operations and any ''Section 32'' commodities may be used for any domestic feeding program involving acquisition and use of commodities. This authority applies to the extent that the commodities involved are in excess of quantities needed to carry out other obligations (including quantities otherwise reserved for a specific purpose). The domestic feeding programs covered by this authority include TEFAP, and programs authorized under the Richard B. Russell National School Lunch Act, the Child Nutrition Act, the Older Americans Act, or other laws the Secretary determines appropriate. (Section 457)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4202)

The Managers recognize that, under current law, the source of funding for the purchase of a particular commodity can limit the eligible recipient programs. As a result, distribution of commodities to the Department's School Nutrition Programs and other domestic programs has sometimes been difficult or prevented entirely. The limitation in the current law has stymied the two-fold purposes of commodity purchases—to support American agriculture and to provide nutritious foods through our domestic feeding programs. For purposes of this distribution authority, the Managers consider eligible excess commodities to be those that are purchased by the Commodity Credit Corporation or by the Secretary and remain available after all other authorized distributions, including distribution of specific quantities reserved for specific purposes, have been satisfied. This section allows more efficient, expeditious and direct distribution of excess commodities by expanding the Secretary's existing distribution authorities.

(53) Purchase of Locally Produced Foods

The Senate amendment requires the Secretary to: encourage institutions participating in the School Lunch and Breakfast programs to purchase locally produced foods, to the maximum extent practicable and appropriate and in addition to other food purchases; advise these institutions of the locally produced food policy; and provide start-up grants to up to 200 institutions to defray initial costs of equipment, materials, storage facilities, and similar costs incurred in carrying out the locally produced food policy. Also it authorizes appropriations of $400,000 a year for FY2002–FY2006. (Section 458)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The intent of the Managers is to authorize the Secretary to award modest start-up grants for equipment, materials and similar costs associated with purchasing locally produced foods. It is not the intent to create a geographical preference for purchases of locally produced foods or purchases made with grant funds. All purchases are to be made competitively, consistent with federal procurement laws and regulations.

The Conference substitute also includes an amendment that treats Puerto Rico in the same way as Hawaii is treated under the Buy America provision in the National School Lunch Act. It extends, to the extent practicable, an advantage of domestic grown or produced products over foreign products, to Puerto Rico for purposes of the School Lunch Program. The Buy America provision originally applied only to the 48 contiguous states with the later addition of Hawaii.

The Managers want to make clear that school food authorities are still required to follow federal procurement rules calling for free and open competition and limit local product purchases to those that are practicable. Furthermore, while products from Puerto Rico will have an advantage over foreign products, this provision will not give an advantage to products produced or grown in one of the 48 contiguous states or Hawaii. (Section 4303)

(54) WIC Farmers' Market Nutrition Program

The Senate amendment makes available an additional $15 million in mandatory funding for the WIC farmers' market nutrition program no later than 30 days after enactment. (Section 460)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that funding for the program is made available out of the Commodity Credit Corporation. This emergency allocation of CCC funding to the WIC farmers' market nutrition program is made to meet a one-time shortfall and is not intended to set a precedent for the use of CCC resources to support the WIC farmers' market nutrition program. (Section 4307)

(55) Fruit and Vegetable Pilot Program

The Senate amendment requires the Secretary to use ''Section 32'' funds to conduct a pilot program to make free fruits and vegetables available to students in 25 schools in each of four states and students in schools on one Indian reservation, in the 2002–2003 school year. It also requires an evaluation of the pilot to determine whether students take advantage, whether interest increased or lessened over time, and what effect the pilot has on vending machine sales and sales of school meals. The Secretary is required to use $200,000 in ''Section 32'' funds to carry out the evaluation. The evaluation is to be conducted through the Economic Research Service and submitted to the House Committee on Education and the Workforce and the Senate Committee on Agriculture, Nutrition, and Forestry not later than one year after implementation of the pilot program. (Section 461)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments: The pilot will begin in July 2002 and last one year; free fresh and dried fruits and fresh vegetables will be made available throughout the school day in one or more areas designated by the school; not later than one year after the implementation of the pilot program, the Secretary (acting through the Economic Research Service) shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the results of the pilot program; $6 million of Section 32 funds shall be made available to carry out this pilot program. (Section 4305)

The Managers agree that the intent of the pilot program is to determine the feasibility of carrying out such a program and its success as determined by the students' interest in participating in the program. The Managers encourage USDA to work with the schools to collect information on the types of schools that ultimately participate in the program, how schools choose to implement the program (including information on whether or not they incorporate nutrition education), and reasons for different implementation approaches. The Department is encouraged to find out from the schools about lessons learned and whether or not (and why) they are interested in continuing to participate in a similar program. To the extent practical, the Department is also asked to find out from teachers and/or students about students' attitudes and actual behavior over the course of time. The Managers recommend the selection of the following four states to participate in the pilot: Indiana, Iowa, Michigan, and Ohio. The Secretary will select the Indian reservation and the schools within each of the states that will participate in the pilot project.

(56) Nutrition Information and Awareness Pilot Program

The Senate amendment authorizes the Secretary to establish—in not more than 15 states—a pilot program to increase domestic consumption of fresh fruits and vegetables and convey related health messages. It authorizes appropriations of $25 million a year for FY2002–FY2006. The federal share of project costs is 50 percent and funds are not available to any foreign for-profit corporation. Where practicable, the amendment requires the Secretary to: establish the program in states where production of fresh fruits and vegetables is a significant industry; and base the program on ''strategic initiatives,'' including health promotion and

education interventions, public service and paid marketing activities, and health promotion and social marketing campaigns. In selecting states, the Senate amendment requires the Secretary to take into account the state's experience in: carrying out similar activities and its ability to be innovative, conduct marketing campaigns to promote produce consumption, track increases in levels of produce consumption, and to optimize the availability of produce. (Section 463)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments: establishing in not more than 5 states, and for a period not to exceed 4 years for each participating state, a pilot program for the purpose of increasing the domestic consumption of fresh fruits and vegetables and conveying related health promotion messages; funds may not be used to disparage any other agricultural commodities and funds made available to states under this program may not be provided by a state to any foreign for-profit corporation; regarding the Secretary selecting states to participate in the program, the funds may be used to enhance existing state programs that are consistent with the purposes of this section, and the Secretary shall take into consideration states' experience in carrying out similar projects or activities, innovative approaches, and the ability of the state to promote and track increases in levels of produce consumption; participating states shall establish eligibility criteria under which the states may select public and private sector entities to carry out demonstration projects under this program ; authorizing to be appropriated $10 million per fiscal year 2002 through 2007 to carry out this section. (Section 4403)

TITLE V—CREDIT

1(1) Eligibility of Limited Liability Companies for Farm Ownership Loans, Farm Operating Loans, and Emergency Loans

The House bill includes limited liability companies as entities eligible for USDA farmer loan programs. (Sec. 501)

The Senate amendment is identical to the House provision. (Sec. 521)

The Conference substitute adopts the House provision and also includes trusts as eligible entities. (Sec. 532)

(2) Suspension of Effectiveness of Certain Provision

The House bill provides that Sec. 319(b) of the Consolidated Farm and Rural Development Act (ConAct) limiting loan eligibility of borrowers with Farm Service Agency loan guarantees will have no effect through December 31, 2006. (Section 501)

The Senate amendment amends Sec. 311(c) of the ConAct by adding new provisions—(1) to require the Secretary to waive the direct OL loan eligibility limitations to a farmer or rancher who is a member of an Indian tribe and whose operation is within an Indian reservation; and (2) to authorize the Secretary, on a case-by-case basis, to grant a waiver for a direct OL loan to a borrower one time for a period of two years if the borrower demonstrates, a) he has a viable farm or ranch operation; b) he has applied for commercial credit from two commercial lenders; c) he was unable to obtain a commercial loan, including a loan guarantee; and d) he has completed successfully or will complete within one year a borrower's training course required under Sec. 359 of the ConAct. (Section 502(b))

The Conference substitute adopts the House provision with regard to loan eligibility under Section 319 (b) of the ConAct. (Sec. 512)

The Conference substitute adopts the Senate provision with regard to the case by case determination on the one time waiver of two years. The substitute also permits the Secretary to waive limitations with respect to direct loans for farmers and ranchers who farm land subject to the jurisdiction of an Indian Tribe, or when applicable security interests are subject to such jurisdiction, if commercial credit is not generally available. (Sec. 511)

(3) Administration of Certified Lenders and Preferred Certified Lenders Programs.

The House bill amends Sec. 331(b) of the ConAct to add a new provision authorizing the Secretary to administer the certified and preferred lender guaranteed loan programs through central offices in states or multistate areas. (Sec. 503)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to make the authority discretionary. (Sec. 539)

(4) Simplified Loan Guarantee Application Available for Loans of Greater Amounts.

The House bill amends Sec. 333A(g)(1) of the ConAct to increase the loan amount of the guaranteed program using a simplified short form to a maximum of $150,000. (Sec. 504)

The Senate amendment amends Sec. 333A(g)(1) to increase the loan amount of the guaranteed program using a simplified short from to $100,000. (Sec. 526)

The Conference substitute sets the loan amount at $125,000. (Sec. 537)

(5) Elimination of Requirement That Secretary Require County Committees To Certify in Writing That Certain Loan Reviews Have Been Conducted

The House bill strikes Sec. 333(2) of the ConAct to remove the requirement that county committees must certify in writing annually that farmer program borrowers' business operations and credit histories have been reviewed for the borrowers to continue to be eligible for the loan program. (Sec. 505)

The Senate amendment amends Sec. 333(2) by removing the requirement that local or area FSA committees must certify in writing that they have reviewed the credit histories, business operations and continued eligibility of all borrowers. The amendment retains language requiring that these annual reviews be conducted. (Sec 525)

The Conference substitute adopts the Senate provision. (Sec. 536)

(6) Authority To Reduce Percentage of Loan Guaranteed if Borrower Income Is Insufficient to Service Debt

The House bill amends Sec. 339(c)(4)(A) and (d)(4)(A) of the ConAct dealing with the certified and preferred guaranteed lending program to authorize the Secretary to guarantee less than 80 percent of farm program loans even though the borrower does not show adequate income as described in current law. (Sec. 506)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Timing of Loan Assessments

The House bill strikes language in Sec. 360(a) of the ConAct to conform to a provision of the 1994 USDA Reauthorization Act that eliminated a requirement for the local county committee to approve a borrower's eligibility for farmer program loans. (Sec. 507)

The Senate amendment amends Sec. 360(a) of the ConAct by striking the words, ''established pursuant to section 332''. (Sec 552(d))

The Conference substitute adopts the House provision. (Sec. 546)

(8) Making and Servicing of Loans by Personnel of State, County or Area Committees

The House bill amends Subtitle D of the ConAct to add a new section 376 to require the Secretary to use Farm Service Agency state, area or county office employees to make and service farmer program loans if the personnel are trained to do so. This authority overrides the 90–day finality rule of FSA state, area or county office employees in Sec. 281(a)(1) of the USDA reorganization act. (Sec. 508)

The Senate amendment amends Sec. 281(a)(1) of the Department of Agriculture Reorganization Act so that the finality rule does not apply to an agricultural credit decision made by a state, area or county FSA employee. (Sec. 551)

The Conference substitute adopts the House provision. (Sec. 549)

This section would enable the Secretary to employ personnel of a State, county or area committee to make and service USDA farm loans to the extent the personnel are trained to do so. The Managers believe that the Secretary should provide that these individuals have been adequately trained in these areas in a comparable manner as USDA Farm Service Agency employees with the same job responsibilities. Furthermore, the Secretary should ensure that the credit decisions of these individuals are subject to the same USDA loan review as any USDA employee making credit decisions, including internal control review, and disciplinary action to protect against the misuse of government funds.

(9) Eligibility of Employees of State, County, or Area Committees for Loans and Loan Guarantees

The House bill Amends Subtitle D of the ConAct to add a new section 377 to make eligible Farm Service Agency local county office employees and USDA employees for farmer program loans so long as a local county office other than the applicant's home office approves the loan application. (Sec. 509)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment providing that when applying for loans, local/county employees apply to the State level and State employees apply to the federal level. (Sec. 550)

This section would allow employees of a State, county or area committee to be eligible for USDA farm loans as long as these loans are approved at a higher level within the Farm Service Agency, either at the state office or national level. The Managers believe it is important for these employees, many of whom are farmers in their communities, to have access to the same farm loan programs as other producers. Nevertheless, the Managers believe that a higher level of review is appropriate to alleviate concerns regarding the eligibility of these individuals for the farm loan programs.

(10) Emergency Loans in Response to an Economic Emergency Resulting From Sharply Increasing Energy Costs

The House bill amends: (1) Sec. 321(a) of the ConAct to include among natural disasters economic disasters caused by high energy costs and crop and livestock quarantines for which farmers, ranchers or persons engaged in aquaculture may be eligible for disaster loans; (2) Sec. 323 of the ConAct to conform disasters or emergencies referred to in this section caused by plant or animal quarantines or sharply rising energy costs; (3) Sec. 329 of the ConAct by adding a new subsection (b) requiring the Secretary to make financial assistance available when energy costs for any three-month period is at

least 50 percent greater than the average of the preceding five years and the applicant's income loss was incurred to prevent livestock mortality, degradation of perishable commodities or damage to field crops; and (4) Sec. 324(a) of the ConAct by adding two provisions to limit the amount of any loan made in response to a quarantine to $500,000 and any loan made in response to an energy emergency to $200,000. (Sec. 510)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision only on providing new authority to make emergency loans for plant or animal quarantines. (Sec. 521)

(11) Extension of Authority To Contract for Servicing of Farmer Program Loans

The House bill reauthorizes the program in Sec. 331(d) of the ConAct through 2011 to allow the Secretary to contract with regulated financial institutions to service farmer program loans under the ConAct and removes the ''temporary'' designation of this program. (Sec. 511)

The Senate amendment amends Sec. 331 by striking subsections (d) [loan servicing pilot program for farm loans] and (e) [authority for the Secretary to use private debt collection agencies] and provides that any existing contracts are unaffected by this provision. (Sec. 523)

The Conference substitute adopts the Senate provision. (Sec. 534)

(12) Authorization for Loans

The House bill amends Sec. 346(b)(1) by reauthorizing the farmer loan programs at such sums as may be necessary. (Sec. 512)

The Senate amendment amends Sec. 346(b)(1) of the ConAct by providing not more than $3,796,000,000 for each of the fiscal years 2002 through 2006.

Of the above amount in each fiscal year, $770,000,000 shall be for direct loans of which—

(1) $205,000,000 shall be for farm ownership loans; and

(2) $565,000,000 shall be for operating loans.

Of the remainder of the above amount in each fiscal year, $3,026,000,000 shall be for guaranteed loans of which—

(1) $1,000,000,000 shall be for guaranteed farm ownership loans; and—

(2) $2,000,026,000 shall be for guaranteed operating loans. (Sec. 529(1)(A))

The Conference substitute adopts the Senate provision with an amendment to provide the authorization from fiscal years 2002 to 2007. (Sec. 541)

(13) Reservation of Funds for Direct Operating Loans for Beginning Farmers and Ranchers

The House bill amends Sec. 346(b)(2)(A)(ii)(III) of the ConAct to reauthorize the reservation of beginning farmer and ranchers loan amounts at 35 percent of the funds through 2011. (Sec. 513)

The Senate amendment amends Sec. 346(b)(2)(A)(ii) of the ConAct to provide that the Secretary shall reserve during fiscal years 2002 through 2006 35 percent of the funds made available for direct operating loans authorized to be appropriated under the ConAct. Further, in addition to funds made available under Agricultural Appropriations, the Secretary shall use $5,000,000 of funds of the CCC for fiscal year 2002 to make loans described in section 346(b)(2)(A)(i). (Sec. 529(1)(B))

The Conference substitute adopts the House provision with an amendment to provide the authorization from fiscal years 2002 to 2007. (Sec. 542)

(14) Extension of Interest Rate Reduction Program

The House bill amends Sec. 351(a)(2) to reauthorize the interest rate buy-down program for farmer program loan guarantees through 2011. (Sec. 514)

The Senate amendment amends Sec. 351 of the ConAct and replaces subsection (c) by providing an interest rate reduction of three percent for farmers and ranchers and four percent for beginning farmers and ranchers; authorizes $750,000,000 to carry out this program; and requires the Secretary to reserve until April of each fiscal year not less than 25 percent of the funds for the interest rate reduction program for beginning farmers and ranchers. (Sec. 530)

The Conference substitute adopts the Senate provision with an amendment that retains current law on the interest rate, but reserves 15% of funds in a fiscal year for beginning farmers and ranchers until March 1st and provides for a permanent authorization of $750 million annually. (Sec. 543)

(15) Increase in Duration of Loans under Down Payment Loan Program.

The House bill amends Sec. 310E (b)(3) of the beginning farmer and rancher down payment loan program by increasing the loan repayment period to 15 years and makes a conforming amendment to Sec. 310E (c)(3)(B). (Sec. 515)

The Senate amendment amends Sec. 310E (b)(3) of the beginning farmer and rancher down payment loan program by increasing the repayment period to 20 years (Sec. 507(1)(B)). The Senate amendment also makes a conforming amendment to Sec. 310E (c)(3)(B). (Sec. 507(2))

The Conference substitute adopts the House provision. (Sec. 505)

(16) Horse Breeder Loans

The House bill (1) defines a horse breeder as a person that derives more than 70 percent of the income of the person from the business of breeding, boarding, raising, training or selling horses during the shorter of (a) the five-year period ending on Jan. 1, 2001; or (b) the period the person has been engaged in the business; (2) directs the Secretary to make a loan to an eligible horse breeder for losses suffered from mare reproductive loss syndrome; (3) defines eligible breeders are those a) who suffered at least a 30 percent loss of mare offspring as a result of mare reproductive loss syndrome during the periods of Jan. 1, 2000–Oct. 1, 2000, or Jan. 1, 2001–Oct. 1, 2001. Losses could be from mares having failed to conceive, or miscarried, aborted or otherwise failed to produce a live healthy foal. Mares could be owned by a breeder or boarded on a farm owned, operated or leased by a breeder; b) who, during the period Jan. 1, 2000, and ending on Sept. 30, 2002, were unable to meet financial obligations in connection with breeding, boarding, raising, training, or selling horses; (c) who were unable to obtain sufficient credit elsewhere (within the meaning of Sec. 321(a) of the ConAct; (4) directs the Secretary shall determine the amount of the loan based on the amount losses suffered by a breeder but a loan may not exceed $500,000; (5) directs the Secretary shall determine the duration of the loan but any loan may not exceed 15 years; (6) establishes the interest rate shall be at a rate prescribed by Sec. 324(b)(1) of the ConAct; (7) directs the Secretary shall take a security interest in the loan; (8) establishes that a breeder must submit a loan application by Sept. 30, 200; (9) directs the Secretary shall carry out this section using funds made available for the emergency loan program under subtitle C of the ConAct; and (10) establishes the authority for this loan program expires on Sept. 30, 2003. (Sec. 516)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(17) Evaluations of Direct and Guaranteed Loan Programs

The House bill (1) requires the Secretary to conduct two studies of the direct and guaranteed farm ownership and operating loan programs. Each will include an examination of the number, average principal amount, and delinquency and default rates of loans during the period covered by the study. (2) The first study shall cover the one-year period that begins one year after enactment. The second study shall cover the one-year period that begins three years after enactment. (3) At the end of the period covered by each study, the Secretary shall submit reports to Congress that contains an evaluation of the results of the study, including an analysis of the effectiveness of the loan programs in meeting the credit needs of agricultural producers. (Sec. 517)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 531)

(18) Loan Eligibility for Borrowers With Prior Debt Forgiveness

The House bill amends Sec. 373(b)(1) of the ConAct to authorize the Secretary to make loans to borrowers who have not received debt forgiveness on loans or loan guarantees more than two times and to guarantee loans to borrowers who have not received debt forgiveness on loans or loan guarantees more than three times. (Sec. 519)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision and provides for the Secretary to make an operating loan to a borrower who has received debt forgiveness on not more than one occasion that was directly and primarily resulting from a natural disaster as designated by the President. (Sec. 548)

(19) Allocation of Certain Funds for Socially Disadvantaged Farmers and Ranchers

The House bill amends Sec. 355(c)(2) of the ConAct to authorize the Secretary to provide unused funds allocated for socially disadvantaged farmers and ranchers within a state to other states where there are pending loan applications for (SDA) farmers and ranchers. Any remaining unused SDA funds within a state may be reallocated to other applicants in that state. (Sec. 520)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 544)

(20) Horses Considered To Be Livestock Under the Consolidated Farm and Rural Development Act

The House bill amends Sec. 343 of the ConAct to include horses within the meaning of livestock (Sec. 521)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(21) Temporary Suspension of Foreclosure on Certain Real Property Owned by, and Recovery of Certain Payments From, Borrowers With Shared Appreciation Arrangements

The House bill directs the Secretary upon enactment of the bill and through Dec. 31, 2002, to suspend foreclosure on real property secured by a shared appreciation arrangement and not attempt to recover payments on the terms of any shared appreciation arrangement entered into between the Secretary and a borrower. (Sec. 522)

The Senate amendment amends Sec. 353(e)(7) to provide alternatives to repaying the recapture amount of a shared appreciation arrangement by—(1) financing the recapture agreement; or (2) granting the Secretary an agricultural use protection and

conservation easement on the secured property which is subject to the shared appreciation arrangment.

An agricultural use protection and conservation easement shall—(1) be for all of the real security property subject to the shared appreciation arrangement in lieu of payment of the recapture amount; (2) be for a term of 25 years; (3) require that the property subject to the easement be used or conserved for agricultural or conservation purposes in accordance with sound farming and conservation practices; and (4) provide that the borrower who is financing the recapture amount may replace the financing with an agricultural use protection and conservation easement.

The amendments shall apply to a shared appreciation arrangement that—(1) matures on or after the date of enactment; or (2) matured before the date of enactment if—(a) the recapture was reamortized under sec. 353(e)(7) or (b)(1) the recapture amount had not been paid before the date of enactment because of circumstances beyond the control of the borrower; and (b)(2) the borrower acted in good faith in attempting to repay the recapture amount. (Sec. 531)

The Conference substitute provides that the Secretary may modify a recapture loan on which a payment has become delinquent by using loan servicing tools if the default was beyond the control of the borrower and the borrower acted in good faith in attempting to repay the recapture loan. A reamortized loan may not exceed 25 years from the date of the original amortization agreement or provide for reducing the outstanding principal or unpaid interest due on the loan.

The Managers expect the Secretary to review USDA appeal policies regarding appraisals used for shared appreciation agreements. The Managers expect the Secretary to establish policies that will result in the use of the most accurate appraisal of assets, including the use of independent appraisals provided on appeal by the borrower that are consistent with Federal appraisal standards.

(22) Authority To Make Business and Industry Guaranteed Loans for Farmer-Owned Projects That Add Value to or Process Agricultural Products

The House bill amends Sec. 310B(a)(1) by expanding the Secretary's loan making authority in the business and industry loan program to larger than rural communities if a majority of the project involved is owned by individuals who reside and have farming operations in rural communities and the project adds value to or processes agricultural commodities. (Sec. 523)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(23) Direct Loans

The Senate amendment amends Sec. 302(b)(1) to authorize the Secretary to make direct farm ownership loans to farmers and ranchers who have ''participated in the business operations of'' a farm or ranch for not less than three years. (Sec. 501)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 501)

The Managers are aware of the limiting impact of the requirement for 3 years of operating experience on the eligibility of qualified beginning farmers and ranchers for farm ownership loans. The Managers intend for the Department to examine potential borrowers comprehensively in terms of their participation in the business operations of a farm or ranch, whether or not the potential borrower was the primary or senior operator. In making these determinations, the Department should ensure the borrower fully meets the training and experience requirement of section 302(a). The Department should also place considerable weight on whether the borrower has enrolled and will successfully complete the borrower training program.

(24) Financing of Bridge Loans

The Senate amendment amends Sec. 303(a)(1) to add a new purpose authorizing the refinancing of short-term temporary bridge loans made by a commercial or cooperative lender to a beginning farmer or rancher for the acquisition of a farm or ranch if—the Secretary approved an application for a direct farm ownership loan for acquisition of the land and the funds for direct farm ownership loans were not available at the time the application was approved. (Sec. 502)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to refinance bridge loans made by commercial or cooperative lenders to borrowers who have a direct ownership loan approved and for which funds are available. (Sec. 502)

(25) Limitation on Amount of Farm Ownership Loans

The Senate amendment amends Sec. 305(a) to limit the unpaid indebtedness of any borrower to the lesser of—(1) the value of the farm or other security; or (2) in the case of a direct loan to a beginning farmer or rancher $250,000 (adjusted for inflation) or $200,000 to other farmers or ranchers; or in the case of a guaranteed loan, $700,000 (adjusted for inflation and reduced by the amount of any unpaid indebtedness on guaranteed operating loans of the borrower). (Sec. 503)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(26) Joint Financing Arrangements

The Senate amendment amends Sec. 307(a)(3)(D) to require the Secretary to charge a rate of interest to beginning farmers or ranchers that is 50 basis points less than the rate charged to other farmers and ranchers on a direct loan that is part of a joint financing arrangement. (Sec. 504)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(27) Guarantee Percentage for Beginning Farmers and Ranchers

The Senate amendment amends Sec. 305(h)(6) to require the Secretary to guarantee 95 percent of a farm ownership loan to a beginning farmer or rancher participating in the down payment loan program or an operating loan to a beginning farmer or rancher who is participating in the down payment loan program during the period the borrower has an outstanding direct farm ownership loan. (Sec. 505)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(28) Guarantee of Loans Made Under State Beginning Farmer or Rancher Programs

The Senate amendment amends Sec. 309 by adding a new subsection to authorize the Secretary to guarantee loans made under a state beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond pursuant to the federal tax code. (Sec. 506)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 504)

(29) Down Payment Loan Program

The Senate amendment amends Sec. 310E (b)(1) to increase the principal amount of the down payment loan to be equal to 40 percent of the purchase price of the land acquisition. (Sec. 507(1)(A))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 505)

The Managers are aware that on an average per dollar basis, funds used for down payment loans serve over 3 times as many borrowers as regular farm ownership loans, and thus help to stretch limited loan funds and increase new farming and ranching opportunities. The Managers encourage the Secretary to widely publicize the availability of loans under this section as amended among potentially eligible recipients of the loans, retiring farmers and ranchers, and applicants for farm ownership loans under this subtitle and to coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers and ranchers. The Managers strongly encourage the Secretary to establish performance goals for each state with a significant volume of real estate loans under this subtitle, with a goal of attaining down payment loan volumes consistent with the loan reservation percentage for down payment loans.

(30) Beginning Farmer and Rancher Contract Land Sales Program

The Senate amendment adds a new Sec. 310F to the ConAct to require the Secretary to carry out a pilot program by Oct. 1, 2002, in at least 10 geographically dispersed states. The Secretary is required to guarantee at least five loans per state in each of the fiscal years 2003 through 2006 made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a contract land sale basis, if the loan meets the applicable underwriting standards and a commercial lending institution agrees to serve as escrow agent. The Secretary shall start the program on making a determination that guarantees of contract land sales present a risk comparable to the risk presented in the case of guarantees to commercial lenders. (Sec. 508)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring a pilot program in not fewer than 5 states to guarantee loans made by a private seller to a beginning farmer or rancher on a contract land sale basis commencing once the Secretary makes a determination and authorizing the program through 2007 if it is carried out. (Sec. 506)

The Managers are aware that contract land sales are prevalent in many states and encourage the Secretary to create a pilot program for guaranteeing the financing of such contract land sales. The Managers intend for the Secretary to approve any loan guarantee under this pilot program using its normal underwriting criteria. The Managers envision that land contracts between the seller and buyer will contain a side escrow agreement that outlines the duties and responsibilities of the escrow agent.

(31) Direct Loans

The Senate amendment amends Sec. 311(c)(1)(A) to delete the requirement that a direct loan may not be made to a farmer or rancher who has operated a farm or ranch for five years or more. (Sec. 511)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 511)

(32) Amount of Guarantee of Loans for Tribal Farm Operations; Waiver of Limitations for Tribal Operations and Other Operations

The Senate amendment adds a new paragraph (7) to Sec. 309(h) requiring the Secretary to guarantee 95 percent of operating loans made to a farmer or rancher who is a member of an Indian tribe whose farm or ranch is within an Indian reservation. (Sec. 512(a))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring the Secretary to guarantee 95% of operating loans made to any farmer or rancher whose operation is subject to the jurisdiction of an Indian tribe. (Sec. 503)

(33) Debt Settlement

The Senate amendment amends Sec. 331(b)(4) by deleting the provision that the Secretary may not release a borrower from a debt obligation on more favorable terms than that recommended by the county committee under Sec. 332. Note: Sec. 332 was repealed by the 1994 USDA reorganization act. (Sec. 522)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the role of local or area Farm Service Agency committees in debt settlement to consultation only regarding a potential debt settlement agreement. (Sec. 533)

(34) Interest Rate Options for Loans in Servicing

The Senate amendment amends Sec. 331B to require the Secretary, when restructuring a farmer program loan, to charge the lowest of (1) the rate of the original loan; (2) the rate being charged when the borrower applies for restructuring the loan; or (3) the rate being charged when the borrower restructures the loan. (Sec. 524)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 535)

(35) Inventory Property

The Senate amendment amends Sec. 335(c) dealing with the sale of inventory property by—(1) providing a greater number of days that the property must be held by the Secretary and offered for sale to beginning farmers and ranchers; (2) authorizing the Secretary to bundle or parcel real estate in such ways as to maximize the sale of such real estate to beginning farmers and ranchers; (3) authorizing the Secretary to sell farm real estate that has been acquired and leased before April 4, 1996, to beginning farmers and ranchers within 60 days of the expiration of the lease arrangements; and (4) authorizing the Secretary, for purposes of farmland preservation and in consultation with the State Conservationist, to sell or grant easements, restrictions or development rights to states, political subdivisions within states or private nonprofit organizations of real estate held in inventory. (Sec. 527)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the period of time inventory property must be offered to beginning farmers and ranchers and to maximize the purchase of inventory property by combining or dividing parcels of property as appropriate. (Sec. 538)

(36) Definitions

The Senate amendment amends Sec. 343(a)(11)(F) to replace the 25 percent limitation on ownership of the median ownership acreage within a county for purposes of determining a beginning farmer or rancher with a 30 percent acreage limitation. (Sec. 528(a))

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision. (Sec. 540)

(37) Waiver of Borrower Training Certification Requirement

The Senate amendment amends Sec. 359(f) by authorizing the Secretary to waive the educational training requirements of Sec. 359 if the Secretary determines that the borrower demonstrates adequate knowledge in financial and farm management. The Secretary shall establish standards for this waiver that is implemented consistently in all counties. (Sec. 532)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 545)

The Managers are aware that waivers have not always been applied consistently and are concerned that in many areas waivers are exceptionally high, exceeding the 50% level. The Managers intend for the Secretary to issue clear and transparent criteria for waivers as quickly after enactment as possible and to re-assert the importance of borrower training to the success of borrowers and the effectiveness of the direct lending programs.

(38) Repeal of Burdensome Approval Requirements

The Senate amendment amends Sec. 3.1(11)(B) to delete a provision that restricts without prior approval the loan participation activities of a bank for cooperatives in the lending territory of a Farm Credit Bank or association. The Senate amendment also amends Sec. 4.18A to make conforming changes to loan participation activities of banks for cooperatives and FCS institutions that operate under separate titles of the Farm Credit Act. (Sec. 541)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 551)

The Managers understand that although this provision eliminates certain territorial concurrence requirements on Farm Credit System lenders so that lenders may participate in loan syndications or other multiple-lender arrangements for ''similar entity'' loans originated in other Farm Credit System geographic territories without seeking the permission of the Farm Credit System lender in that territory. Current law requires System institutions to obtain permission from one another when participating in similar entity transactions in which a commercial bank originates the loan and then sells the loan to a group of lenders (including the System institution). The change eliminates these requirements only as they pertain to similar entity loans that the System does not originate. Territorial concurrence for loans other than similar entity loans are not affected by this change. The Managers are expressing no opinion with this provision on pending litigation regarding participation regulations issued by the Farm Credit Administration on April 25, 2000.

(39) Banks for Cooperatives

The Senate amendment amends Sec. 3.7(b) of the Farm Credit Act to replace the words ''farm supplies'' with ''agricultural supplies'' and to add a definition of an agricultural supply to include farm supply, agriculture-related processing equipment, agriculture-related machinery and other capital goods related to the storage or handling of agricultural commodities or products. (Sec. 542)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 552)

(40) Insurance Corporation Premiums

The Senate amendment amends Sec. 5.55 of the Farm Credit Act to include government sponsored enterprise-guaranteed loans or credits and establishes the rate at which these loans or credits in accrual or non-accrual status are used to fund the Insurance Fund. (Sec. 543)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision and makes it applicable to calendar year 2002. (Sec. 553)

(41) Board of Directors of the Federal Agricultural Mortgage Corporation

The Senate amendment amends Sec. 8.2(b) to increase the board to 17 members. The two new members of the board shall be elected by Class A (commercial banks and other financial institutions) and Class B (Farm Credit System institutions) stockholders, and the two new members shall be the chief executive officer and another executive officer of Farmer Mac. The Senate amendment also amends Sec. 8.2(b)(9) to provide for the election of the chairperson from among the board members instead of by appointment by the President. (Sec. 544)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(42) Technical Amendments

See Sec. 505 of the House bill

The Senate amendment strikes references to Sec. 332 and corrects the reference to the ''Robert T. Stafford Disaster Relief and Emergency Assistance Act''. (Sec. 552)

The Conference substitute adopts the Senate provisions. (Sec. 561)

(43) Effective Date

The Senate amendment makes for the amendments made by this title, except for subsection (b) of this section and section 543(b), take effect on Oct. 1, 2002. (Sec. 553)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

TITLE VI—RURAL DEVELOPMENT

(1) Funding for Rural Local Television Broadcast Signal Loan Guarantees

The House bill amends the Launching Our Communities' Access to Local Television Act of 2000 to provide $200 million for loan guarantees for fiscal years 2002–2006 without fiscal year limitation. (Section 601)

The Senate amendment contain no comparable provision

The Conference substitute adopts the House provision with an amendment to provide $80 million for loan guarantees from the date of enactment through December 31, 2006, without fiscal year limitation. (Section 6404)

It is the view of the Managers that funding dedicated to providing access to signals of local television stations should be made available by the Secretary for rural broadband deployment either upon expiration of the LOCAL TV Act on December 31, 2006, or when the RUS Administrator certifies that the goals of the program have already been met.

(2) Expanded Eligibility for Value-Added Agricultural Product Market Development Grants

The House bill amends the Agricultural Risk Protection Act of 2000 to allow $60 million ($50 million plus $10 million from Sec. 943) to be used for value-added grants for each of the fiscal years 2002–2011. This section is designed to increase the participation in the Value-Added Agricultural Products Market Development Grants by allowing

broader standards of eligibility for this specific grant category only so that public bodies and trade association can compete along with non-profit institutions and universities for grants designed to develop value-added products for foreign markets. Extends the current program with increased mandatory spending. (Section 602)

The Senate amendment amends ARPA, Section 231, to spend $75 million each year 2002–2006. Eligible independent producers and nonprofit entities may receive grants with a priority given to proposals requesting less than $200,000. Defines value added as undergoing a change in the physical state or produced in a manner that enhances its value to consumers. No less than 5% of the funding shall be used to assist producers of certified organic agricultural products. The Senate amendment provides 7.5% of the $75 million per year be allocated to the established Agricultural Marketing Resource Center authorized in ARPA. (Section 606)

The Conference substitute adopts the Senate provision with an amendment to make technical corrections, expand eligibility, strike the priority designations and reserve, and modify funding for the established innovation center. This provision provides $40 million each fiscal year 2002 through 2007. Of this amount, five percent of the funds will be used for the Agricultural Marketing Resource Center. (Section 6401)

The Managers intend that the Department, in administering the program, will seek to fund a broad diversity of projects that help increase agricultural producers' share of the food and agricultural system profit, including projects likely to increase the profitability and viability of small and medium-sized farms and ranches. The Managers intend for the Department to consider a project's potential for creating self-employment opportunities in farming and ranching and the likelihood that the project will contribute to conserving and enhancing the quality of land, water and other natural resources.

When making these grants, the Managers expect the Secretary to consider applications from a variety of agricultural sectors, such as renewable energy, wineries, high value products from major crops, agri-marketing ventures, and community supported agricultural projects. The inclusion of renewable energy includes farm or ranch based wind, solar, hydrogen, and other renewable energy.

An exception from the normal rural area requirement is made for majority controlled producer based business ventures. It is the Managers intent that the Department award grants, to the maximum extent practicable, to projects located in rural areas. However, state rules and regulations and other circumstances may hinder some worthy value-added agricultural projects from meeting the Department's specific definition of ''rural''. One such example is wineries in certain areas. In this instance, the Managers expect the Department to consider the importance and value of the project to area agriculture producers who will be the ultimate beneficiaries of the project, including the consistency of the project with the intent of the program.

(3) Agriculture Innovation Center Demonstration Program

The House bill provides that the Secretary shall make grants to establish centers to provide producers with technical assistance, marketing, and development assistance for value-added agricultural businesses. The Secretary shall use not less than $5 million for fiscal year 2002 and not less than $10 million for fiscal years 2003 and 2004. This money is part of the $50 million being used for Section 602 activities. The Secretary shall use $300,000 of the funds made available each year to support research at a university on the effects of value-added projects on producers and commodity markets. The Secretary shall submit a report to the House and Senate Agriculture Committees on the effectiveness of this demonstration program. (Section 603)

The Senate amendment provides 7.5% of the $75 million per year that is allocated to the established Agricultural Marketing Resource Center authorized in ARPA. (Section 606)

The Conference substitute adopts the House provision with an amendment that the Secretary shall use not less than $3 million for fiscal year 2002 and not less than $6 million for fiscal years 2003 and 2004. (Section 6402)

(4) Funding of Community Water Assistance Grant Program

The House bill directs the Secretary to use $30 million for each of the fiscal years 2002–2011 to fund drinking water assistance grants. Extends current program and makes it mandatory spending. Strikes the word ''emergency'' in the subtitle.

Increases funding by another $45 million per year, for a total of $75 million per year. (Section 604 and 943)

The Senate amendment extends authority of the program through 2006 with no changes.

See also section 603 of the Senate amendment, which fully funds existing backlog of applications for this grant program and other rural development loan and grant programs. (Section 629)

The Conference substitute adopts the House provision with an amendment to make rural areas and small communities eligible for grants in cases where a significant decline in quantity and quality of water is imminent, in addition to where there is an emergency. No less than 3 percent but no more than 5 percent of appropriated funds shall be used for these grants. (Section 6009)

The Managers are acutely aware of the ongoing needs of rural communities in maintaining water systems to provide adequate and safe drinking water for its residents. The Managers are particularly concerned about current drought conditions in many areas of the United States and its dire impact on a rural area's drinking water needs. Many areas are faced not only with the lack of potable water but with the lack of any water at all. For this reason, the provision allowing for potable water includes the delivery of bottled water where necessary.

The Managers expect this provision to provide USDA, Rural Development with a flexible program with a certainty of funds to meet the emergency and imminent drinking water needs of rural areas. The Secretary should ensure that communities eligible for assistance under this program receive immediate attention.

(5) Loan Guarantees for the Financing of the Purchase of Renewable Energy Systems

The House bill provides that the Secretary may provide to persons or individuals a loan guarantee under Section 4 of the Rural Electrification Act to finance the purchase of a renewable energy system, including a wind energy system and anaerobic digesters for the purpose of energy generation. (Section 605)

The Senate amendment provides that the Secretary, in addition to making loans and loan guarantees under other laws, shall make low interest rate loans (4%), loan guarantees, and grants to be used by producers for the purchase of renewable energy systems and energy efficiency improvements. Provides $33 million per year for such purposes. (Only those producing agricultural products with a market value of less than $1,000,000 in the preceding year are eligible.) (Section 902)

The Conference substitute deletes the House provision.

(6) Loans and Loan Guarantees for Renewable Energy Systems

The House bill amends Section 310B of the ConAct by inserting ''and other renewable energy systems including wind energy systems and anaerobic digesters for the purpose of energy generation''. (Section 606)

The Senate amendment provides that the Secretary, acting through the Rural Business Cooperative Service shall establish a program to make loans, loan guarantees (in addition to loans and loan guarantees under other laws) and competitively award grants to cooperatives or other rural business ventures to enable producers to own and market sources of renewable energy and increase the quantity of electricity available from renewable energy sources. Loans would be used to provide capital for start-up costs associated with rural business ventures or the promotion of the aggregation of renewable electric energy sources. Grants would be used to develop business plans or perform feasibility studies. (much like existing Value-Added Grants). (Section 902)

The Conference substitute adopts the House provision. (Section 6013)

(7) Reauthorization of Programs through 2011

The House amendment reauthorizes current programs through 2011. Those programs are Rural Business Opportunity Grants (Sec. 607), Grants for Water Systems for Rural and Native Villages in Alaska (Sec. 608), Rural Cooperative Development Grants (Sec. 609), National Reserve Account for Rural Development Trust Fund (Sec. 610), and the Rural Venture Capital Demonstration Program (Sec. 611). (Sections 607, 608, 609, 610, and 611)

The Senate amendment reauthorizes Rural Business Opportunity Grants (same as House Sec. 607) except that authorization is increased from $7.5 million to $15 million a year, and authority runs through 2006.

Reauthorizes Grants for Water Systems for Rural and Native Villages in Alaska (same as House Sec. 608) except that authority runs through 2006.

Reauthorizes Rural Cooperative Development Grants (same as House Sec. 609) except that it prohibits the Secretary from requiring a non-federal share of more than 5% for 1994 institutions, and authority runs through 2006.

The Senate amendment contains no comparable provisions on the National Reserve Account for Rural Development Trust Fund or the Rural Venture Capital Demonstration Program. (Section 622, 631, and 633)

The Conference substitute adopts the Senate provision on Rural Business Opportunity Grants. (Section 6003)

The Conference substitute adopts the House provision on Grants for Water Systems for Rural and Native Villages in Alaska. (Section 6011)

The Conference substitute adopts the Senate provision on Rural Cooperative Development Grants. (Section 6015)

The Conference substitute adopts the House provisions with an amendment to repeal the National Reserve Account for Rural Development Trust Fund and the Rural Venture Capital Demonstration Program. (Section 6026)

(8) Increase in Limit on Certain Loans for Rural Development

The House bill increases the loan limit of the Business and Industry lending program authorized by Sec. 310B of the ConAct from $25 million to $100 million. (Section 612)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that the Secretary may guarantee a loan that may not exceed $40 million for a project that is located in a rural area and provides for the value-added processing of agricultural commodities. The Secretary may not delegate the approval authority. (Section 6017)

(9) Pilot Program for Rural Development Strategic Plans and Implementation

The House bill provides that the Secretary shall select states to implement rural development strategic plans. This is a new program that provides mandatory spending of $2 million in grants for each fiscal year 2002–2011 (plus another 2/13 or approximately $6.9 million from Sec. 943.).

Provides mandatory spending of $13 million for grants to implement the plans for each fiscal year 2002–2011 (plus 11/13 or approximately $38 million from Sec. 943.).

The Strategic Planning Initiative and Implementation provision authorizes a matching grant pilot program of $2 million (plus $6.9 million) per year to entities for regional, collaborative rural development strategic plans in those states that are chosen by the Secretary. Community-based and grassroots organizations' support and participation are critically important to successful planning. The matching grant requirement will help ensure that there is a commitment at the local level for the planning process. The provision allows the Secretary to require up to a 50% matching grant. This requirement is not intended to serve as a barrier to limited resource communities in fully participating in the program. The Secretary should require matching grants commensurate with a community's ability to pay, even to the point of only requiring a nominal amount in order to ensure the broadest participation.

In developing a regional development plan it is imperative that local specialists representing many varied areas of expertise be included. The Secretary should give priority to grant applicants whose proposals include the broadest coalitions of regional and local organizations—both public and private. Entities eligible for matching grants include but are not limited to Councils of Government, Area Development Districts, Economic Development Districts, Local Development Districts, Planning and Development Districts, Regional Planning Commissions and Regional Councils of Government. (Section 613)

The Senate amendment spends $5 million in 2002 for planning grants to conditionally approved program entities under Sec. 385C(d). Spends $2 million in 2002 for private technical assistance under Sec. 358C(h).

Amends the ConAct to create a Program that will provide rural communities with technical and financial assistance to develop and implement community development strategies. The Secretary shall approve a program entity to receive grants if the entity meets certain criteria, and once approved, the entity shall establish an endowment fund. The Secretary may award supplemental grants, not to exceed $100,000, to approved entities to assist in developing a strategy (Sec. 385C(d) see above). To be eligible for an endowment grant, approved entities shall develop and obtain the approval of the Secretary for a comprehensive strategy. An approved entity shall receive final approval if the strategy meets certain requirements, and the Secretary may make grants, not to exceed $6 million, to these entities to implement the strategy (Sec. 385C(f) see above). Approved entities must provide a 50% match of the amount received in grant funds, except in certain cases where it is determined that a lower non-federal share is allowable to invest and then use the funds for infrastructure improvements and/or investments in enterprises that will improve the area. Grants may be made, not to exceed $100,000, to qualified intermediaries to provide technical assistance and capacity building to approved entities (Sec. 358C(h) see above). Authorizes such sums as are necessary for fiscal years 2004–2006. (Section 604)

The Conference substitute adopts the House provision with an amendment to establish a National Board on Rural America that will make planning grants and innovation grants to certified Regional Investment Boards. A National Conference on Rural America will be held to address challenges in rural areas. A total of $100 million is available to carry out this section. (Section 6030)

For over 40 years rural policy scholars and analysts have recognized the absolute necessity of a more integrated, comprehensive rural policy framework. In establishing this framework, Section 6030, will require the active participation of all Federal agencies, rural units of local government, development organizations, community-based organizations, rural nongovernmental organization, and the private and philanthropic sectors. While a collaborative effort and comprehensive planning is essential for success of any endeavor, no plan can succeed without resources for its implementation and completion.

This program is designed to use Federal funds as a catalyst to bring together the various sectors from rural areas in order to make maximum use of Federal, state and local resources.

The Managers intend that the appropriate population of an eligible area is between 50,000 and 150,000; however, the Managers expect the regional and national boards to make exceptions as needed. The target population does not include a metropolitan area which may be participating in a regional plan.

The Managers understand the diversity of governance, governmental entities and governmental structure in the 50 states. In composing the regional boards, the Managers expect that it will include the broadest possible collection of public and private entities representative of the area or region of the eligible area.

In appointing the National Board on Rural America, the Managers expect the Secretary to carefully consider individuals recommended by the Chairman and Ranking Members of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry, the Speaker of the House of Representatives, and the Majority Leader of the Senate. The Secretary is encouraged to consider seven recommendations from the House of Representatives and seven recommendations from the Senate.

(10) Grants to Nonprofit Organizations to Finance the Construction, Refurbishing, and Servicing of Individually-Owned Household Water Well Systems in Rural Areas for Individuals with Low or Moderate Incomes

The House bill amends the water and wastewater authorities under the ConAct to authorize the Secretary to make grants and loans to provide individual residential water wells. (Section 614)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment limiting loans to $8,000 per water well system and authorizing the program at $10 million per fiscal year. (Section 6012)

(11) National Rural Development Partnership

The House bill adds a new section to Subtitle E of the ConAct to establish a National Rural Development Partnership composed of the Coordinating Committee and the state rural development councils. (Section 615)

The Senate amendment amends Subtitle D of the ConAct to add the NRDP composed of the Coordinating Committee and the state rural development councils. (Section 611)

The Conference substitute adopts the Senate provision with an amendment clarifying the Senate language and authorizing up to $10 million per fiscal year. (Section 6021)

The Conference substitute includes provisions which are intended to ensure the accountability of State Rural Development Councils (SRDCs) to the rural residents they are expected to serve and to agencies which provide financial support for their operations. The Managers specifically intend that all SRDCs will continue to abide by or come into compliance with the structural and process guiding principles of this section. The Managers also intend that USDA/Rural Development State Directors and other employees of USDA and other Federal agencies with rural responsibilities will fully participate as voting members in the governance and operations of SRDCs on an equal basis with other SRDC members.

The Managers expect the National Rural Development Coordinating Committee to make significant progress toward the goal of better coordinating the rural policies and programs of Federal agencies and developing greater collaboration between the Federal government, the States, and others with resources to invest in rural areas.

The Partnership has depended on voluntary contributions of discretionary funds from multiple Federal agencies to support its activities. This system has not met all of the needs of the SRDC. Accordingly, the Conference substitute contains an authorization for annual appropriations of $10 million. The Managers encourage Federal agencies, whether or not they have contributed to the Partnership in the past, to financially support collaborative initiatives managed by SRDCs. The Managers specifically intend that all Federal funds that are provided to the SRDCs will be used solely for SRDC operations and projects and that the use of these funds will be controlled exclusively by the SRDCs' governing boards. The Managers also strongly urge SRDCs to identify additional sources of non-Federal funds to support their activities.

SRDCs currently operate in 40 States. The Managers encourage the Secretary to work with the remaining 10 States to establish SRDCs.

(12) Eligibility of Rural Empowerment Zones, Rural Enterprise Communities, and Champion Communities for Direct and Guaranteed Loans for Essential Community Facilities

The House bill amends Sec. 306(a) of the ConAct to authorize the Secretary to make or insure loans to communities designated as rural empowerment zones, rural enterprise communities or as champion communities to install or improve essential community facilities. (Section 616)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to strike ''champion communities''. (Section 6001)

The Managers intend that this provision affect only two communities—Lewiston, Maine, and Eagle Pass, Texas. These communities were designated rural Enterprise Communities in 1999, and this amendment would make them eligible for participation in essential community facility programs only.

(13) Grants to Train Farm Workers in New Technologies and to Train Farm Workers in Specialized Skills Necessary for Higher Value Crops

The House bill provides that the Secretary may make grants to an entity to train farm

workers to use new technologies and develop specialized skills for agricultural development. Authorizes no more than $10 million be appropriated to the Secretary for fiscal years 2002–2011 to make such grants. (Section 617)

The Senate amendment is the same except it authorizes grants through 2006. (Section 646)

The Conference substitute adopts the House provision with an amendment making technical changes and adding ''farmer cooperatives'' as an eligible entity. (Section 6025)

(14) Loan Guarantees for the Purchase of Stock in a Farmer Cooperative Seeking to Modernize or Expand

The House bill amends Sec. 310B of the ConAct to provide loan guarantees for individual farmers to purchase capital stock of a farmer cooperative established for an agricultural purpose. (Section 618)

See also Sec. 523 (Credit Title) of the House bill, which contains additional modifications to the B&I Loan Program to provide for guaranteed loans to projects in areas other than rural communities, in the case of insured loans, if a majority of the project involved is owned by individuals who reside and have farming operations in rural communities, and the project adds value to or processes agricultural commodities.

The Senate amendment amends Sec. 310B of the ConAct to provide loan guarantees to farmers, ranchers or cooperatives to purchase start-up capital stock for expanding or creating an agriculture coop. The Secretary may guarantee a loan to a producer to join a coop in order to sell products he produces. Farmer coops eligible for B&I loans shall be eligible to refinance existing loans. The Secretary may establish appraisal standards for the Business and Industry Loan Program. The Secretary may assess a one-time fee for a loan guarantee, not to exceed 2% of the guaranteed principal portion of the loan. (Section 635)

The Conference substitute adopts the Senate provision with an amendment to provide loan guarantees to purchase capital stock. The Secretary may make or guarantee a loan to a cooperative organization headquartered in a metropolitan area if the loan is used for a project in a rural area or meets the criteria of a cooperative generally. A cooperative organization shall be eligible to refinance an existing loan if certain requirements are met. The Secretary may guarantee a loan to a cooperative for a facility that is not located in a rural area if the facility provides value-added processing to producers located within 80 miles of the facility; if the primary benefit of the guarantee provides employment to rural areas; and the total amount of loans guaranteed does not exceed 10 percent of total loan guarantees in a fiscal year. The Secretary may consider the value of a properly appraised brand name, patent, or trademark of the cooperative in determining whether the cooperative organization is eligible for a loan guarantee. The Secretary may guarantee a loan that may not exceed $40 million for a project that is located in a rural area and provides for the value-added processing of agricultural commodities and the Secretary may not delegate the approval authority for such a guarantee. (Section 6017)

There is a 2% limit on an initial fee. That limit does not prevent annual fees which may be needed to preserve an appropriate program level.

The Managers expect the Secretary, to consider on a priority basis, Business and Industry loan and loan guarantee program applications from eligible marketing cooperatives of agriculture producers for the purpose of constructing peanut storage facilities and for value-added agriculture and renewable energy. In regard to paragraphs (6) and (8), the 10 percent limit in each of those paragraphs is not a goal to be worked toward, but a limit. The Managers recognize that the loans or loan guarantees provided may be less than that level.

(15) Intangible Assets and Subordinated Unsecured Debt Required to be Considered in Determining Eligibility of Farmer-Owned Cooperative for Business and Industry Guaranteed Loan

The House bill amends Sec. 310B of the ConAct for this purpose. In considering applications for a loan guarantee from an agricultural cooperative, the Rural Business-Cooperative Service may consider the value of intangible assets such as trademarks, patents, licenses, and brands subject to appraisal, when evaluating the eligibility of an agricultural cooperative for loan guarantees. The same consideration may be given to unsecured subordinated debt, which may be viewed as the equivalent of equity in the cooperative. Both intangible assets and unsecured subordinated debt may be considered in determining the viability of a cooperative's balance sheet. (Section 619)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that the Secretary may consider the value of a properly appraised brand name, patent, or trademark of a cooperative. (Section 6017)

(16) Ban on Limiting Eligibility of Farmer Cooperative for Business and Industry Loan Guarantee Based on Population of Area in which Cooperative is Located

The House bill amends the ConAct so that in determining whether a cooperative organization owned by farmers is eligible for a guaranteed loan, the Secretary shall not apply any lending restrictions based on population to the area in which the cooperative is located. (Section 620)

The Senate amendment provides for that loans can be made to coops headquartered in a metropolitan area if the project is in a rural area. (Section 635)

The Conference substitute adopts the House provision with an amendment that the Secretary may guarantee a loan to a cooperative for a facility that is not located in a rural area if the facility provides value-added processing to producers located within 80 miles of the facility; if the primary benefit of the guarantee provides employment to rural areas; and the total amount of loans guaranteed does not exceed 10 percent of total loan guarantees in a fiscal year. (Section 6017)

(17) Rural Water and Waste Facility Grants

The House bill removes the appropriation authorization from the rural water and waste water program under the ConAct, in effect providing such sums as may be necessary. (Section 621)

The Senate amendment increases current law from $590 million in total spending per year to a new authorization of $1.5 billion per year. The Secretary may make grants to entities to capitalize revolving funds to provide loans to eligible borrowers to finance up to $100,000 of the costs of predevelopment, equipment, replacement, small systems extensions and other small water and wastewater projects. Authorizes appropriations of $30 million each fiscal year 2002–2006 for this subparagraph. (Section 621)

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as necessary for the rural water and waste water program. (Section 6002)

(18) Rural Water Circuit Rider Program

The House bill establishes permanently under the ConAct a national rural water circuit rider program to provide technical expertise to existing and start-up rural water systems throughout the country. Provides an authorization of appropriations of $15 million per year (Section 622)

The Senate amendment is nearly identical to House bill except for (B) that contains language that says the new program ''shall not affect the authority of the Secretary to carry out the circuit rider program for which funds are made available under the heading RCAP for 2002.'' Also, the authorization for $15 million is only through 2006. (Section 623)

The Conference substitute adopts the Senate provision with an amendment making the program permanent. (Section 6005)

(19) Rural Water Grassroots Source Water Protection Program

The House bill establishes a national source water protection program within the U.S. Department of Agriculture that will enable rural water associations to provide better services in the implementation of wellhead and ground water protection programs. The program is authorized at an annual appropriation of $5 million. (Section 623)

The Senate amendment contains no comparable provision in rural development title, but see conservation title.

The Conference substitute adopts the Senate provision. (Section 217 (1240Q))

(20) National Rural Cooperative and Business Equity Fund

The Senate amendment amends the ConAct to establish the Fund, governed by a board of directors, to revitalize rural communities and sustain rural business development by providing federal funds and credit enhancements to a private equity fund in order to encourage investments by authorized private investors. The Secretary shall make $150 million available (subject to appropriations) for the fund which is to be matched by the investors; guarantee 50% of each investment up to $300 million made by a Fund investor; guarantee 100% of the repayment of principal and accrued interest on approved debentures issued by the Fund, not to exceed $500 million. No single investment shall exceed the greater of $2 million or 7% of the Fund. The total investment made in a company may not exceed 20% of the total investment in the project. Authorizes such sums as are necessary. (Senate 601)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(21) Rural Business Investment Program

The Senate amendment spends $70 million in 2002 for subsidies and $50 million in 2002 for grants.

Adds a new subtitle H to the ConAct that establishes a Rural Business Investment Program (RBIP) administered by the Secretary that, among other things, promotes economic development and the creation of wealth and job opportunities in rural areas.

New Sec. 384A. defines various terms used by the Secretary to implement the RBIP, including the term Rural Business Investment Company (RBIC).

New Sec. 384B. sets out the purposes of the RBIP to promote economic development and to establish a developmental venture capital program that addresses the unmet investment needs of small enterprises. The Secretary is authorized to enter into participation agreements with RBICs, guarantee RBIC debentures and make grants to RBICs.

New Sec. 384C. establishes the RBIP.

New Sec. 384D provides for the eligibility of companies to apply to participate in the

RBIP if 1) the company is newly formed for-profit or a subsidiary of such company; 2) the company has a management team experienced in financing community development; and 3) the company will invest in enterprises that will create wealth and job opportunities.

Applications to participate must contain a business plan, information about management's experience in financing rural development, a description of how the company intends to work with community organizations to meet unmet capital needs, a proposal on how the company will use grant funds, an estimate of cash to in-kind contributions the company will have in binding commitments, a description of the evaluation standards the company will use to determine whether or not it is meeting the RBIP's purposes, information regarding the financial strength of the parent company or its subsidiary, and any other information the Secretary requires.

The Secretary must issue within 90 days a status report about an application to participate and must approve or disapprove the application within a reasonable time and, on approval, issue a license for the operation of the applicant. If disapproved, the Secretary must notify the applicant in writing.

The Secretary is required to make determinations about the applicant when reviewing and processing the application, including finding that the management personnel of the applicant are qualified to carry out the RBIP and generally have a good business reputation.

The Secretary shall approve and designate the applicant as a RBIC if it is determined that the applicant qualifies, the area in which the RBIC will operate is acceptable and the applicant enters into a participation agreement. The applicant has a capital requirement of at least $2.5 million.

New Sec. 384E provides that the Secretary is authorized to guarantee, using the full faith and credit of the United States, the timely payment of principal and interest on debentures issued by the RBIC. Debenture guarantees may not exceed 15 years. Such guarantees may not exceed the lesser of 300 percent of the private capital of the RBIC or $105 million, and may provide for use of discounted debentures.

New Sec. 384F authorizes the Secretary to issue trust certificates that represent partial or full ownership of RBIC debentures. The Secretary may pool RBIC debentures on which the certificates are based and may guarantee the timely payment of principal and interest on the certificates. The Secretary may administer the guaranteed trust or pool to provide for prepayment of or defaults on debentures. Trust certificates are backed by the full faith and credit of the U.S.

The Secretary is required to provide for a central registration of all trust certificates and will subrogate and retain ownership rights over a debenture on which a claim is satisfied. The Secretary may maintain bank accounts and investments to facilitate the creation of trusts or pools of debentures. The Secretary may regulate brokers and dealers in RBIP trust certificates and require any person functioning as the Secretary's agent to provide a bond or evidence of insurance.

New Sec. 384G authorizes the Secretary to charge fees for the guarantee of debentures or grants, and the Secretary's agents may collect a fee for operating a trust pool. The Secretary may charge a fee to license a RBIC. The Secretary shall use the fees to cover salaries and expenses of the Secretary and are authorized for covering the costs of licensing exams.

New Sec. 384H authorizes the Secretary to make grants to RBICs over a multi-year period to be used only to provide operational assistance. RBICs must show how they will use grant funds. The amount of the grant can be up to the lesser of 10% of the private capital raise or $1 million. NOTE: INTENT was to also limit such funds to the lesser of twice the match provided by the RBIC. The Secretary may make grants to entities other than a RBIC under the same terms as it would to an RBIC.

New Sec. 384I sets out the legal organization of RBICs, including their articles of incorporation if incorporated, and minimum levels of private capital acceptable to operate as a RBIC. The Secretary may accommodate lesser capital standards upon the showing of special circumstances and good cause. The Secretary shall ensure that the private capital is adequate for success and that at least 75 percent of the capital is invested in rural business and not more than 10% may be invested in a city of over 100,000 or its surrounding urbanized area. That the minimum amount of capital required for RBICs authorized to be issued guarantees on debentures shall be $10,000,000 or $5,000,000 with a determination by the Secretary regarding risk. Secretary also is required to ensure that the RBIC management is diversified and unaffiliated with the ownership of the RBIC.

New Sec. 384J provides that national banks, Federal Reserve member banks, federal savings associations, Farm Credit System (FCS) institutions and other insured banks may invest in RBICs but in no event may a lending institution make a greater than five percent investment of its capital and surplus in RBICs. In the case of a FCS institution or a combination of FCS institutions holding more than 15 percent of the voting stock in a RBIC, the RBIC may not provide financial or equity investment assistance to any entity not otherwise eligible to receive financing from the FCS.

The total invested by any of the described financial institutions shall not exceed 5% of their capital.

New Sec. 384K sets out the reporting requirements.

New Sec. 384L provides for the Secretary to direct a private sector entity to exam the books, records and operations of participating RBICs, and the Secretary may charge RBICs for the costs of such examinations.

New Sec. 384M authorizes the Secretary to use the federal district courts to enforce compliance of all provisions of the RBIP set out in rules, regulations, orders or participation agreements should the Secretary have reason to believe a RBIC is engaging in or about to engage in any act or practice that violates the RBIP. In the event of violations, a court of competent jurisdiction may issue temporary or permanent injunctions, restraining orders or other orders to prohibit further activities and may appoint a trustee or receiver to manage the assets of a RBIC. The Secretary may act as a trustee or receiver.

New Sec. 384N authorizes the Secretary to void RBICs' participation agreements and to stop the exercise of all rights and privileges as a RBIC. A RBIC must be found to be in violation of the RBIP before the loss of such privileges.

New Sec. 384O provides that RBICs and other, associated persons involved in any activity that violates the act to be held together to the extent the associated persons authorize or otherwise bring about the violation. Any mismanagement or misconduct shall be a breach of fiduciary responsibility and unlawful. Any person associated with the RBIC that commits any unlawful act or practice, or fails in any act or practice, that would result in the RBIC suffering financial losses has breached his fiduciary responsibility. This section further provides suitability rules for officers or agents of the RBIC and makes any breach of those rules to be unlawful acts.

Sec. 384P provides procedures for removing officers or agents of a RBIC.

Sec. 384Q requires the Secretary to enter into an interagency agreement with the Small Business Administration to carry out the day-to-day management and operation of the RBIP.

Sec. 384R authorizes the Secretary to write regulations to carry out the RBIP.

Sec. 384S provides $350 million for the guarantee of debentures and $50 million for grants from Treasury funds not otherwise appropriated to carry out the RBIP. Such funds shall remain available until spent.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment making clarifying changes and that the Secretary shall enter into an interagency agreement with another federal agency that has expertise in operating a program of this nature. The Conference substitute provides $100 million to carry out this program. (Section 6029)

This program addresses the crucial problem of limited equity capital in rural America. The program allows investment companies to considerably leverage their equity resources, increasing the equity funds available in rural America by attracting capital for the program and through the leverage that the program provides. Only for profit Rural Business Investment Companies (RBIC) may apply because the profit motive and danger of loss will help minimize losses to the government. The Managers believe that a high quality management team of the applicants is crucial for success and expects that this factor will be given solid consideration.

Financial institutions may participate in the program as set forth in the program. The Managers intend that financial institution regulators including the Farm Credit Administration, the Office of the Comptroller, the Federal Reserve, state bank regulators, and other financial institution regulators continue to have the authority to impose on any financial institution that they regulate any safeguard, limitation, or condition that the regulator considers to be appropriate (including, without limitation, any investment limit that is lower than the investment limit that this section imposes on insured depository institutions). The strong expectation of the Managers is that RBICs will not normally engage in lending of a type performed by regulated financial institutions except in circumstances where such assistance is not likely to be available and where the equity investment makes such arrangements prudent given the overall risks involved.

The program is modeled after the Small Business Investment Company program, where considerable expertise in operating the program that provides capital for equity investments has been developed. That program shares many of the same provisions with the RBIC program that is being enacted allowing day-to-day management to follow almost identical practices with a few exceptions such as those dealing with the grants program and rural targeting of investments. It is the expectation of the Managers that the Secretary enter into an agreement under the Economy Act within 60 days of enactment with that appropriate agency.

It is the expectation of the Managers that a considerable share of the rules and operating procedures for this program will be the same as the rules and operating procedures for the Small Business Investment Company program. Given that reality, it is the Manager's expectation that rules implementing this program can be proposed in a very short

time period. The grant provisions are similar to the New Markets Venture Capital Program.

(22) Full Funding of Pending Rural Development Loan and Grant Applications

The Senate amendment spends a CBO estimated $454 million in 2002 (no future spending) to close out the backlog in the following rural development programs: community facility direct loans and grants; water and waste disposal direct loans and grants; rural water or wastewater technical assistance and training grants; emergency community water assistance grants; B&I guaranteed loans; solid waste management grants. Applications in the preapplication phase are not eligible for funding under this provision. (Section 603)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide $360 million to fund pending applications for water and waste disposal system grants and loans, with priority to water systems. (Section 6031)

(23) Enhancement of Access to Broadband in Rural Areas

The Senate amendment spends $100 million each year 2002–2006. Amends the Rural Electrification Act. The Secretary shall make grants, loans, and loan guarantees at 4% or market rate interest to construct, improve, acquire facilities and equipment to provide broadband service to rural communities with no more than 20,000 residents. Funding will be allocated to states, and funds not obligated by April 1 will go in a national pool to be used by the Secretary to make grants, loans, and loan guarantees in any state. (Section 605)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide loans and loan guarantees for broadband service and to clarify what entities are eligible to receive a loan or loan guarantee. (Section 6103)

The Managers expect that the state government or local government or any agency, subdivision or instrumentality thereof (including consortia thereof) will be permitted to file applications during the three-month waiting period after the RUS has promulgated rules on the broadband program in order to keep their place in line for the next available round of funding.

The Managers expect the RUS to evaluate the priority status of all pending broadband applications as soon as practicable after the date of enactment. Any completed application which meets the priority criteria should be evaluated for expedited approval. The Managers expect the Agency to determine the priority status of applications on hand at least once every quarter. In general, all other applications should be evaluated and awarded on a first come first serve basis.

The Managers are aware that in the current broadband pilot program RUS has generally used the FCC's definition of broadband services. It is the Manager's intent that this practice should continue and that is why the Manager's used the definition of broadband services that is currently being used by the FCC and the RUS. The Managers want to make clear that the purpose behind using this definition was to maintain the current high standard used by RUS in determining what a broadband service is.

However, the Managers expect the Administrator will apply a definition of broadband services to encourage new broader bandwidth technologies in rural areas and that the program will foster the development of a variety of technological applications including terrestrial and satellite wireless services. This is a critical function since this is a rapidly changing technology.

The Managers have taken no position on particular technologies and believe that it is very important for the Department not to choose among adequate technologies. The Managers expect the Secretary to participate in any FCC proceedings or Department of Commerce study of the future of broadband services and the markets for such services.

The Managers are aware that the RUS has administered a telecommunications program for over 50 years. To date there has not been a loan loss in that program. The Managers expect, that given that record, program levels will fully take that reality into account. The Managers intend for direct loans to be made at the treasury rate of interest in most circumstances.

(24) National Rural Development Information Clearinghouse

The House bill extends the National Rural Information Center Clearing-House—(7 U.S.C. 3125b(c)) through 2011. (Section 701)

The Senate amendment amends Section 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 to establish a Clearinghouse at USDA to collect and disseminate information about programs and services available to a person or entity in a rural area regarding financial, technical or other assistance. The Clearinghouse will maintain an Internet website, and the Secretary shall use not more than $600,000 of the funds available to RHS, RUS, RBS each fiscal year to operate and maintain the Clearinghouse. (Section 607)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7101)

The Managers expect the Rural Development mission area of the Department to highlight the existence and resources of the Rural Information Center of the National Agricultural Library on its websites and in its informational materials.

(25) Multijurisdictional Regional Planning Organizations

The Senate amendment amends the ConAct to allow the Secretary to provide grants up to $100,000 to multijurisdictional regional planning organizations to pay for costs of assisting local governments to improve infrastructure, services and business development capabilities. Authorizes appropriations for $30 million in each year 2003–2006. A local match is required. (Section 624)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6006)

(26) Certified Nonprofit Organizations Sharing Expertise

The Senate amendment amends Sec. 306(a) of the ConAct. The Secretary shall certify nonprofit organizations (which may include an institutions of higher education) that demonstrate experience in providing technical assistance to improve infrastructure, services and business development capabilities of local governments, and make this list available to the public. Authorizes appropriations of $20 million each fiscal year 2003–2006 to make grants to certified organizations. (Section 625)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(27) Loan Guarantees for Certain Rural Development Loans

The Senate amendment amends Sec. 306(a) to authorize the Secretary to guarantee loans made for community facilities or water and sewer systems, including loans financed by bond issuances described by Section 144(a)(12)(B)(ii) of the IR code. (NOTE: currently, projects with bonds receiving assistance under that section may not receive other government support. This section does not impact the IRS provision). Any individual or entity offering to buy these loans may receive the guarantee if the individual or entity demonstrates that person can continue the performance of the loan and can generate capital to assist borrowers of loans with additional credit needs to ensure servicing of loans.

Amends Sec. 310B. to authorize the Secretary to guarantee loans made to finance bond issues for the provision of community facilities or water and sewer systems. (Section 626)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the reference to section 142(a) of the Internal Revenue Code of 1986. (Section 6007)

The Managers intent is that this section will allow the Department to provide support for noted projects in the event the IRS code is modified to allow such support without adversely affecting tax benefits.

(28) Rural Firefighters and Emergency Personnel Grant Program

The Senate amendment spends $10 million in 2002 and then $30 million each year 2003–2006. Amends the ConAct to establish a grant program to provide scholarships to local government units to train firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous material and bioagents. Not less than 60% of the funds shall be used for this purpose. Grants may be used for facility improvements, equipment, operating, or establishing regional training centers. Not more than 40% may be used for the facility grants. The federal share of the facility grants shall not exceed 50%. (Section 627)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment to clarify that the Secretary shall give priority to grant applicants that provide for training within the region or locality in which the grant applicant is located. The Conference substitute provides for a funding level of $10 million for each of fiscal years 2003 through 2007, and as a result of this lower level of overall funding for the program, reduces the $2 million limitation for any single training center in any single year to $750,000. (Section 6405)

The Managers expect that efforts will be made to minimize travel costs in order to maximize actual training provided. In order to minimize costs, appropriate training facilities within the area or region should be utilized whenever possible. Many firefighter and first responder training facilities, some with specialized functions such as farm safety have received USDA or FEMA assistance in the past, have excellent reputations but have significant facility needs. It is expected that the Department give a high priority to such facility needs.

(29) Tribal College and University Essential Community Facilities

The Senate amendment amends Section 306(a) of the ConAct to add a provision allowing the Secretary to make grants to tribal colleges and universities to help them develop essential community facilities in rural areas. The federal share is not to exceed 75% of the total cost of these facilities. Authorizes $10 million a year for each of fiscal years 2003 through 2006. (Section 628)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6008)

(30) Water and Waste Facility Grants for Native American Tribes

The Senate amendment amends Section 306C of the ConAct to authorize appropriations for $30 million in grants, $30 million in loans, and $20 million in grants to benefit Indian tribes each year 2002–2006. (Section 630)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6010)

(31) Rural Business Enterprise Grants

The Senate amendment amends Section 310B(c)(1) of the ConAct by creating a priority in awarding grants under this program to non-profit entities operating on tribal land in an area with a population of no more than 5,000. (Section 632)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6014)

In many rural tribal communities, tribes and tribal governments play a dominant role in the economic development of the area. As a result, unique patterns of economic development exist whereby the local economy is often composed of a single dominant employer. Because of these circumstances, many organizations located in isolated tribal communities are often unable to receive assistance from the Rural Business Enterprise Grant program. The Managers recognize the different patterns of economic development that exist in many rural tribal communities.

It is the Managers expectation that funds made available under this provision will be used to assist in the financing or development of small and emerging businesses located in communities of less than 5,000 people on tribal lands or former tribal lands without respect to revenue or employee limitations. Funds made available under this provision may only be used to create, expand or operate value-added agricultural processing facilities.

(32) Grants to Broadcasting Systems

The Senate amendment amends section 310B(f) of the ConAct by adding: $5 million is authorized per year from 2002–2006 for this subsection. (Section 634)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6016)

(33) Value-Added Intermediary Relending Program

The Senate amendment amends sec. 310B of the ConAct. The Secretary shall make loans to eligible intermediaries, including State agencies, to make loans to recipients for projects to establish, enlarge, or operate enterprises adding value to agriculture products and commodities. Intermediaries shall give preference to bioenergy projects. Limits loans to $2 million except in cases where the intermediary is a state agency. Authorizes $15 million to be appropriated for fiscal years 2003–2006. (Section 636)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(34) Use of Rural Development Loans and Grants for Other Purposes

The Senate amendment amends subtitle A of the ConAct. If, after making a loan or grant, the Secretary determines the circumstances under which the loan or grant was made have sufficiently changed, the Secretary may allow the recipient to use the loan or grant for other purposes, meeting certain requirements. (Section 637)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6018)

(35) Simplified Application Forms for Loan Guarantees

The Senate amendment amends Sec. 333A of the ConAct. The Secretary shall provide lenders a simplified application for guarantees of farmer program loans under $100,000 and B&I guaranteed loans under $400,000. It also provides that after 2003, USDA may increase to $600,000 the limit on the size B&I loans eligible to use the simplified application process. The Secretary shall develop a process that accelerates processing applications for water and waste disposal grants and loans. (Section 638)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to allow the simplified application process to be used for guarantees of farmer program loans under $125,000. (Section 6019)

(36) Definition of Rural and Rural Area

The Senate amendment amends sec 343(a) of the ConAct so that a ''rural area'' means a city, town or unincorporated area with a population of 50,000 or less (applied to Community Facility loans and grants, B&I direct and guaranteed loans, Sections 601 and 638); 10,000 or less for water and waste disposal grants and loans. Other definitions of rural are provided for multijurisdictional regional planning organizations and the microenterprise program (Section 639)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment to clarify the definition of ''rural'' and ''rural areas'', and reduce the population requirement for the Community Facilities Program from 50,000 to 20,000. (Section 6020)

(37) Rural Enterprises and Microenterprise Assistance Program

The Senate amendment spends $10 million each year from 2002–2006. Amends Subtitle D of the ConAct to establish a Program to provide low- and moderate-income individuals with skills to start new small businesses in rural areas, and to provide continuing technical assistance through local organizations as these new businesses begin operating. Grants may be made to qualified organizations to provide training and technical assistance. (Section 642)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(38) Rural Seniors

The Senate amendment amends Subtitle D of the ConAct. The Secretary shall establish an interagency committee to examine special problems of rural seniors and report recommendations to the Senate and House Ag Committees.

Authorizes $25 million to be appropriated each fiscal year 2003–2006 for grants to nonprofit organizations of up to 20% of the cost of programs that provide facilities, equipment and technology for seniors.

Reserves no less than 12.5% of the Community Facilities program funds for Senior Facilities up to April 1 of each fiscal year.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(39) Children's Day Care Facilities

The Senate amendment provides that Sec 306(a)(19) of the ConAct is amended to reserve no less than 10% of the Community Facilities funds for grants to pay the cost share of developing and constructing day care facilities for children in rural areas up to April 1 of each fiscal year. (Section 642)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6004)

(40) Rural Telework

The Senate amendment amends Subtitle D of the ConAct. The Secretary shall make a grant to an eligible organization to pay the cost of establishing a national rural telework institute. Nonprofit organizations and educational institutions may receive a grant of up to $500,000 for obtaining equipment and facilities to establish, expand or operate telework locations in rural areas. A 50% match is required. Authorizes $30 million for each fiscal year 2002–2006, of which $5 million each year will establish the institute. (Section 643)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that the matching requirement for a grant be 30 percent the first three years of a project and 50 percent during the fourth and fifth years. The Conference substitute also prescribes non-federal contribution requirements and grant amounts. (Section 6022)

(41) Historic Barn Preservation

The Senate amendment provides that Subtitle D of the ConAct is amended so the Secretary may make grants or enter into agreements with states to rehabilitate, preserve, or identify historic barns. Authorizes $25 million total for fiscal years 2002–2006. (Section 644)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as necessary. (Section 6023)

(42) Grants for Emergency Weather Radio Transmitters

The Senate amendment amends Subtitle D of the ConAct. Authorizes $2 million each fiscal year 2002–2006 so the Secretary may make grants to public and nonprofit entities for acquiring radio transmitters to increase coverage of rural areas by the emergency weather broadcast system. (Section 645)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment. (Section 6024)

The Managers are concerned that many rural and remote areas in the United States do not have access to timely and accurate alerts and warnings regarding severe weather in the vicinity. In many cases, timely weather warnings may be the difference between life and death for individuals in the path of severe weather. It is the Managers intent that this grant program increase the coverage area of the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration to as many rural and remote areas as possible.

(43) Delta Regional Authority

The Senate amendment provides that Sec. 382D of the Con Act is amended to clarify (as a drafting matter) the provision relating to supplements to federal grant programs. Subtitle D of the Con Act is amended to add 4 Alabama counties to the definition of Lower Mississippi, and to allow grants for research at a particular university. Sec. 382M(a) of the Con Act is amended by extending authorization of appropriations and authority to 2006. (Section 647)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment clarifying the voting structure. (Section 6027)

(44) SEARCH Grants for Small Communities

The Senate amendment amends the ConAct. States may establish a Council that may apply for a grant of no more than $1 million. The Council will use this funding to award SEARCH (special environmental assistance for the regulation of communities and habitat) grants to communities with a population with 2,500 or less for an environmental project or to comply with an environmental law. Authorizes $51 million in appropriations and such sums as are necessary to carry out this section. (Section 648)

The House bill contains no comparable provision.

The Conference substitute does not amend the ConAct. It adopts the Senate provision with an amendment to administer this program through the State Rural Development Directors, in coordination with the environmental protection director of the State. (Sections 6301, 6302, 6303, 6304)

The consultation and coordination provided by the Environmental Protection Agency is for technical and informational purposes; the Managers intend that the State rural development directors award SEARCH grants in each state. Annual appropriations are authorized at $1,000,000 per state per year.

The State rural development directors are expected to appoint the members of the independent citizens' councils, which will help receive and review SEARCH grant applications from communities in the state. After a review of the applications by the council, in coordination with the State rural development director and the state environmental protection director, the State rural development directors will award SEARCH grants to communities for environmental projects that are necessary to carry out initial feasibility studies or to assist communities that demonstrate an inability to obtain sufficient funding from traditional sources as determined by the State rural development directors, in coordination with state environmental directors and the Council. Some State and Federal environmental laws and regulations require initial feasibility or environmental studies prior to undertaking an environmental project. It is the Managers' intent that SEARCH grants provided to communities for the purposes of carrying out an initial feasibility or environmental study be consistent with applicable State and Federal laws. It is not the Managers' intent to prohibit SEARCH grants to communities for initial feasibility or environmental studies where such requirements do not exist.

The Managers are aware that many communities do not have experts with the technical ability to complete the paperwork and other documents accompanying traditional funding programs. Therefore, it is the Managers' intent that the application process be simplified and streamlined as is practicable. State rural development directors should work with rural communities to identify the requirements of such a simplified application process.

Many communities coping with environmental laws and regulations are economically distressed and lack the resources to comply with mandates without grant assistance. It is the Managers' intent that State rural development directors not seek a local match from communities for grants awarded if it will result in economic hardship to the community in question. State rural development directors should reserve match requirements for specific situations and circumstances, and allow communities reasonable amounts of flexibility to provide, in lieu of cash payment, in-kind contributions when calculating the cost-share amount.

(45) Northern Great Plains Regional Authority

The Senate amendment amends the ConAct to establish the Authority to be composed of one member appointed by the President and confirmed by the Senate, and the Governors of the states participating in the Authority (Iowa, Minnesota, Nebraska, North Dakota and South Dakota). The Authority may approve grants to state and local governments, public and nonprofit entities for projects including transportation and telecommunication infrastructure, business development, and job training. Establishes distressed areas in which to target funding as well as a minimum requirement for the distribution of funds among the states. State and regional development plans and grant applications must be approved by the Authority. Authorizes $30 million each fiscal year 2002–2006 for the Authority, which expires in 2006. (Section 649)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision (Section 6028)

The Northern Great Plains Regional Authority is authorized in the states of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. The Authority is expected to develop a series of comprehensive coordinated plans for the economic development of the region. The Conference substitute authorizes appropriations of $30,000,000 in each of fiscal years 2002 through 2007.

Grants will be made by the Authority particularly to those counties which are distressed, with a special emphasis on transportation, telecommunications, and basic infrastructure such as sewer and water facilities as funds become available. The Managers recognize the ongoing rural development efforts that have evolved from the recommendations of the Northern Great Plains Rural Development Commission. The Commission was established in 1994 through the passage of P.L. 103–318 to prepare a 10–year rural development strategy for the Northern Great Plains Region. The Managers support the efforts of the Northern Great Plains, Inc to implement the Commission's recommendations and urge the Department, along with this organization, to continue to advance the findings of the Commission.

It is the expectation of the Managers that staff resources of that organization are allocated in a balanced manner to the benefit of all parts of the region. Grants to the Authority must be allocated geographically so each state receives at least one third of its proportional population share without regard to the level of distress of counties in that state.

(46) Alternative Agricultural Research and Commercialization Corporation

The House bill extends Sec. 722. Alternative Agricultural research and commercialization revolving fund. (7 U.S.C. 5908(g)(1) and capitalization (7 U.S.C. 5908(g)(2) through 2011. (Section 651)

The Senate amendment repeals Subtitle G of Title XVI of the 1990 FACTA. The assets of the Corporation are transferred to the Secretary, and funds and any income shall be deposited into an account in the Treasury to pay outstanding claims or obligations of the Corporation and the cost of carrying out this section. There are other conforming amendments. (Section 651)

The Conference substitute adopts the Senate provision with a technical amendment. (Section 6201)

(47) Telemedicine and Distance Learning Services in Rural Areas

The Senate amendment amends Section 2335A of the 1990 FACTA to extend this provision through 2006. (Section 652)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6203)

The Managers direct that public television entities are eligible to receive assistance under this section for high speed telecommunication services in rural areas to provide educational programming for schools and communities in rural areas.

(48) Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes

The Senate amendment amends the REA. The Secretary shall guarantee bonds and notes issued by an eligible private lender if the proceeds are used for electrification or telephone projects eligible for assistance under this Act. The Secretary may not guarantee the bonds if they are not of reasonable and sufficient quality and for several other reasons. Bonds funding electric generation projects are specifically excluded from this program. Authorizes such sums as are necessary. Provides for fees for the issuance of the guarantees.

Proceeds from the fees minus certain costs are placed in an economic development subaccount. Grants as provided by current law are made from the subaccount for economic development. (Section 661)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment. (Section 6101)

This section provides for a new source of private funding for the Rural Economic Development Loan and Grant (REDLG) program. Since enactment in 1987, the REDLG program has provided approximately $185 million in economic development assistance to rural communities in the form of grants and zero-interest loans for rural development projects such as water and waste, business incubator, schools, hospitals, emergency services, and general economic and community development.

Private funding is provided through the payment of an annual 30 basis point fee by lenders that issue bonds or notes guaranteed by the Administrator of RUS under this section. These fees are placed in a sub-account for the purpose of providing the budget authority for eligible economic development projects through intermediaries participating in the REDLG program.

The provision provides for safety and soundness and permits the Administrator to deny the request of a lender for a guarantee if the lender does not have expertise and experience in rural utility lending, or issues bonds that, without the guarantee, would not be of investment grade quality. In addition, a lender should provide documentation that the proceeds of a guaranteed bond or note are used for eligible REAct purposes.

This provision further requires that a private lender make payments on the bonds or notes even if a loan made using the proceeds of such bond or note is not repaid to the lender. This effectively places the lender between the RUS and the borrower minimizing the risk to the government

(49) Expansion of 911 Access

The Senate amendment amends Title III of the REA. The Secretary may make telephone loans to state or local governments, Indian tribes, or other public entities for facilities and equipment to expand 911access in rural areas. Authorizes such sums as are necessary. (Section 662)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment. (Section 6102)

TITLE VII—RESEARCH AND RELATED MATTERS

SUBTITLE A—EXTENSIONS

(1) Market Expansion Research

The House bill extends section 1436(b)(3)(C) of the Food Security Act of 1985 (7 U.S.C. 1632(b)(3)(c)) through 2011. (Section 700)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to repeal Section 1436 (b)(3)(C) of the Food Security Act of 1985. (Section 7303)

(2) National Rural Information Center Clearing-House

The House bill extends section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) through 2011. (Section 701)

The Senate amendment amends and generally revises section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 and transfers authority from the research mission area to the rural development mission area. (Section 607)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. The Managers expect the Rural Development mission area of the Department to highlight the existence and resources of the Rural Information Center of the National Agricultural Library on its websites and in its informational materials. (Section 7101)

(3) Grants and Fellowships for Food and Agricultural Sciences Education

The House bill extends section 1417(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(1)) through 2011. (Section 702)

The Senate amendment amends section 1417 of NARETPA in several places to expressly include teaching and educational programs in ''rural economic, community, and business development'' as eligible purposes or recipients under this grant program and extends the authorization through 2006. (Section 703)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7102)

(4) Policy Research Centers

The House bill extends section 1419A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(d)) through 2011. (Section 703)

The Senate amendment extends NARETPA (7 U.S.C. 3155(d)) through 2006. (Section 706(2)).

The Conference Substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7103)

(5) Human Nutrition Intervention and Health Promotion Research Program

The House bill extends section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) through 2011. (Section 704)

The Senate amendment amends section 1424 of NARETPA to extend authorization through 2006. (Section 707)

The Conference Substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7104)

(6) Pilot Research Program To Combine Medical and Agricultural Research

The House bill extends section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) through 2011. (Section 705)

The Senate amendment extends section 1424A of the NARETPA through 2006. (Section 708)

The Conference Substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7105)

(7) Nutrition Education Program

The House bill extends section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) through 2011. (Section 706)

The Senate amendment extends section 1425 of NARETPA through 2006. (Section 709)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7106)

(8) Continuing Animal Health and Disease Research Programs

The House bill extends section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) through 2011. (Section 707)

The Senate amendment extends section 1433 of NARETPA through 2006. (Section 710)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7107)

(9) Appropriations for Research on National or Regional Problems

The House bill extends section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) through 2011. (Section 708)

The Senate amendment extends section 1434 of NARETPA through 2006. (Section 711)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7108)

(10) Grants to Upgrade Agricultural and Food Sciences Facilities at 1890 Land-Grant Colleges, Including Tuskegee University

The House bill extends section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) through 2011. (Section 709)

The Senate amendment amends section 1447 of NARETPA to increase the authorization from $15 million to $25 million and extends the authorization through 2006. (Section 760)

The Conference substitute adopts the Senate provision with an amendment authorizing such sums as necessary and extending the authorization through 2007. (Section 7109) (Section 7109)

(11) National Research and Training Centennial Centers at 1890 Land-Grant Institutions

The House bill extends section 1448(a)(1) and (f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c(a) (1) and (f)) through 2011. (Section 710)

The Senate amendment extends section 1448 of NARETPA through 2006 and strikes ''centennial'' and replaces it with ''virtual'' each place it appears. (Section 761)

The Conference Substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7110)

(12) Hispanic Serving Institutions

The House bill extends section 1455(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241(c)) through 2011. (Section 711)

The Senate amendment extends section 1455 of NARETPA through 2006. (Section 712)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7111)

(13) Competitive Grants for International Agricultural Science and Education Programs

The House bill extends section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b (c)) through 2011. (Section 712)

The Senate amendment extends section 1459A of NARETPA through 2006. (Section 713)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7112)

(14) University Research

The House bill extends subsections (a) and (b) of section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a) and (b)) through 2011. (Section 713)

The Senate amendment extends section 1463(a) of NARETPA to increase the authorization from $850 million per year to $1.5 billion per year, and extends the authorizations in subsections (a) and (b) to 2006. (Section 716)

The Conference substitute adopts the House provision with an amendment authorizing such sums as necessary and extending the authorization through 2007. (Section 7113)

The Managers encourage the Secretary to review USDA competitive grants programs administered by the Cooperative States Research, Education and Extension Service and provide to Congress a report that includes an accounting of the success of minority-serving institutions in accessing competitive research funding during the applicable fiscal year, and recommendations for steps that Congress, the Administration and the minority-serving institutions might take to achieve greater success by minority-serving institutions in securing competitively awarded grant funds.

(15) Extension Service

The House bill extends section 1464 the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) through 2011. (Section 714)

The Senate amendment extends section 1464 of NARETPA to increase the authorization from $420 million to $500 million and extend it through 2006. (Section 717)

The Conference substitute adopts the House provision with an amendment authorizing such sums as necessary and extending the authorization through 2007. (Section 7113)

The Managers recognize the importance of ensuring that America's farmers and ranchers have the tools necessary to remain the most productive, efficient and competitive producers in the global marketplace. Due to the complexity of marketing and management issues, intensive educational efforts have proven effective in helping producers increase their returns. The Agricultural Risk Protection Act acknowledged the need to establish a risk management education program to inform agricultural producers about the full range of risk management activities available to them.

One program that has proven to be successful is the Master Marketer Educational System (MMES) conducted by Texas Cooperative Extension. This intensive training course takes producers from an intermediate to an advanced level in marketing/risk management. Program graduates serve as volunteer leaders in establishing and /or revitalizing marketing clubs in their home county to share what they have learned. Two-year post-training surveys have indicated that graduates have increased their returns by

$25,000 to $30,000 per year. While the Master Marketer training and marketing clubs are the cornerstones of the system, MMES also includes an advanced topic series for producers and an in-depth risk management training for lenders. The Managers encourage the Secretary of Agriculture to expand such programs to provide quality risk management training for farmers across the country.

(16) Supplemental and Alternative Crops

The House bill extends section 1473D(a) the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) through 2011. (Section 715)

The Senate amendment extends section 1473D of NARETPA through 2006. (Section 720)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7115)

(17) Aquaculture Research Facilities

The House bill extends section 1477 of the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) through 2011. (Section 716)

The Senate amendment extends section 1477 of NARETPA through 2006. (Section 721)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7116)

(18) Rangeland Research

The House bill extends section 1483(a) of the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) through 2011. (Section 717)

The Senate amendment extends section 1483 of NARETPA through 2006. (Section 722)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7117)

(19) National Genetics Resources Program

The House bill extends section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is extended through 2011. (Section 718)

The Senate amendment extends section 1635 of the FACT Act through 2006. (Section 731)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7118)

(20) High-Priority Research and Extension Initiatives

The House bill extends section 1672(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(h)) is extended through 2011. (Section 719)

The Senate amendment extends section 1672 of the FACT Act through 2006. Section 734)

The Conference substitute combines the House and Senate provision, conforming to the format of the House provision and extending the authorization through 2007. (Section 7119)

The Managers note that the US Department of Agriculture has relocated the Western Human Nutrition Research Center (WHNRC) to the University of California, Davis campus. In order to ensure that the full potential of a research and education partnership between the WHNRC and the University is realized, the Managers fully expect the Secretary of Agriculture to establish a Cooperative Agreement, to replace the current Memorandum of Understanding, with the University of California for the management of the WHNRC by August 1, 2002.

The Managers expect that the Secretary shall, in making grants under paragraph 41, give priority to proposals to: i) establish and coordinate priorities for genetic evaluation of domestic beef cattle; (ii) consolidate research efforts to reduce duplication of effort and maximize the return to beef industry; (iii) streamline the process between the development and adoption of new genetic evaluation methodologies by the industry; (iv) identify new traits and technologies for inclusion in genetic programs in order to reduce the costs of beef production and provide consumers with a high nutritional value, healthy, and affordable protein source or create decision making tools that incorporate the increasing number of traits being evaluated and the increasing amount of information from DNA technology into genetic improvement programs, with the goal of optimizing the overall efficiency, product quality and safety, and health of the domestic beef cattle herd resource.

The Managers recognize the importance of proper management and stewardship of the Ogallala Aquifer and other natural resources to the long-term viability of agricultural enterprises and communities in the Central and Southern Great Plains. The Managers recognize the ongoing efforts of educational institutions and agricultural entities in this region that have expertise in developing enhanced management strategies for conserving water, natural resources and associated agricultural infrastructure in order to protect the region's economic integrity over the long term. The Managers commend multi-disciplinary research efforts to develop new technologies and strategies to manage and utilize water and natural resources to produce sustainable economic returns.

To maintain the economic vitality and rural population base of the Central and Southern Great Plains, the Secretary is encouraged to give priority to and fund collaborative research efforts that seek to protect the water and natural resources of this region.

(21) Nutrient Management Research and Extension Initiative

The House bill extends section 1672A(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a(g)) through 2011. (Section 720)

The Senate amendment extends section 1672A of the FACT Act through 2006. (Section 735)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7120)

The Managers acknowledge the many benefits of the worm farming industry. Worm farms, while not recognized in any specific program within the USDA, provide considerable environmental benefits. By recycling organic waste, worms fertilize our agriculturally productive lands and improve nutrient-deficient soil. The Managers encourage the USDA to study and promote worm farming industry techniques that are beneficial to the environment.

(22) Agriculture Telecommunications Program

The House bill extends section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) through 2011. (Section 721)

The Senate amendment extends section 1673 of the FACT Act through 2006. (Section 737)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7121)

(23) Alternative Agricultural Research and Commercialization Revolving Fund

The House bill extends section 1664(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5908(g)(1) and the capitalization section 1664(g)(2)of the FACT Act (7 U.S.C. 5908(g)(2)) is extended through 2011.(Section 722)

The Senate amendment repeals the provision and provides authority to the Secretary for the orderly disposal of AARCC assets. (Section 651)

The Conference substitute adopts the Senate provision (Sec. 6201).

(24) Assistive Technology Program for Farmers With Disabilities

The House bill extends section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) through 2011.

The Senate amendment extends section 1680 of the FACT Act through 2006.

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7122)

(25) Partnerships for High-Value Agricultural Product Quality Research

The House bill extends section 402(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622(g)) through 2011.(Section 724)

The Senate amendment extends section 402 of AREERA through 2006. (Section 742)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Secion 7123)

(26) Biobased Products

The House bill extends section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) and section 404(h) the authorization of appropriations of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(h)) through 2011. (Section 725)

The Senate amendment extends section 404 of AREERA for the basic authorization for the program and the authority to conduct the pilot project through 2006. (Section 744)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7124)

(27) Integrated Research, Education, and Extension Competitive Grants Program

The House bill extends section 406(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(e)) through 2011. (Section 726)

The Senate amendment amends section 406 of AREERA to provide that the term for a grant under that section shall not exceed 5 years and to extend the authorization through 2006. (Section 746)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7125)

(28) Institutional Capacity Building Grants

The House bill extends section 535(b)(1) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) through 2011. (Section 727)

The Senate amendment amends section 535 of the Act to extend the authorization for institutional capacity building grants through 2006 and change the authorized amount from $1.7 million per year to such sums as necessary. (Section 755(f))

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7126)

(29) 1994 Institution Research Grants

The House bill extends section 536(c) of the Equity in Educational Land-grant States Act of 1994 (7 U.S.C. 301 note) through 2011. (Section 728)

The Senate amendment amends section 536 of the Act to extend the authorization for the research grants program through 2006. (Section 755(g)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7127)

(30) Endowment for 1994 Institutions

The House bill extends section 533(b) of the Equity in Educational Land-grant States Act of 1994 (7 U.S.C. 301 note) through 2011. Current authorization limit of $4,600,000 is amended to ''such sums as are necessary''. (Section 729)

The Senate amendment extends the authorization of the 1994 Institutions endowment under section 533 of the Act through 2006 and changes the amount from $4.6 million per fiscal year to such sums as are necessary. (Section 755(c))

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7128)

(31) Precision Agriculture

The House bill extends section 403(i) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623(i) through 2011. (Section 730)

The Senate amendment extends section 403 of AREERA through 2006. (Section 743)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7129)

(32) Thomas Jefferson Initiative for Crop Diversity

The House bill extends section 405(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(h) through 2011. (Section 731)

The Senate amendment extends section 405 of AREERA through 2006. (Section 745)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7130)

(33) Support for Research Regarding Diseases of Wheat, Triticale, and Barley Caused by Fusarium graminearum or by Tilletitia indica

The House bill extends section 408(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(e) through 2011.

The Senate amendment extends section 408 of AREERA through 2006. (Section 747)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007 and strike the dollar figure and authorize such sums as are necessary. (Section 7131)

(34) Office of Pest Management Policy

The House bill extends section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) through 2011. (Section 733)

The Senate amendment extends section 614 of AREERA through 2006. (Section 750A)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7132)

(35) National Agricultural Research, Extension, Education and Economics Advisory Board

The House bill extends section 1408(h) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(h) through 2011. (Section 734)

The Senate amendment amends section 1408 of NARETPA to extend the term of the Board through 2006. (Section 702)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7133)

(36) Grants for Research on Production and Marketing of Alcohols and Industrial Hydrocarbons From Agricultural Commodities and Forest Products

The House bill extends section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) through 2011. (Section 735)

The Senate amendment extends section 1419 of NARETPA through 2006. (Section 705)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7134)

(37) Biomass Research and Development

The House bill extends title III of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 7624 note) through 2011. (Section 736)

The Senate amendment extends title III of ARPA through 2006. (Section 903)

The Conference Substitute adopts the Senate provision with amendments. The conference substitute provides $12,500,000 annually for each fiscal year 2002–2007. (Section 9008)

(38) Agricultural Experiment Stations Research Facilities

The House bill extends section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) through 2011. (Section 737)

The Senate amendment extends section 6 of the Research Facilities Act through 2006. (Section 782)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7135)

(39) Competitive, Special, and Facilities Research Grants, National Research Initiative

The House bill extends subsection 2(b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450(i)(b)(10)) through 2011. (Section 738)

The Senate amendment extends subsection (b)(10) through 2006. (Section 784)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7136)

(40) Federal Agricultural Research Facilities Authorization of Appropriations

The House bill extends section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (P.L. 99–198; 99 Stat. 1556) through 2011. (Section 739)

The Senate amendment extends section 1431 of the NARETPA through 2006. (Section 783)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7137)

(41) Cotton Classification Services

The House bill extends the first sentence of section 3a of the Act of March 3, 1927 (commonly known as the ''Cotton Statistics and Estimates Act; 7 U.S.C. 473a) through 2011. (Section 740)

The Senate amendment extends the first sentence of section 3a of the Act of March 3, 1927 through 2006. (Section 1047)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Sec. 10501)

(42) Critical Agricultural Materials Research

The House bill extends section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) through 2011. (Section 740A)

The Senate amendment extends section 16 of the Act through 2006. (Section 781)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7138)

SUBTITLE B—MODIFICATIONS

(43) Equity in Educational Land-Grant Status Act of 1994

The House bill amends section 534(a)(1)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) by increasing the authorization of appropriations from $50,000 to $100,000; by modifying the definition by which full-time equivalent Indian Student Count is calculated; by making accreditation requirements; and by updating the names of the 1994 institutions. (Section 741)

The Senate amendment has the same language but also adds White Earth Tribal and Community College to the list of 1994 Institutions. (Section 755)

The Conference substitute adopts the House provision for 741(a), the Senate provision for 741(b), the Senate provision for 741(c), and the Senate provision for 741(d) with an amendment that adds White Earth Tribal and Community College to list of 1994 Institutions and requires USDA to report to Congress with guidance on standards for future additions. (Section 7201)

(44) The National Agricultural Research, Extension, and Teaching Policy Act of 1977

The House bill amends Section 1404(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7.U.S.C. 3103(4)) by adding 1994 institutions to the definition of colleges and universities. Intent is to make 1994 land grant institution eligible for competitive grants. (Section 742)

The Senate amendment has the same intent, but adds the 1994 Institutions to the list of institutions eligible for the Integrated Grants Program in section 406 of AREERA. (Section 756)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7209)

(45) Agricultural Research, Extension, and Education Reform Act of 1998

The House bill amends section 401(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(c)(2)) by adding:

(1) alternative fuels and renewable energy sources to Priority Mission Areas ;

(2) by including energy efficiency in priority research areas in Precision Agriculture (7 U.S.C. 7623; by including energy efficiency in priority research areas of the Thomas Jefferson Initiative for Crop Diversity (7 U.S.C. 7625(a));

(3) by including energy efficiency and renewable resources in priority research areas of the Coordinated Program of Research, Extension, and Education to Improve Viability of Small and Medium Size Dairy, Livestock, and Poultry Operations (7 U.S.C. 7627);

(4) by amending section 408 of AREERA, Support for Research Regarding Diseases of Wheat, Triticale, and Barley caused by Fusarium graminearum or by Tilletitia Indica (7 U.S.C. 7628(a)) to include research related to Karnal bunt identification and control; and

(5) by adding a new section to the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq) to authorize a Program to Control Johne's Disease. (Section 743)

The Senate amendment provides for the definition of precision agriculture, adds ''horticultural'' into subsection (a)(3)(A), adds a new subsection (a)(3) (E) to read ''using such information to enable intelligent mechanized harvesting and sorting systems for horitcultural crops''; and adds a new subsection (a)(4)(E) to read ''robotic and other intelligent machines for use in horticultural cropping systems'' and in subsection

(c)(2) by adding ''horticultural'' after ''agronomic'' and adding ''product variability''. (Section 743)

The Conference substitute adopts the Senate provision from 743(a) and the House provision from 743(b), (c), (d), (e), and (f). (Section 7207)

The Managers do not intend that any future funds made available for Tilletia indica (commonly referred to as Karnal Bunt) research would be taken from the amount presently made available for research related to Fusarium graminearum (commonly referred to as Wheat Scab).

(46) Food, Agriculture, Conservation, and Trade Act of 1990

The House bill amends section 1671(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(b)) to include plant pathogens as an eligible research priority. The House bill also amends the High-Priority Research and Education Initiative section 1672(e) of the FACT Act (7 U.S.C. 5925(e)) to include several new high-priority research and extension projects:

research to protect the United States food supply and agriculture from bioterrorism

wind erosion research

crop loss research and extension

land use management research and extension

water and air quality research and extension

revenue and insurance tools research and extension

agrotourism research and extension

harvesting productivity for fruits and vegetables

nitrogen-fixation by plants

agricultural marketing

environment and private lands research and extension

livestock disease research and extension

plant gene expression (Section 744)

The Senate amendment amends section 1672 of the FACT Act to extend the authorization through 2006 and add the following new high-priority research and extension areas:

animal infectious diseases research and extension

program to combat childhood obesity

integrated pest management

beef cattle genetics

dairy pipeline cleaner (with a set-aside of not less than $100,000 of authorized funds for this purpose)

plant and animal varieties (Section 743)

The Conference substitute adopts the House provision for Section 744(a) and the Senate provision for Section 744(b) with an amendment conforming Senate provisions to the format of the House provision and combining both the House and Senate lists of high priority research and extension projects. Additional priorities to be named are Genetically Modified Agriculture Products Research, Publicly Held Plant and Animal Varieties, and Sugarcane Genetics. New language is added to the assistive technology program for farmers with disabilities to ensure full consideration is given to entities applying for grants but have not previously received grants.. (Section 7208)

The Managers recognize the success of state AgrAbility programs that have benefited from assistive technology competitive grants. The Managers understand the difficulty faced by new applicants in competing with established programs for limited funds. To continue the success of this program and broaden its scope to additional states, the Managers encourage full funding of the program and urge the Secretary to give full consideration to the potential merits of eligible programs that have not previously received a grant award.

(47) The National Agricultural Research, Extension, Education and Teaching Policy Act of 1977

The House bill amends section 1408 of the National Agricultural Research Extension, Education and Teaching Policy Act of 1977—National Agricultural Research, Extension, Education, and Economics Advisory Board. (7 U.S.C. 3123) to add a non Land-grant college or university representative to the board, and provide authority for the board to consult with Congress and non-research agencies of the U.S. Department of Agriculture. Total Membership of the Advisory Board is increased from 30 to 31 members; and section 1419 of that Act—Grants for Research on Production and Marketing of Alcohols and Industrial Hydrocarbons from Agricultural Commodities and Forest Products (7 U.S.C. 3154) to include industrial oilseed crops.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is also amended to authorize an internship program in Foreign Agriculture Service overseas offices. (Section 745)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to move the provision concerning the total number of Advisory Board Members from subsection (c) to subsection (a) of House Section 745. New language amends current law to allow for funding of the Joe Skeen Institute for Rangeland Restoration. (Sec. 7209)

(48) Biomass Research and Development

The House bill amends title III of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 7624 note) to include biodiesel in the Congressional Statement of Findings, to include animal by-products in the definition of ''Biomass'', and to add a livestock trade association representative to the Biomass Research and Development Technical Advisory Committee. (Section 746)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(49) Biotechnology Risk Assessment Research

The House bill amends section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921) to ensure that risk assessment projects carried out under this program compare the risks associated with products of agricultural biotechnology to those associated with traditionally bred plants and animals. Assessment is increased from 1% to 3%. (Section 747)

The Senate amendment amends section 1668 of the FACT Act by inserting a new subsection providing priorities for grant award and raising from 1 percent to 3 percent the amount to be withheld from USDA biotech research outlays for the purpose of making grants under this section for research on biotechnology risk assessment, with new language specifying that the research be ''on all categories identified by the Secretary of Agriculture as biotechnology''.

Under the new language, ''the Secretary shall give priority to public and private research or educational institutions and organizations the goals of which include—

(1) formation of interdisciplinary teams to review or conduct research on the environmental effects of the release of new genetically modified agricultural products;

(2) conduct of studies relating to biosafety of genetically modified agricultural products;

(3) evaluation of the cost and benefit for development of an identity preservation system for genetically modified agricultural products;

(4) establishment of international partnerships for research and education on biosafety issues; or

(5) formation of interdisciplinary teams to renew and conduct research on the nutritional enhancement and environmental benefits of genetically modified agricultural products. (Section 732)

The Conference substitute adopts the House provision with an amendment adding genetically engineered microorganisms as a priority topic for risk assessment research, including international partnerships on biosafety as a research priority, and reducing the amount withheld from biotechnology research funding from 3% to 2%. (Section 7210)

(50) Competitive, Special, and Facilities Research Grants

The House bill amends section 2(a) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(a)) to provide for consultation on development of program priorities with the National Agriculture Research, Extension, Education, and Economics Advisory Board. (Section 748)

The Senate amendment amends subsection (b)(2) of the Act to strike the stated substantive areas of national and multistate needs under high priority research and instead provide for the Secretary to determine those needs in consultation with the REE Board not later than July 1 of each fiscal year for the following fiscal year. (Section 784)

The Conference substitute adopts the Senate provision with an amendment to retain the high priority research focuses prescribed in current law. (Section 7211)

(51) Matching Funds Requirement for Research and Extension Activities of 1890 Institutions

The House bill amends section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) to phase in an increased matching requirement for non-Federal funds for 1890 land-grant colleges and universities to 100% by 2007. The Secretary is granted authority to waive the matching requirement if it is unlikely that a Territorial college will be able to satisfy the matching requirement in an individual fiscal year. (Section 749)

The Senate amendment amends the matching requirements for 1890 Institution research and extension formula funds in section 1449 of NARETPA to require that a State must match 60 percent of Federal funds provided an 1890 Institution in FY 2003 and provide a match of 110 percent of the amount required to be matched in the prior fiscal year for FY 2004 through 2006. For fiscal years 2003 through 2006, the Secretary may waive any amount of the match above 50 percent for an institution if the Secretary determines that the State will be unlikely to meet the matching requirement. (Section 762)

The Conference substitute adopts the House provision with an amendment to require a unified approach to a phase-in of 100% matching requirement over 5 years; extended through 2007. (Section 7212)

(52) Matching Fund Requirement for Research and Extension Activities for the United States Territories

The House bill amends Section 3(d)4 of the Hatch Act of 1877 (7 U.S.C. 361c(d)(4)) and section 3(e)4 of the Smith-Lever (7 U.S.C. 343(e)(4)) making a technical correction to establish matching requirements. (Section 749A)

The Senate amendment has the same intent, but legislative language is drafted significantly differently. (Section 776)

The Conference substitute adopts the Senate provision. (Section 7213)

(53) The Initiative for Future Agriculture and Food Systems

The House bill amends section 401(b)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)(1)) to provide a total of $1,160,000,000 to be transferred from the Treasury in equal increments for each fiscal year beginning on October 1, 2003 through September 30, 2011. Funds transferred beginning on October 1, 2003 would be available until expended Funds will be deposited directly into the Commodity Credit Corporation accounts as opposed to a separate account in the Treasury. (Section 750)

The Senate amendment amends section 401 of AREERA to retain $130 million in mandatory money for 2002 and extend the program for fiscal years 2003 through 2006 at $225 million per fiscal year in mandatory money. Encourages Secretary to set aside 10% of available funds for minority serving institutions. (Section 741)

The Conference substitute adopts the House provision with an amendment adding ''minority-serving institutions'' to the list of those institutions that have not previously been successful in obtaining competitive grants under current law, adding rural economic policy analysis as a critical issue for research, and extending the authorization for the program through 2007. New language creates a budgetary baseline and provides $1.3 billion in new mandatory funding. (Section 7205)

In making grants to address rural economic and business and community development policy issues, the Managers encourage the agency to solicit and fund research, education, and extension projects on rural policy, rural economic and community development, agriculturally-based development, new and alternative markets, locally-owned value-adding enterprises, and self employment and entrepreneurial opportunities. The Managers also encourage the agency to solicit project proposals addressing critical issues related to improving the effectiveness of Federal rural and agricultural development programs, including projects directly involving rural organizations and rural entrepreneurs that participate in Federal rural development programs.

The Managers note the importance of funding for the farm efficiency and profitability priority mission area. The Mangers encourage the agency to solicit and fund projects which promote the development of management and marketing systems that improved profitability, including development of diversification and input cost reduction strategies; effective local, regional, and international marketing programs; farm-based value-added processing and new high return production and marketing niches; improved methods of managing risk; and means to improve management and marketing of natural and environmental resources. Also, as part of this priority mission area, the Managers encourage the agency to solicit and fund research and development of farm tenure, transfer, succession, finance, management, production, and marketing models and strategies that foster new farming and ranching opportunities for beginning farmers and ranchers.

(54) Carbon Cycle Research

The House bill amends section 221 of the Agricultural Risk Protection Act of 2000 (P.L. 106–224; 114 Stat. 407) to provide an authorization of appropriations so that a discretionary program could be continued. (Section 751)

The Senate amendment is similar but authorization is extended only through 2006. (Section 787)

The Conference substitute adopts the House provision with an amendment to extend the authorization through 2007. (Section 7223)

The Managers recognize the success of the carbon cycle research consortium (created by Sec. 221 of the Agriculture Risk Protection Act of 2000) and encourage these institutions to continue their cooperative work. The Managers understand that the consortium network may be expanded, as deemed appropriate by the consortium, to include additional institutions with interest or expertise in carbon cycle research.

(55) Definition of Food and Agricultural Sciences.

The House bill amends section 2(3) of the Research Facilities Act (7 U.S.C. 390(2)(3)) to strike the definition of Food and Agricultural Sciences and instead refer to the definition of Food and Agricultural Sciences in section 1408(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8)). (Section 752)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7214)

(56) Federal Extension Service

The House bill amends section 3(b)(3) of the Smith-Lever Act (7 U.S.C. 343(b)(3)) to provide that ''such sums as are necessary'' may be appropriated to carry out this section. (Section 753)

The Senate amendment rewrites section 3(b)(3) of the Smith-Lever Act, which authorizes extension funds for the 1994 Institutions, to change the authorization from $5 million to such sums as necessary beginning in FY 2002, to change the manner of distribution of such funds from a competitive application basis to a formula to be developed and implemented by the Secretary in consultation with the 1994 Institutions, and allows payments for extension activities that may be carried out in more than one fiscal year. (Section 754)

The Conference substitute adopts the House provision with an amendment to allow the carry-over of funding until expended. (Section 7215)

(57) Policy Research Centers

The House bill amends section 1419A(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act (7 U.S.C. 3155(c)(3)) to provide that grant funding may be used to disseminate policy research information. (Section 754)

The Senate amendment is the same language.

The Conference substitute adopts the Senate provision. (Section 7216)

SUBTITLE C—RELATED MATTERS

(58) Resident Instruction at Land-grant Colleges in U.S. Territories

The House bill provides new authority for resident instruction at land-grant colleges in United States Territories, subject to the availability of appropriations. (Section 761)

The Senate amendment amends section 1404 of the NARETPA of 1977 to add a definition for ''insular area'' to include the Commonwealth of Puerto Rico and U.S. Territories. (Section 701)

Also amends NARETPA to add a new subtitle O—Land Grant Institutions in Insular Areas. The ''insular areas'' are defined in section 1404 of NARETPA as amended by section 701 of the bill. New section 1489 under that subtitle provides an authorization of $4 million per fiscal year through 2006 for the Secretary to make competitive or noncompetitive grants to State cooperative institutions (i.e., land-grants) in insular areas to strengthen the capacity of such institutions to carry out distance food and agricultural education programs using digital network technologies. Grants may be used: (1) to acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure necessary to teach students and teachers about technology in the classroom; (2) to develop and provide educational services (including faculty development) to prepare students or faculty seeking a degree or certificate approved by the State or a DOE recognized regional accrediting body; (3) to provide teacher education, library and media specialist training, and preschool and teacher aid certification to those who seek to acquire or enhance technology skills for use of technology in the instructional process; (4) to implement a joint project to provide technology education in the classroom with a local educational agency, community-based organization, national nonprofit, or a business; (5) to provide leadership development to administrators, board members, and faculty of eligible institutions with responsibility for technology education. Funds may not be used for the planning, acquisition, construction, rehab, or repair of buildings. The Secretary may carry out the program in a manner that recognizes the different needs and opportunities between institutions in the Pacific and those in the Atlantic. The Secretary may establish a matching requirement of up to 50 percent, which is subject to waiver. (Section 775)

The Conference substitute adopts the House provision with an amendment to combine House section 761 with Senate sections 701 and 775. The amendment also makes technical changes in Senate section 775, strikes the reference to businesses located within a HUB Zone under the Small Business Act, authorizes funding at such sums as are necessary, and extends the authorization through 2007. (Section 7503)

(59) Declaration of Extraordinary Emergency and Resulting Authorities

The House bill amends section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)), section 442 of the Plant Protection Act (7 U.S.C. 7772), section 11 of the Act of May, 1884, commonly known as the ''Animal Industry Act''(21 U.S.C. 114a) and the first section of the Act of September 25, 1981 (7 U.S.C. 147b) to provide for more efficient management of declarations of extraordinary emergencies and transfer of funds from the Commodity Credit Corporation.

A new section (419(a)) is added to the Plant Protection Act that requires the Secretary to determine if uses of methyl bromide required by state, local and tribal authorities to control the spread of plant pests and noxious weeds shall be authorized. In addition, the Secretary would maintain a registry of authorized uses. (Section 762)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision for 762(a) and deletes the House provision for 762(b). For Section 762(c), the Conference substitute adopts the House provision with an amendment to require the Secretary of Agriculture to consider the availability of methyl bromide alternatives prior to making a determination under this section, and to establish a program, in consultation with State, local and tribal authorities to identify methyl bromide alternatives. Exemptions from regulatory procedures under the Administrative Procedures Act and Paperwork Reduction Act are eliminated. A rule of construction is included to provide that nothing in this section would alter or modify the authority of the Administrator of the Environmental Protection Agency or to provide authority to the Secretary of Agriculture under the Clean Air Act or regulations promulgated under the Clean Air Act. (Section 7504)

(60) Agricultural Biotechnology Research and Development for the Developing world

The House bill authorizes the Secretary to use $5 million for each of the fiscal years 2004 through 2008 from funds allocated to the Initiative for Future Food and Agriculture Systems to establish a competitive grants program for the development of agricultural biotechnology in the developing world. (Section 763)

The Senate amendment provides an authorization of $5 million per year from 2002 through 2006 for the Secretary, acting through FAS, to carry out a competitive grant program to develop agricultural biotechnology for developing countries. Eligible recipients would include historically black colleges and universities, Hispanic-serving institutions, tribal colleges or universities that offer a curriculum in agriculture or the biosciences, a nonprofit organization, or a consortium of for-profit institutions and agricultural research institutions. Grants would be available for biotechnology projects that:

(1) enhance nutritional content of agricultural products that can be grown in developing countries;

(2) increase the yield and safety of agricultural products that can be grown in the developing countries;

(3) increase the yield of agricultural products that are drought and stress-resistant and that can be grown in developing countries

(4) extend the growing range of crops that can be grown in developing countries;

(5) enhance the shelf-life of fruits and vegetables grown in countries;

(6) develop environmentally sustainable agricultural products that can be grown in developing countries; and

(7) develop vaccines to immunize against life-threatening illnesses and other medications that can be administered by consuming genetically engineered agricultural products. (Section 750)

The Conference substitute adopts the Senate provision with an amendment to modify the definition of ''eligible entity'' to include all colleges and universities with an agricultural or bioscience curriculum and to authorize such sums as necessary through 2007. (Section 7505)

SUBTITLE D—REPEAL OF CERTAIN ACTIVITIES AND AUTHORITIES

(61) Food safety research information office and national conference

The House bill repeals subsections (b) and (c) of section 615 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7654(b) National Conference and (c)) Food Safety Report. (Section 771)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7301)

(62) Reimbursement of expenses under sheep promotion, research, and information Act of 1994

The House bill repeals section 617 of the Agricultural Research, Extension, and Education Reform Act of 1998 (P.L. 105–185; 112 Stat. 607).

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7302)

(63) National Genetic Resources Program

The House bill repeals section 1634 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5843). (Section 773)

The Senate amendment extends section 1634 of the FACT Act through 2006. (Section 731)

The Conference substitute adopts the Senate provision with an amendment to authorize through 2007. (Section 7118)

(64) National Advisory Board on Agricultural Weather

The House bill repeals section 1639 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5853). (Section 774)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7304)

(65) Agricultural Information Exchange with Ireland

The House bill repeals section 1420 of the National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985 (P.L. 99–198; 99 Stat. 1551)

No comparable provision. (Section 775)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7305)

(66) Pesticide Resistance Study

The House bill repeals section 1437 of the National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985 (P.L. 99–198; 99 Stat. 1558). (Section 775)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7306)

(67) Expansion of Education Study

The House bill repeals section 1438 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (P.L. 99–198; 99 Stat. 1559). (Section 777)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7307)

(68) Support for advisory board

The House bill repeals section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127). (Section 778)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(69) Task force on 10-year strategic plan for agricultural research facilities

The House bill repeals section 4 of the Research Facilities Act (7 U.S. C. 390b). (Section 779)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 7308)

SUBTITLE E—AGRICULTURE FACILITY PROTECTION

(70) Additional Protections for Animal or Agricultural Enterprises, Research Facilities, and other Entities.

The House bill amends the Research Facilities Act (7 U.S.C. 390 et seq.) by adding a new section to provide the Secretary with authority to investigate and assess civil penalties in cases of reckless or intentional destruction of animal or agricultural enterprises. A civil penalty assessed by the Secretary against a person for a violation shall be not less than the total cost incurred by the Secretary and the total cost of the economic damage suffered by the agricultural enterprise. A fund to assist victims of disruption would be established in the Treasury consisting of that portion of each civil penalty that represents the recovery of economic damages. The Secretary of Agriculture shall use the fund to compensate an animal or agricultural enterprise for economic losses. (Section 790)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(71) Competitive Research Facilities Grant Program

The Senate amendment amends NARETPA to add a new section 1417A providing an authorization for a new competitive food and agricultural research facilities grant program 1862 Institutions, 1890 Institutions, 1994 Institutions, Hatch experiment stations, McIntire-Stennis schools, veterinary schools under the animal and health disease formula program authorized in NARETPA, and Hispanic-serving institutions. Grants awarded have to support the national research purposes specified in section 1402, States with more than one institution must coordinate proposals, and the Secretary may require a match and may afford an evaluation preference for matches made with cash. (Section 704)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(72) Indirect Costs

The Senate amendment amends section 1462 of NARETPA by striking the 19 percent cap on indirect costs for competitive agricultural research, education, and extension grants under the authority of the Under Secretary for REE and providing instead that the cap shall be the ''negotiated indirect cost rate established for an institution by the cognizant Federal audit agency for that institution'' and also adds a new subsection specifying that the cap does not apply to SBIR grants (Section 714)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to exempt grants awarded competitively under the Small Business Act. (Section 7222)

(73) Research Equipment Grants

The Senate amendment adds a new section 1462A to NARETPA providing an authorization for $50,000,000 per year for a competitive research equipment grants program for the acquisition of special purpose scientific research equipment for use in the food and agricultural sciences programs of colleges and universities and 1862 Institutions, 1890 Institutions, 1994 Institutions, Hatch experiment stations, McIntire-Stennis schools, veterinary schools under the animal and health disease formula program authorized in NARETPA, and Hispanic-serving institutions. The maximum amount of a grant is $500,000 and the costs of acquisition or depreciation of equipment purchased with a grant may not be charged as an indirect cost. (Section 715)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as necessary and extend the authorization through 2007. (Section 7402)

(74) Availability of Competitive Grant Funds

The Senate amendment adds a new section 1469A to NARETPA to provide that funds made available to the Secretary to carry out any competitive agricultural research, education, or extension grant programs under NARETPA or any other Act shall be available for obligation for two fiscal years. (Section 718)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7217)

(75) Joint Requests for Proposals

The Senate amendment adds a new section 1473B to NARETPA to authorize the Secretary, in carrying out competitive agricultural research, education, or extension grant

programs, to cooperate with other Federal agencies in issuing joint request for proposals, awarding grants, and administering grants, for similar or related research, education, or extension projects or activities. Under the provision, with respect to issuing joint requests for proposals, making awards, and administering grants, the Secretary and a cooperating agency each are given authority to: (1) transfer funds to the other; (2) delegate authority to the other; (3) and choose which agencies post-award grant administration regulations and indirect rates shall apply to grant awards made by the Secretary and the cooperating agency. Funds transferred may only be used in accordance with the laws authorizing the appropriation and to make grants only to recipients eligible to receive grants under such laws. The Secretary and cooperating agencies may establish joint peer review panels exempt from FACA to evaluate grant proposals.

Subsection (b) allows the Secretary to transfer funds to cooperating agencies subject to applicable laws.

Subsection (c) allows the Secretary to delegate her authority to an appropriate coordinating agency.

Subsection (d) provides the Secretary with authority to coordinate regulations and indirect rates with a cooperating agency.

Subsection (e) allows joint peer review panels to be established. (Section 719)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to strike the authority to transfer appropriated funds between Federal Departments and Agencies and to prohibit authority to adopt ''negotiated'' indirect cost recovery rates. (Section 7403)

(76) Biosecurity Planning and Response Programs

The Senate amendment subsection (a) adds a new subtitle N—Biosecurity to NARETPA. Chapter 1 of the new subtitle (sections 1484 through 1486) deals with agriculture infrastructure security. Authorizations are provided of such sums as necessary through 2006 to establish an Agriculture Infrastructure Security Fund Account (the Fund) in the Treasury and an Agriculture Infrastructure Security Commission. New section 1484 sets forth definitions of ''agricultural research facility,'' ''Commission,'' and ''Fund''.

New section 1485 authorizes the establishment of the Fund. The Fund would be financed from any appropriations, proceeds from the sale of assets as provided for in this chapter, and gifts accepted as provided for in this chapter, and such amounts would remain available until expended. Subsection (b) sets for the purposes of the Fund as to provide funding to protect and strengthen the Federal food safety and agricultural infrastructure that- (1) safeguards against animal and plant diseases and pests; (2) ensures the safety of the food supply; and (3) ensures sound science in support of food and agricultural policy. Amounts in the Fund may be used by the Secretary for: (1) the costs of planning, design, development, construction, acquisition, modernization, leasing, and disposal of facilities, equipment, and technology used by USDA in carrying out programs related to the purposes specified in subsection (b) , notwithstanding the Federal Property and Administrative Services Act of 1949, or any other law that prescribes procedures for the procurement, use, or disposal of property or services by a Federal agency; (2) the costs of specialized services relating to the purposes specified in subsection (b); (3) the costs of cooperative arrangements (notwithstanding the Federal Grant and Cooperative Agreement Act) with State, tribal, and local governments, and other public and private entities to carry out programs related to the purposes specified in subsection (b); and (4) administrative costs at a rate of not more than 1 percent per fiscal year of amounts in the fund on October 1 of that fiscal year beginning in 2003. Amounts in the Fund may not be used to create any new full or part-time Federal employee positions. Notwithstanding the Federal Property and Administrative Services Act, the Secretary by sale may dispose of all or any part of any right or title in land, facilities, or equipment in the full control of the Department used for the purposes specified in subsection (b), with the exception of National Forest System land and land and facilities at the Beltsville Agricultural Research Center. The Secretary is authorized to accept gifts and bequests of funds property (real, personal, and intangible), equipment, services, and other in-kind contributions from any public or private source to carry out the purposes specified in subsection (b). For the purposes of gifts, the Secretary shall not consider a State, local, or tribal government, other public entity, or college or university as a prohibited source under USDA gift acceptance policies, and the Secretary may accept gifts from private entities or individuals that would be considered prohibited sources only if the Secretary determined it was in the public interest to accept such gifts.

New section 1486 authorizes the Secretary to establish the Agriculture Infrastructure Security Commission to: (1) advise the Secretary on the uses of the Fund; (2) to review all agricultural research facilities for research importance and importance to agriculture infrastructure security, (3) to identify any agricultural research facility that should be closed, realigned, consolidated, or modernized to carry out the research agenda of the Secretary and to protect agriculture infrastructure security; (4) to develop recommendations concerning agricultural research facilities; and (5) to evaluate the agricultural research facilities acquisition and modernization system used by USDA and make recommendations for improvement to that system based on that evaluation. An ''agricultural research facility'' as defined in new section 1484 means a facility- ''(A) at which agricultural research is regularly carried out or proposed to be carried out; and (B) that is—(i)(I) an Agricultural Research Service facility; (II) a Forest Service facility; or (III) an Animal and Plant Health Inspection Service facility; (ii) a Federal agricultural facility in the process of being planned or being constructed; or (iii) any other facility under the full control of the Secretary.'' The Commission is to use the 10–year strategic plan prepared by the Strategic Planning Task Force established under section 4 of the Research Facilities Act to assist it in carrying out its duties. The Commission shall be composed of 15 voting members appointed by the Secretary that represent a balance of the public and private sectors and that have combined expertise in facilities development, modernization, construction, security, consolidation, and closure; plant diseases and pests; animal diseases and pests; food safety; biosecurity; the needs of farmers and ranchers; public health; State, local, and tribal government; and any other area related to agriculture infrastructure security, as determined by the Secretary. Nonvoting members of the Commission shall include the Secretary, four representatives appointed by the Secretary of HHS, 1 each from PHS, CDC, FDA, and NIH; one representative appointed by the Attorney General; one representative appointed by the Director of Homeland Security; and not more than four USDA representatives appointed by the Secretary. The term of office for Commission members is 4 years. The Commission is exempted from FACA, but open meetings and records are required with exceptions provided for purposes of national security. Not later than 240 days after enactment of this Act, and each June 1 thereafter, the Commission shall submit a report of its findings and recommendations to the Committees on Agriculture and Appropriations of the House and Senate, and the Secretary shall provide a written response to that report within 90 days as to the manner and extent to which she will implement the recommendations made. The report, and the Secretary's response, shall be publicly available unless the Secretary or the Commission determine that the report or response, or any portion thereof, shall not be released in the interest of national security, and any portion so classified shall not be releasable under FOIA. Provision is made for compensation of non-Federal voting members at a rate equivalent to GS–15 and travel to be paid at the rate for a Federal employee. The Secretary shall provide the Commission with any personnel or other resources as the Secretary determines appropriate. New chapter 2 of the new subtitle N includes two new sections for other biosecurity programs.

New section 1487 provides a special supplemental authorization of such sums as are necessary for biosecurity planning and response through 2006. Funds provided under section 1487 may be used in accordance with any authority available to the Secretary to carry out agricultural research, education, and extension activities (including competitive grants) necessary: (1) to reduce the vulnerability of the United States food and agricultural system to chemical or biological attack; (2) to continue joint research initiatives between the Agricultural Research Service, universities, and industry on counterbioterrorism efforts; (3) to make competitive grants to universities and qualified research institutions for research on counterbioterrorism; and (4) to counter or otherwise respond to chemical or biological attack.

New section 1488 provides an authorization of $100 million per year through 2006 for a competitive research facilities construction grants program for land-grant colleges and universities to enhance the security of agriculture in the United States against threats posed by bioterrorism. To be eligible to receive a grant, a land-grant institution must have (1) demonstrated expertise in the area of animal and plant diseases; (2) substantial animal and plant diagnostic laboratories; and (3) well-established working relationships with the agricultural industry and farm and commodity organizations. In making grants, the Secretary shall give priority to institutions with demonstrated expertise in (1) animal and plant disease prevention; (2) pathogen and toxin mitigation; (3) cereal disease resistance; (4) grain milling and processing; (5) livestock production practices; (6) vaccine development; (7) meat processing; (8) pathogen detection and control; or (9) food safety. An institution may not receive more than $10,000,00 of grants under this section per fiscal year, and the Federal share of any construction project shall not exceed 50 percent. Finally, subsection (b) of section 723 of the bill includes a sense of Congress that funding for ARS, APHIS, and other USDA agencies with biosecurity responsibilities should be increased as necessary to improve the capacity of the agencies to conduct research and analysis of, and respond to, bioterrorism and animal and plant diseases.(Section 723)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment deleting

the Agriculture Infrastructure Security Fund and the Agriculture Infrastructure Security Commission. The Conference adopts the Senate program for agriculture bioterrorism research facilities with an amendment authorizing grants for expansion and security upgrades of agriculture research facilities. (Section 7221)

The Managers encourage the Secretary to give priority in awarding grants for the expansion of biosecurity research facilities to those universities or institutions which have demonstrated expertise in the area of animal and plant diseases; substantial animal and plant diagnostic laboratories; and well-established working relationships with the agriculture industry and farm and commodity organizations.

(77) Rural Electronic Commerce Extension Program

The Senate amendment adds a new section 1670 to the FACT Act providing an authorization for a Rural Electronic Commerce Extension Program. The Secretary would be required to establish within CSREES an Office of Rural Electronic Commerce to carry out this program. The purposes of the program are: (1) to expand and enhance electronic commerce practices and technology to be used by small businesses and microenterprises in rural areas; (2) disseminate information and expertise through a cooperative extension service clearinghouse in rural areas; (3) disseminate management, scientific, engineering, and technical information to small businesses in rural areas through the extension program; and (4) use, when appropriate, the expertise, technology, and capabilities of other organizations, including State and local governments, Federal agencies, institutions of higher education, nonprofit organizations, small businesses and microenterprises that have experience in electronic commerce practice and technology, and the development centers established under this section. In carrying out this program, the Secretary shall: (1) provide leadership, support, and coordination for the program; (2) establish policies, practices, and procedures to assist rural communities in the adoption and use of electronic commerce techniques; (3) identify and strengthen existing mechanisms designed to assist rural areas in the adoption and use of electronic commerce techniques; (4) provide grants to fund projects and activities under the program; and (5) establish a clearinghouse system for States, communities, and businesses to obtain information on best practices, technology transfer, training, education, adoption, and use of electronic commerce in rural areas.

The Secretary shall make grants to the North Central Regional Center for Rural Development, the Northeast Regional Center for Development, the Southern Rural Development Center, and a development center in the Western Region, as determined by the State Extension Program Directors in the Western Region, to (1) assemble regional expertise, and develop innovative education programs, that may be adapted and refined by State extension programs; (2) train State-based cooperative extension agents to deliver rural electronic commerce education programs; and establish networks among universities, local governments, and private industries to focus on regional economic issues.

The Secretary also is authorized to make competitive grants to cooperative extension programs at land-grant institutions, or consortia of such institutions), to develop and facilitate nationally innovative rural electronic commerce business strategies, and to assist small businesses and microenterprises in identifying, adapting, implementing, and using electronic commerce business practices and technologies. The provision also includes selection criteria for grant awards. As a condition of funding, during the years of funding under a grant the recipient must provide from non-Federal sources 50 percent (25 percent if the grant recipient serves low-income or minority-owned businesses or microenterprises of the estimated capital and annual operating and maintenance costs of the extension program, and after expiration of the grant funding period the recipient must provide 100 percent of such costs from non-Federal sources. Awards are limited to $900,000 for an individual land-grant institution, either individually or as a member of a consortium, and funds awarded to a consortium must be shared equally among its members. The provision also establishes an evaluation panel and process to evaluate projects and activities funded under the program beginning one year after grant award. The Secretary is required to report to the Agriculture Committees on activities under this section 2 years after the date of enactment.

The program is authorized at $60,000,000 each fiscal year through 2006, with $20,000,000 of that set aside for funding the regional development centers. The Secretary is authorized to use up to 2 percent of funds made available for administrative costs to carry out this section. (Section 733)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment clarifying the Senate provision and expanding the eligibility for grants to include colleges and universities with agricultural or rural development programs. (Section 6202)

The Committee authorizes $60 million to establish a Rural Electronic Commerce Extension Program within the Cooperative State Research, Education, and Extension Service. Electronic commerce represents an opportunity for small businesses and micro enterprises in the domestic and international market, but there is currently no mechanism available in rural areas to enable individuals or organizations to both learn and take advantage of innovative technologies and business practices. The United States has a strong interest in ensuring that small businesses and micro enterprises in rural areas participate in electronic commerce as it will promote productivity and economic growth throughout the United States. The specific objectives of the program are: 1) expand and enhance electronic commerce practices and technology to be used by small businesses and micro enterprises in rural areas; 2) disseminate information and expertise through a cooperative extension service clearinghouse; 3) disseminate management, scientific, and technical information to small businesses and micro enterprises in rural areas through the extension program, and 4) use, when appropriate, the expertise, technology, and capabilities of other institutions and organizations—examples being state and local governments, Federal departments and agencies, institutions of higher education, non-profit organizations, small businesses and micro enterprises with previous experience in this area, and regional development centers—to achieve the stated objectives. The program will be competitive and merit-based, with grants being provided to cooperative extension service programs at land-grant colleges and universities (or consortia of land-grant colleges and universities) and to colleges and universities with agriculture or rural development programs. Using language in the legislation as guidelines, the Cooperative State Research, Education, and Extension Service shall establish appropriate criteria for the submission, evaluation, and funding of applications for grants to implement projects and activities for the program and shall be responsible for evaluating, ranking, and selecting grant applications.

(78) Organic Agricultural Research and Extension Initiative

The Senate amendment amends section 1672B of the FACT Act to require the Secretary to consult with the National Organics Standards Board as well as the REE Board in making grants, and to add the following purposes for which grants may be awarded:

''(4) determining desirable traits for organic commodities using advanced genomics, field trials, and other methods;

''(5) pursuing classical and marker-assisted breeding for publicly held varieties of crops and animals optimized for organic systems;

''(6) identifying marketing and policy constraints on the expansion of organic agriculture; and

''(7) conducting advanced on-farm research and development that emphasizes observation of, experimentation with, and innovation for working organic farms, including research relating to production and to socioeconomic conditions.'' (Section 736, 231, 232)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include breeding, marketing, and policy research as priority areas and include $3 million in new mandatory funding from 2003 through 2007. (Section 7218)

It is the intent of the Managers that these funds shall be allocated for high priority aspects of organic agricultural systems research, education, and extension. Priority concerns encompass biological, physical, and social sciences (including economics). The authorization of these funds shall not preclude or preempt the allocation of funds for other organic farming research, education, and extension programs under any other competitive or special grants programs, integrated activity, or formula funding. Rather, it is the intent of the Managers that organic agriculture be recognized as a legitimate priority of all Research, Education, and Economics programs, and should be recognized accordingly in appropriate USDA Research, Education and Extension program plans and requests for proposals.

(79) Grants for Youth Organizations

The Senate amendment amends AREERA by adding a new section 410 providing $8 million in mandatory money from CCC (to remain available until expended), and such sums as necessary for 2002 through 2006, for the Secretary, acting through CSREES, to make grants to the Girl Scouts, the Boy Scouts, the National 4–H Council, and the National FFA organization to establish pilot projects to expand the programs carried out by the organizations in rural areas and small towns, and for purposes of the 4–H Centennial under Pub. Law 107–19. (Section 749)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007.

(80) Senior Scientific Research Service

The Senate amendment adds a new section to subtitle B of AREERA establishing within USDA a Senior Scientist Research Service of not more than 100 members. To be eligible to be appointed to the Service by the Secretary, an individual must (1) have conducted outstanding research in the field of agriculture or forestry, (2) have a PhD, and meet OPM qualification standards for a GS–15 position. The Secretary may appoint and employ a member of the Service with regard to Federal civil service laws regarding competitive

service appointments, retention preferences, performance appraisal and performance actions, pay rates and classification, and adverse actions, except that a member of the Service will have the same rights as a GS–15 appointee to appeal to the Merits Systems Protection Board or the Office of Special Counsel. The Secretary must develop a performance appraisal system for the Service that provides for systematic appraisals and encourages excellence. The Secretary shall set compensation in a range between a GS–15 and an ES-I appointment, with an exception to ES-I maximum for a rate approved by the President by law. A member appointed to the Service from a prior position at an institution of higher education who retains the right to make contributions to that institution's retirement system may request that the Secretary contribute an amount not to exceed 10 percent of his pay to that system, but such a member shall not earn service credit under Federal law for time served in the Service except for purposes crediting annual leave. Any person involuntarily separated from the Service without cause may be appointed by the Secretary to a career appointment at the GS–15 level in the competitive service, unless that person was not a career appointee in the civil service of excepted service prior to his appointment to the Service, in which case that person's appointment following separation shall be to the excepted service for a term not to exceed 2 years. (Section 750B)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7219)

(81) Carryover

The Senate amendment amends the Hatch Act to allow a State agricultural institution to carryover the balance of any fiscal year's allocation of funding remaining at the end of the fiscal year to the next fiscal year, and if that balance is not spent in the succeeding fiscal year, an amount equivalent to that remaining shall be deducted from the following fiscal year allocation to that State. (Section 751)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7202)

(82) Reporting of Technology Transfer Activities

The Senate amendment amends the Hatch Act to require a State to include in its plan of work a description of the technology transfer activities conducted with respect to federally-funded agricultural research. (Section 752)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers expect the Secretary to require land-grant universities to include descriptions of technology transfer activities in any annual or other regular reports made to the Secretary regarding research activities funded by the Department.

(83) Compliance with Multistate and Integration Requirements

The Senate amendment amends the Hatch and Smith-Lever Act requirements for multistate extension and integrated research and extension activities to require:

(1) that in order to receive Smith-Lever Act funding a State must expend an amount equal to not less than 25 percent of Smith-Lever Act funds received by the State in a prior year on multistate activities, and in determining compliance with that requirement the Secretary shall include all cooperative extension funds expended by the State in the prior year, including Federal, State, and local funds; and

(2) that in order to receive Hatch and Smith-Lever Act funding, a State must expend an amount equal to not less than 25 percent of Smith-Lever Act and Hatch Act of 1887 funds received by the State in a prior year on integrated research and extension activities, and in determining compliance with that requirement the Secretary shall include all cooperative research and extension funds expended by the State in the prior year, including Federal, State, and local funds. This amendment would be effective October 1, 2002. (Section 753)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(84) Authorization Percentages for Research and Extension Formula Funds

The Senate amendment subsection (a) amends section 1444 of NARETPA to increase the authorization level for 1890 Institutions extension appropriations from not less than 6 percent of the amount appropriated annually for extension at the 1862 Institutions under the Smith-Lever Act to not less than 15 percent of the amount appropriated annually under the Smith-Lever Act, and strikes obsolete language. Subsection (b) amends section 1445 of NARETPA to increase the authorization level for 1890 Institutions research appropriations from not less than 15 percent of the amount appropriated annually for research at the 1862 Institutions under the Hatch Act of 1887 to not less than 25 percent of the amount appropriated annually under the Hatch Act of 1887, and strikes obsolete language. (Section 757)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7203) It is the intent of the Managers that increased formula funding for 1890 institutions be the mechanism for reaching this increased ratio, rather than a redistribution of the current limited formula funds.

(85) Carryover

The Senate amendment provides that in the same manner as the amendment made by section 751 for 1862 Institutions, this provision amends section 1445 of NARETPA to allow an 1890 Institution to carryover the balance of any fiscal year's allocation of funding remaining at the end of the fiscal year to the next fiscal year, and if that balance is not spent in the succeeding fiscal year, an amount equivalent to that remaining shall be deducted from the following fiscal year allocation to that 1890 Institution. (Section 758)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7204)

(86) Reporting of Technology Transfer Activities

The Senate amendment provides that in the same manner as the amendment made by section 752 for 1862 Institutions, this section amends section 1445 of NARETPA to require an 1890 Institution to include in its plan of work a description of the technology transfer activities conducted with respect to federally-funded agricultural research. (Section 759)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers expect the Secretary to require land-grant universities to include descriptions of technology transfer activities in any annual or other regular reports made to the Secretary regarding research activities funded by the Department.

(87) Priority-Setting Process

The Senate amendment amends requirement in section 102(c)(1) of AREERA for land-grant colleges to obtain stakeholder input to require that the process for obtaining that input ''reflects transparency and opportunity for input from producers of diverse agricultural crops and diverse geographic and cultural communities.'' (Section 771)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(88) Termination of Certain Schedule A Appointments

The Senate amendment provision provides for the termination 60 days after enactment of Schedule A, dual Federal-State appointments, of employees working in agricultural extension programs at 1862 Institutions, 1890 Institutions, and the University of the District of Columbia. An individual whose appointment is terminated but who remains employed in the agricultural extension program will continue to be eligible, to the same extent as before enactment of this provision, to participate in the Federal Employee Health Benefits Program, the Federal Employee Group Life Insurance Program, the Civil Service Retirement System, the Federal Employee Retirement System, and the Thrift Savings Plan, and will continue to receive Federal civil service employment credit to the same extent the individual was receiving that credit prior to enactment of this provision, as long as the employing college or university continues to fulfill the administrative and financial responsibilities (including making agency contributions) associated with providing those benefits. If an individual changes employment from an agricultural extension program at one institution to that in another, the individual will continue to receive such benefits as long as the second institution fulfills its administrative and financial responsibilities and the second institution had employed another person in the same position within 120 days before the date of employment of the individual.(Section 772)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment changing the effective date to January 31, 2003, and adding ''federal long-term care benefits'' to the list of covered benefits. (Section 7220)

(89) Risk Management Education for Beginning Farmers and Ranchers

The Senate amendment amends the risk management education grant program in section 524(a)(3) of the Federal Crop Insurance Act to give the Secretary authority to target grants to programs specifically for beginning farmers and ranchers, and makes a technical amendment to section 524(b) of that Act. (Section 785)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(90) Joint Subcommittee on Aquaculture

The Senate amendment extends authorization for National Aquaculture Act of 1980 through 2006. (Section 786)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 2007. (Section 7139)

SUBTITLE F—NEW AUTHORITIES (SECTIONS 791–798D)

(91) Definitions

The Senate amendment defines ''Department'' and ''Secretary'' for purposes of the subtitle. (Section 791)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7401)

(92) Regulatory and Inspection Research

The Senate amendment authorizes the Secretary to use a public or private source, and requires the Secretary to use the most practicable source to provide timely cost-effective means of providing the research, to meet the urgent applied research needs of an inspection or regulatory agency of the Department (defined as APHIS, FSIS, GIPSA, and AMS) in carrying out agricultural marketing programs; programs to protect the animal and plant resources of the United States; and education programs or special studies to improve the safety of the food supply of the United States. Provision also requires the Secretary to establish guidelines to prevent any conflict of interest that may arise if an inspection or regulatory agency obtains research from a Federal agency the work or technology transfer efforts of which are funded in part by an industry subject to the jurisdiction of the inspection or regulatory agency. (Section 792)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(93) Emergency Research Transfer Authority

The Senate amendment, in addition to any transfer authority she may have, authorizes the Secretary to transfer up to 2 percent of any appropriation account of the Department for agricultural research, extension, marketing, animal and plant health, nutrition, food safety, nutrition education, or forestry programs to any other appropriation account of the Department for emergency research, extension, or education activities needed to address imminent threats to animal and plant health, food safety, or human nutrition, including bioterrorism. Such transfers are limited by three conditions: (1) the Secretary must determine the need is so imminent that the need will not be timely met by annual, supplemental, or emergency appropriations; (2) the aggregate total of such transfers cannot exceed $5 million per fiscal year; and (3) transfers must be approved by OMB. (Section 793)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(94) Review of Agricultural Research Service

The Senate amendment requires the Secretary to conduct a review of the purpose, efficiency, effectiveness, and impact on agricultural research of ARS, using persons outside the Department, with a report to be submitted to the Agriculture Committees by September 30, 2004; and provides that Secretary shall use no more than 0.1 percent of appropriations made available to ARS in fiscal years 2002 through 2004 to carry out the study. (Section 794)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment creating a task force appointed by the Secretary to conduct a review of ARS and examining the merits of establishing National Institutes focused on disciplines important to the progress of food and agriculture sciences. The report is to be submitted one year after enactment of this legislation. (Section 7404)

The sciences related to plant biology and agriculture have contributed greatly to human welfare. The gains in the next decades have the potential to be astonishing. The challenge is to establish appropriate mechanisms, with adequate funding, to ensure that the United States is home to highest quality research and is able to maximize its benefits to its economy. In 1999, food and agriculture accounted for 16.4% of the GDP (or $1.5 trillion) yet attracted less than two percent of the federal research budget. In real terms, the U.S. now spends less on food and agricultural research than was spent in 1978.

The Managers believe a new model for plant and agricultural research might be patterned after the highly successful biomedical research conducted by the National Institutes of Health (NIH). The mechanisms employed by NIH and the National Science Foundation (NSF) have advanced science of the highest quality, attracted the best young scientists to careers in research and teaching, and provided a stream of discoveries that has been rapid and highly beneficial to society. The Managers intend that any new research institute would supplement, not supplant, the successful programs of USDA and other existing federal research programs. As such, the conferees urge the Secretary to place high priority in establishing a task force of members, the majority of which should be from the private sector, including institutions of higher education, that have extensive background and preeminence in field of plant and agricultural sciences research. In addition, the Secretary is urged to designate a Chairperson that has significant leadership experience in educational and research institutions and in depth knowledge of the research enterprises of the United States in leading the evaluation of the merits of establishing a National Institutes for Plant and Agricultural Sciences and provide recommendations to the Committees. In addition, the task force is charged with conducting a separate review of the purpose, efficiency, effectiveness, and impact of agricultural research conducted by the Agricultural Research Service. Together, these two separate reports should provide a roadmap for the future of the federal government concerning plant and agriculture research and the potential benefits that could be realized.

(95) Technology Transfer for Rural Development

The Senate amendment directs the Secretary, through RBS and ARS, to establish a program to promote USDA tech transfer opportunities to rural businesses and residents through a website featuring information on such technologies, an annual joint program for State economic development directors and Department rural development directors regarding such opportunities, and programs at each ARS lab at least biennially, with participation of other Federal labs as appropriate. Funding for the program is to come from amounts available to ARS and amounts available to RBS for salaries and expenses. (Section 795)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers expect the Rural Business-Cooperative Service to promote to rural businesses and residents the availability of technology transfer opportunities with the Agricultural Research Service (ARS), research facilities of the Forest Service, and other research activities of the Department. The Managers also expect ARS to continue its efforts to promote and publicize technology transfer opportunities available to the private sector, and especially those opportunities that would provide employment in rural areas.

(96) Beginning Farmer and Rancher Development Program

The Senate amendment provides $15 million in mandatory money in each of fiscal years 2002 through 2006 for the Secretary to carry out a beginning farmer and rancher development program to provide training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers. A ''beginning farmer or rancher'' is defined as a person that has not operated a farm or ranch, or operated one for less than 10 years, and meeting such other criteria as the Secretary prescribes.

The program has three parts:

(1) The Secretary may make competitive grants to new and established local and regional training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers, including programs and services (as appropriate) relating to: (A) mentoring, apprenticeships, and internships; (B) resources and referral; (C) assisting beginning farmers or ranchers in acquiring land from retiring farmers and ranchers; (D) innovative farm and ranch transfer strategies; (E) entrepreneurship and business training; (F) model land leasing contracts; (G) financial management training; (H) whole farm planning; (I) conservation assistance; (J) risk management education; (K) diversification and marketing strategies; (L) curriculum development; (M) understanding the impact of concentration and globalization; (N) basic livestock and crop farming practices; (O) the acquisition and management of agricultural credit; (P) environmental compliance; (Q) information processing; and (R) other similar subject areas. Entities eligible to receive grants include collaborative State, local, tribal or regionally-based networks or partnerships of private or public entities including State cooperative extension services, Federal, State, and tribal agencies, community-based and nongovernmental organizations, colleges and universities (including community colleges) and others as determined by the Secretary. Grants are for 3–years, are subject to a 25% matching requirement, and not less than 25 percent of funds used to carry out the grant program must be set aside to support programs that address needs of limited resource beginning farmers and ranchers, socially disadvantaged beginning farmers and ranchers, and farmworkers desiring to become farmers or ranchers.

(2) The Secretary is authorized to establish teams to develop curricula and conduct educational programs and workshops for beginning farmers and ranchers tailored to diverse crop and regional areas. In establishing such teams, the Secretary can use the services of specialists in beginning farmer and rancher training and USDA employees who can offer program expertise. The Secretary is authorized to enter into cooperative agreements with the same entities that are eligible for the grants to carry out team programs.

(3) The Secretary is required to establish an online clearinghouse to make curricula, training materials, and online courses available for beginning farmers and ranchers.

The Secretary is required to obtain stakeholder input from beginning farmers and ranchers; national, state, tribal, and local organizations or other persons with expertise in operating beginning farmer and rancher programs; and the Advisory Committee on Beginning Farmers and Ranchers.

The provision allows for participation of non-beginning farmers and ranchers in these programs to the extent that the Secretary determines it will not detract from the primary purpose of beginning farmer and rancher education.

In addition to the mandatory funding provided, the Secretary is authorized to collect and use fees for the delivery of programs or workshops by beginning farmer and rancher

education teams or by the online clearinghouse, and the Secretary is authorized to receive contributions under cooperative agreements for program delivery by education teams.

Four percent of funds used for grants may be used by the Secretary for administrative costs. Funds provided remain available for obligation for two fiscal years. (Section 796)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment making the 4% set-aside for administrative costs apply only to competitive grants appropriations and making the mandatory funding subject to appropriations. (Section 7405)

(97) Sense of Congress Regarding Doubling of Funding for Agricultural Research

The Senate amendment expresses sense of Congress that food and agricultural research funding should be doubled over next five years. (Section 797)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7406)

(98) Rural Policy Research

The Senate amendment provides $15 million in mandatory money in each of fiscal years 2002 through 2006 for the Secretary to make competitive research grants for applied and outcome oriented research and policy research and analysis of rural issues relating to: (1) rural sociology; (2) effects of demographic change, including aging population, outmigration, and labor resources; (3) needs of groups of rural citizens, including senior citizens, families, youth, children, and socially disadvantaged individuals; (4) rural community development; (5) rural infrastructure, including water and waste, community facilities, telecommunications, electricity, and high-speed broadband services; (6) rural business development, including credit, venture capital, cooperatives, value-added enterprises, new and alternative markets, farm and rural enterprise formation, and entrepreneurship; (7) farm management, including strategic planning, business and marketing opportunities, risk management, natural resources and environmental management, organic and sustainable farming systems, and intergenerational transfer strategies; (8) rural education and extension programs, including methods of delivery, availability of resources, and use of distance learning; and (9) rural health, including mental health, on-farm safety, and food safety.

The Secretary must seek stakeholder input in making grants, and ensure that grants will provide high-quality research of use to public policymakers and private entities in making decisions that affect development in rural areas.

Eligible grantees include individuals, colleges and universities, a State cooperative institution, a community college, a nonprofit organization, institution, or association, a business association, or a regional partnership of public and private entities.

Grant terms may be up to 5 years. The Secretary may establish a matching requirement, but a grant to a business association is subject to a 100 percent match. Up to four percent of funds may be used by the Secretary for administrative costs. Funds provided remain available for two fiscal years. (Section 798)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(99) Priority for Farmers and Ranchers Participating in Conservation Programs

The Senate amendment requires the Secretary, in carrying out new on-farm research or extension programs or projects authorized by this bill, amendments made by this bill, and any later enacted law, to give priority to carrying out such programs or projects using farms and ranchers of farmers and ranchers that participate in Federal agricultural conservation programs. (Section 798A)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(100) Organic Production and Market Data Initiatives

The Senate amendment requires the Secretary to ensure that segregated data on the production and marketing of organic agricultural products is included in the ongoing baseline of data collection regarding agricultural production and marketing. (Section 798B)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7407)

(101) Organically Produced Product Research and Education

The Senate amendment requires the Secretary, in consultation with the Advisory Committee on Small Farms, to submit a report to the Agriculture Committees by December 1, 2004 on:

(1) the impact on small farms of the implementation of the national organic program; and (2) the production and marketing costs to producers and handlers associated with transitioning to organic production. (Section 798C)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(102) International Organic Research Collaboration

The Senate amendment requires the Agricultural Research Service and the National Agricultural Library to facilitate access by research and extension professionals to organic research conducted outside the United States. (Section 798D)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7408)

(103) Report on Producers and Handlers of Organic Agricultural Products

The Senate amendment provides for a report to be submitted not later than 1 year after funds are made available to carry out this section. (Section 798E)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7409)

TITLE VIII—FORESTRY INITIATIVES

(1) Repeal of Forestry Incentives Program (FIP) and Stewardship Incentive Program (SIP)

The House bill repeals the Forestry Incentives Program and the Stewardship Incentives Program. (Sec. 801)

The Senate amendment reauthorizes the Forestry Incentives Program through 2006. The Senate amendment contains no comparable provision regarding the Stewardship Incentives Program. (Sec. 804)

The Conference substitute adopts the House provision. (Sec. 801)

(2) Establishment of New Cost Share Assistance Program

The House bill amends the Cooperative Forestry Assistance Act of 1978 by inserting a new section 4. (Sec. 802)

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by inserting a new program after section 6. (Sec. 806)

The Conference substitute adopts the House provision. (Sec. 802)

(3) Findings

The House bill sets forth Congressional findings with respect to dependence on private non-industrial forest lands, demand for assistance from owners of non-industrial private forest land, environmental benefits of good stewardship of forest land, economic benefits resulting from non-industrial private forest lands, wildfire threats, and development pressure faced by owners of non-industrial private forest land. (Sec. 802(a))

The Senate amendment sets forth Congressional findings with respect to dependence on private non-industrial forest lands, demand for assistance from owners of non-industrial private forest land, environmental benefits of good stewardship of forest land, economic benefits resulting from non-industrial private forest lands, wildfire threats, development pressure faced by owners of non-industrial private forest land, federal and state cooperation in forest fire prevention, difficulty for owners of non-industrial private forest land to invest in the management of long-rotation forest stands, and the benefits of comprehensive, multi-resource planning assistance to landowners. (Sec. 806(a)(1))

The Conference substitute deletes both provisions.

(4) Purpose

The House bill describes the purpose of the new section as: (1) strengthening the commitment of the Secretary to sustainable forest management, and (2) establishing a coordinated and cooperative federal, state and local sustainable forestry program for non-industrial private forest land. (Sec. 802(b))

The Senate amendment describes the purpose of the new section as: (1) strengthening the commitment of the Secretary to sustainable forest management, and (2) establishing a coordinated and cooperative federal, state and local sustainable forestry program for non-industrial private forest land. (Sec. 806(a)(2))

The Conference substitute adopts the Senate provision. (Sec. 806(a)(2))

(5) Forest Land Enhancement Program

The House bill establishes a Forest Land Enhancement Program by inserting a new section 4 in the Cooperative Forestry Assistance Act of 1978. (Sec. 802(c))

The Senate amendment establishes a Sustainable Forest Management Program by inserting a new section 6A in the Cooperative Forestry Assistance Act of 1978. (Sec. 806(b))

The Conference substitute adopts the House provision. (Sec. 802 (c))

(6) Definitions

The House bill defines: (1) non-industrial private forestland, (2) owner, (3) Secretary, and (4) state forester. (Sec. 802)

The Senate amendment defines: (1) committee, (2) Indian tribe, (3) program, (4) non-industrial private forestland, (5) owner, and (6) state forester. (Sec. 806)

The Conference substitute adopts the House provision with amendment to include definitions for the terms Committee and Indian Tribe.

(7) Establishment

The House bill (1) directs the Secretary to establish a Forest Land Enhancement Program (FLEP) for the purposes of providing financial, technical, educational, and related assistance to State Foresters to assist private landowners in actively managing their land through the utilization of management expertise, financial assistance and educational programs; (2) directs the Secretary to administer the program through NRCS; (3) directs the Secretary to implement the program in coordination with the State Foresters. (Sec. 802)

The Senate amendment (1) directs the Secretary to establish a Sustainable Forestry Management Program for the purposes of providing financial assistance to State foresters, and encouraging the long-term sustainability of non-industrial private forestland in U.S. by assisting owners in actively managing land and related resources through the use of State, Federal, and private sector resource management expertise, financial assistance, and educational programs; (2) directs the Secretary to administer the program through the State Foresters, in coordination with the Committees, and in consultation with Federal State, and local natural resource management agencies, institutions of higher education and a broad range of private sector interests. (Sec. 806)

The Conference substitute the Senate provision. (Sec. 806)

(8) Program Objectives

The House bill directs the Secretary to target resources to achieve a list of objectives including: (1) making investments in practices to establish, restore, protect, manage, maintain and enhance the health and productivity of non-industrial private forest land, (2) ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed, (3) reducing the risks and helping to restore, recover and mitigate damage caused by fire, insects, invasive species, disease, and weather, (4) increasing and enhancing carbon sequestration, (5) enhancing implementation of agro forestry practices, and (6) maintaining and enhancing the forest land base and leveraging State and local financial and technical assistance. (Sec. 802)

The Senate amendment directs the Secretary to allocate the resources among the states (in accordance with the distribution formula described below) to encourage: (1) the investment in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of non-industrial private forest land, and (2) the occurrence of afforestation, reforestation, improvement of poorly stocked stands, practices necessary to improve seedling growth and survival, and growth enhancement practices as needed to enhance and sustain the long-term productivity of timber and non-timber forest resources to meet public demand for forest resources, provide environmental benefits, protect riparian buffers and wetlands, maintain and enhance fish and wildlife habitat, enhance soil, air and water quality, reduce soil erosion and maintain soil quality, maintain and enhance the forest land base, reduce the threat of catastrophic wildfires, and preserve aesthetic quality and opportunities for outdoor recreation. (Sec. 806)

The Conference substitute adopts the House provision with minor amendments.

(9) Eligibility

The House bill makes an owner of non-industrial private forest land eligible for cost-share assistance if the owner: (1) agrees to develop and implement a forest plan developed in coordination with and/or approved by the State forester, state official, or private sector program in consultation with the State Forester, (2) agrees to implement the plan for a period of 10 years unless the State Forester approves a modification to such plan, and (3) meets acreage restrictions determined by the State Forester in conjunction with the State Forest Stewardship Coordinating Committee. (Sec. 802)

The Senate amendment (a) makes an owner of non-industrial private forest land eligible for cost-share assistance if the owner: (1) develops a management plan that addresses site-specific activities and practices and is approved by the State Forester, (2) agrees to implement the plan for at least 10 years unless the State Forester approves a modification to the management plan, and (3) owns not more than 1,000 acres; and (b) creates an exception to the above acreage restriction requirement for owners with more than 1,000 acres but less than 5,000 acres where the Secretary, in consultation with the State forester, determines that significant public benefits will accrue as a result of the owner's participation. (Sec. 806)

The Conference substitute adopts the House provision with minor changes.

(10) State Priorities

The House bill allows the Secretary to develop State priorities for cost-share assistance in consultation with the State Forester and the State Forest Stewardship Coordinating Committee. (Sec. 802)

The Senate amendment (1) directs the State Forester and the Committee of the State to develop and submit to the Secretary a 5–year plan that describes the funding priorities of the state and makes this requirement a condition of receipt of funding under the Sustainable Forest Management program; (2) requires the state priority plan to include documentation of public participation in the development of the plan; (3) requires the Secretary to ensure, to the maximum extent practicable, that the need for expanded technical assistance programs for owners is met in the annual funding priorities of each state. (Sec. 806)

The Conference substitute adopts the Senate provision with minor changes.

(11) Development of Plan

The House bill makes a landowner eligible for cost-share assistance for the development of a forest management plan required to participate in the FLEP. (Sec. 802)

The Senate amendment requires a landowner to submit a plan to the State Forester that is prepared by a professional resource manager, identifies and describes projects and activities to protect certain environmental qualities in a manner that is compatible with the objectives of the owner, addresses criteria established by the State and Committee, and applies to the portion of the land on which any project or activity funded under the program will be carried out. In addition, the landowner must also agree that all projects and activities conducted on the land will be consistent with the management plan.(Sec. 806)

The Conference substitute adopts the Senate provision with minor changes. (Sec. 806)

(12) Approved Activities

The House bill directs the Secretary, in consultation with the State Forester and State Forest Stewardship Coordinating Committee, to develop a list of approved forest activities and practices that will be eligible for cost-share assistance under the FLEP within each state. In developing this list, the Secretary is required to attempt to achieve the establishment, restoration, management, maintenance and enhancement of forests and trees for the following: sustainable growth and management for timber production, water quality, energy conservation, habitat, invasive species control, hazardous fuels reduction, development of forest or stand management plans and other activities approved by the Secretary. (Sec. 802)

The Senate amendment requires the Secretary, in consultation with the State forester and appropriate committee, to develop a list of approved forest activities and practices eligible for cost-share assistance. Approved activities may include: (1) the establishment, management, maintenance and restoration of forests for shelterbelts, windbreaks, aesthetic quality and other conservation purposes, (2) sustainable growth and management for timber production, (3) the protection of water quality, (4) the preservation, restoration or development of habitat, (5) invasive species control, (6) the conduct of other management activities such as hazardous fuels reduction that reduce the risks to forests posed by fire, (7) the development of management plans, (8) the acquisition of permanent conservation easements, and (9) the conduct of other activities approved by the Secretary. (Sec. 806)

The Conference substitute adopts the Senate provision with minor changes including an amendment to strike the acquisition of permanent easements as an eligible activity.

(13) Reimbursement of Eligible Activities

The House bill (1) directs the Secretary to share the cost of implementing the approved activities that the Secretary determines are appropriate to carry out the Forest Land Enhancement Program; (2) directs the Secretary to determine the appropriate reimbursement rate for cost-share payments and the schedule for making such payments; (3) prohibits the Secretary from making cost-share payments in an amount that exceeds 75% of the total cost, or a lower percentage as determined by the State forester; (4) directs the Secretary to determine the maximum payment made to any one owner. (Sec. 802)

The Senate amendment allows the Secretary to provide cost-share assistance to an owner to develop a sustainable forest management plan.

The Senate amendment prevents an owner from receiving any cost-share assistance for management of non-industrial private forest land if the owner receives assistance for that land under the FIP, SIP or any conservation program administered by the Secretary.

The Senate amendment directs the Secretary, in consultation with the State forester, to determine the rate and timing of cost-share payments.

The Senate amendment limits the amount of a cost-share payment to the lesser of: 75% of the total cost of implementing the project or activity or such lesser percentage of the total cost of implementing the project or activity as is determined by the appropriate State forester; and requires the Secretary to determine the maximum aggregate amount of cost-share payments that each owner may receive. (Sec. 806)

The Conference substitute adopts the House provision. (Sec. 802)

(14) Recapture

The House bill directs the Secretary to establish and implement a mechanism to recapture payments made to an owner in the event that the owner fails to implement any approved activity for which the owner received cost-share payments under the Forest Land Enhancement Program. (Sec. 802)

The Senate amendment directs the Secretary to establish a procedure to recapture cost-share payments in any case in which the recipient fails to implement a project or activity in accordance with the management plan or comply with any requirement of Sustainable Forest Management Program. (Sec. 806)

The Conference substitute adopts the House provision. (Sec. 802)

(15) Distribution

The House bill directs the Secretary to consider the following in distributing funds to the states under the Forest Land Enhancement program: the number of owners eligible in each state; demand for timber; demand for agro forestry; need to improve forest health, etc. (Sec 802)

The Senate amendment directs the Secretary, acting through the State Foresters and considering the program objectives (described above), to develop a nationwide funding formula for the Sustainable Forest Management program. In developing the formula, the Secretary is required to assess the public benefits that would result from the distribution as well as the following factors: the total acreage of non-industrial private forest land in each state, the potential productivity of that land, the number of owners eligible for cost-sharing in each state, the opportunities to enhance non-timber resources on that land, the anticipated demand for timber and non-timber resources, the need to improve forest health, the need and demand for agro forestry practices in each state, the need to maintain and enhance the forest land base, and the need for afforestation, reforestation and timber stand improvement. (Sec. 806)

The Conference substitute adopts the Senate provision with minor changes.

(16) Availability of Funds

The House bill makes $200 million available from the CCC for carrying out the Forest Land Enhancement program from October 1, 2001 to September 30, 2011. (Sec. 802).

The Senate amendment makes $48 million available from the Treasury during fiscal years 2002 through 2005 to fund the Sustainable Forest Management Program. (Sec. 806).

The Conference substitute provides for $100 million from the CCC to carry out the program.

(17) Conforming Amendment

The House bill amends section 246(b)(2) of Department of Agriculture Reorganization Act of 1994 by striking ''forestry incentive program'' and inserting ''Forest Land Enhancement Program''. (Sec. 802(d))

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 802(d))

(18) Reports

The Senate amendment (1) directs the states to submit an interim report to the Secretary not later than 2½ years after the date on which funds are made available to implement a state Sustainable Forest Management priority plan. The report must describe the status of projects and activities being funded under the plan; and (2) requires states to submit a final report no later than 5 years after the date on which funds are made available to implement a state priority plan. The report must describe the status of all projects and activities funded under the plan as of that date. (Sec. 806)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with changes to require one report one year prior to reauthorization of the program.

(19) Renewable Resources Extension Activities (Sustainable Forestry Outreach Initiative)

The House bill (1) reauthorizes the RREA through 2011 and amends the amount of authorization from $ 15 million to $ 30 million; and (2) amends the RREA by inserting a new Sustainable Forestry Outreach Initiative designed to educate landowners on the value and benefits of practicing sustainable forestry, and to educate landowners about the variety of programs available to them. (Sec. 803)

The Senate amendment (1) reauthorizes the RREA through 2006 and amends the amount of the authorization from $ 15 million to $30 million per year; (2) amends the RREA by inserting a new Sustainable Forestry Outreach Initiative designed to educate landowners on the value and benefits of practicing sustainable forestry, and to educate landowners about the variety of programs available to them. (Sec. 803)

The Conference substitute adopts the Senate provision. (Sec. 803)

(20) Enhanced Community Fire Protection

The House bill amends the Cooperative Forestry Assistance Act of 1978 by adding a new Enhanced Community Fire Protection program. (Sec. 804)

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by adding an Enhanced Community Fire Protection section. (Sec. 811)

The Conference substitute adopts the House provision. (Sec. 804)

(21) Findings

The House bill contains findings of Congress with respect to severity and intensity of wildland fires, 2000 fire season, threat of wildfires to communities in the wildland-urban interface, National Fire Plan, authority for addressing the wildfire issue on private lands and federal interest in enhanced community protection from wildfire. (Sec.804 (a))

The Senate amendment contains findings of Congress with respect to severity and intensity of wildland fires, 2000 fire season, threat of wildfires to communities in the wildland-urban interface, National Fire Plan, authority for addressing the wildfire issue on private lands and federal interest in enhanced community protection from wildfire; and adds additional finding with respect to forest wetlands. (Sec. 811(a))

The Conference substitute adopts the House provision with minor changes. (Sec. 804(a))

(22) Enhanced Protection

The House bill adds a new section 10A to the Cooperative Forestry Assistance Act of 1978. (Sec. 804(b))

The Senate amendment adds a new section 10A to the Cooperative Forestry Assistance Act of 1978. (Sec. 811(b))

The Conference substitute adopts the House provision. (Sec. 804(b))

(23) Cooperative Management Relating to Wildfire Threats

The House bill allows the Secretary to cooperate with State foresters and equivalent state officials to: (1) prevent and control wildfire, (2) protect communities from wildfire threats, (3) enhance the growth and maintenance of trees and forests, and (4) ensure the continued production of all forest resources. (Sec. 804)

The Senate amendment allows the Secretary to cooperate with State foresters and equivalent state officials to: (1) prevent, control, suppress and assist in the prescribed use of fires, (2) protect communities from wildfire threats, (3) enhance the growth and maintenance of trees and forests, and (4) ensure the continued production of all forest resources. (Sec. 811)

The Conference substitute adopts the House provision. (Sec. 804)

(24) Community and Private Land Fire Assistance Program

The House bill (1) directs the Secretary to establish a Community and Private Land Fire Assistance Program to be administered by the Forest Service and implemented through the State forester or an equivalent state official; and (2) allows the Secretary to undertake the following activities on both federal and non-federal lands: fuel hazard mitigation and prevention, invasive species management, multi-resource wildfire planning, community protection planning, community and landowner education, market development and expansion, improved wood utilization, and special restoration projects. (Sec. 804)

The Senate amendment (1) directs the Secretary to establish a Community and Private Land Fire Assistance Program to be administered by the Secretary and, with respect to non-federal lands, carried out through the State forester or equivalent state official; allows the Secretary to undertake the following activities on both federal and non-federal lands: fuel hazard mitigation and prevention, invasive species management, multi-resource wildfire planning, community protection planning, community and landowner education, market development and expansion, improved wood utilization, and special restoration projects; and (2) directs the Secretary to give priority to contracts with local persons or entities in carrying out the program. (Sec. 811)

The Conference substitute adopts the House provision with minor changes. (Sec. 804)

(25) Authorization Of Appropriations

The House bill authorizes $35 million in appropriations for each fiscal year during 2002 through 2011 for the Enhanced Community Fire Protection program. (Sec. 804)

The Senate amendment authorizes $35 million in appropriations for each fiscal year during 2002 through 2006 for the Enhanced Community Fire Protection program (Sec. 811).

The Conference substitute adopts House provision. (Sec. 804)

(26) International Forestry Program/Office

The House bill reauthorizes the International Forestry Program through 2011. (Sec. 805)

The Senate amendment reauthorizes the International Forestry Office through 2006. (Sec. 801)

The Conference substitute adopts the Senate provision. (Sec. 801)

(27) Long-term Forest Stewardship Contracts

The Senate amendment (1) lists the findings of Congress with respect to wildfire damage, risk to communities from wildfire, accumulation of heavy forest fuel loads, modification of forest fuel load conditions, hazardous fuels as a renewable resource, and the need for the United States to invest in technologies that promote economic and entrepreneurial opportunities in processing forest products removed through hazardous fuel reduction activities (Sec. 809(a)); and (2) defines: (a) biomass-to-energy facility, (b) eligible community, (c) forest biomass, (d) hazardous fuel, (e) Indian tribe, (f) National Fire Plan, (g) person, and (h) Secretary. (Sec. 809(b))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(28) Annual Assessment of Treatment Acreage

The House bill directs the Secretary to submit to Congress an assessment of the number of acres of forested National Forest System lands recommended to be treated using stewardship contracts during the next fiscal year no later than March 1 of each of fiscal years 2002 through 2006. This assessment is to be based on the treatment schedules contained in the report entitled ''Protecting People and Sustaining Resources in Fire-Adapted Ecosystems'' and dated October 13, 2000; and requires the assessment to identify the acreage by condition class, type of treatment and treatment year to achieve the restoration goals outlined in the report. (Sec. 806(a))

The Senate amendment (1) directs the Secretary to submit to Congress an assessment of the number of forested National Forest System acres recommended for treatment during the next fiscal year using stewardship contracts no later than March 1 of each of

fiscal years 2002 through 2006. This assessment is to be based on the treatment schedules contained in the report ''Protecting People and Sustaining Resources in Fire-Adapted Ecosystems'' and dated October 13, 2000; (2) requires the assessment to identify the acreage by condition class, type of treatment, and treatment year; (3) in addition, the assessment is to give priority to condition class 3 acreage, provide information relating to the type of material and estimated quantity and range of sizes of material, and describe land allocation categories in which the contract authorities will be used.(Sec. 809(d)(1))

The Conference substitute did not adopt this provision.

(29) Funding Recommendation

The House bill directs the Secretary to include in the annual assessment a request for funds sufficient to implement the recommendations contained in the assessment. (Sec. 806 (b))

The Senate amendment directs the Secretary to include in the annual assessment a request for funds sufficient to implement the recommendations contained in the assessment. (Sec. 809(d)(2))

The Conference substitute did not adopt this provision.

(30) Stewardship End Result Contracting

The House bill (1) permits the Secretary to enter into stewardship contracts to implement the National Fire Plan on National Forest Service lands under the direction of the assessment and with the authorities described in section 347 of the Department of the Interior Appropriations Act of 1999. But, the period of the contracts will be for 10 years. The House bill also provides that the authority of the Secretary to enter into contracts under this section expires on September 30, 2007. (Sec. 806(c))

The Senate amendment permits the Secretary to enter into no more than 28 stewardship end result contracts to implement the National Fire Plan. The contracting goals and authorities outlined in the original stewardship contracting authorization in the 1999 Department of the Interior Appropriations Act (16 U.S.C. 2104 note; Public Law 105–277, Section 347, subsections (b) through (g) apply to these contracts. Fourteen of the 28 contracts shall be subject to additional conditions. (Sec. 809(d)(3))

The Conference substitute did not adopt this provision.

(31) Status Report

The House bill beginning in fiscal year 2003, requires the Secretary to include a status report of stewardship contracts underway in the annual assessment submitted to Congress. (Sec. 806(d))

The Senate amendment, beginning in fiscal year 2003, requires the Secretary to include in the annual assessment a status report on the contracts entered into under the Long-term Forest Stewardship Contracts for Hazardous Fuels Removal section. (Sec. 809(d)(3)(C))

The Conference substitute did not adopt this provision.

(32) Authorization of Appropriations

The Senate amendment authorizes to be appropriated such sums as are necessary to carry out the Long-term Forest Stewardship Contracts for Hazardous Fuels Removal in subsection (d) for fiscal years 2002 through 2006. (Sec. 809(d)(4))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(33) Excluded Areas

The Senate amendment allows the Secretary to carry out the Wildfire Prevention and Hazardous Fuel Purchase Program only in the wildland/urban interface. (Sec. 809(e))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(34) Duration

The House bill provides that the authority of the Secretary to enter into contracts under the Long-term Forest Stewardship contracts for Hazardous Fuels Removal and Implementation of National Fire Plan section expires on September 30, 2007. (Sec. 806 (c)(2))

The Senate amendment terminates the Secretary's authority under the Wildfire Prevention and Hazardous Fuel Purchase Program on September 30, 2006. (Sec. 809(f))

The Conference substitute did not adopt this provision.

(35) Hazardous Fuels to Energy Grant Program

The House bill lists findings of Congress with respect to damages caused by wildfire disasters, risk of communities to wildfire, effect that modification of forest fuel load conditions will have on minimizing damage from wildfires, and hazardous fuels as an abundant renewable resource. (Sec. 921(a))

The Senate amendment lists Congress findings with respect to wildfire damage, risk to communities from wildfire, accumulation of heavy forest fuel loads, modification of forest fuel load conditions, hazardous fuels as a renewable resource, and the need for the United States to invest in technologies that promote economic and entrepreneurial opportunities in processing forest products removed through hazardous fuel reduction activities. (Sec. 809 (a))

The Conference substitute did not adopt this provision.

(36) Definitions

The House bill defines: (1) biomass-to-energy-facility, (2) forest biomass, (3) hazardous fuels, and (4) Secretary concerned. (Sec. 921(e))

The Senate amendment defines: (1) biomass-to-energy facility, (2) eligible community, (3) forest biomass, (4) hazardous fuel, (5) Indian tribe, (6) National Fire Plan, (7) person, and (8) Secretary. (Sec. 809(b)

The Conference substitute did not adopt this provision.

(37) Hazardous Fuels to Energy Grant Program

The House bill authorizes the Secretary to make grants to the operators of a biomass-to-energy facility to offset the costs incurred to purchase hazardous fuels from forest lands for the use in the production of electric energy, useful heat, or transportation fuels; and requires that grant recipients be selected on the basis of their planned purchases of hazardous fuels and the level of anticipated benefits to reduced wildfire risk. (Sec. 921(b))

The Senate amendment (1) authorizes the Secretary to make grants to persons that operate biomass-to-energy facilities to offset the costs incurred by those persons in purchasing hazardous fuels AND persons in rural communities that are seeking ways to improve the use of, or add value to, hazardous fuels; and (2) directs the Secretary to select recipients for grants based on planned purchases of hazardous fuels, the level of anticipated benefits of purchases in reducing risk of wildfires, the extent to which the project avoids adverse environmental impacts, and the level of anticipated benefits for eligible communities. (Sec. 809(c)(1))

The Conference substitute did not adopt this provision.

(38) Grant Amounts

The House bill requires grants to be equal to at least $5 per ton of hazardous fuels delivered, but not to exceed $10 per ton, based on the distance of hazardous fuels from the biomass-to-energy facility. (Sec. 921(c))

The Senate amendment (1) requires that grant amounts be based on the distance required to transport hazardous fuels to a biomass-to-energy facility and the cost of removal of hazardous fuels; (2) requires that grants be in an amount that is at least equal to $5 per ton but not more than $10 per ton of hazardous fuels; and (3) limits grants to $1,500,000 per year, per facility. But, a facility with an annual production of 5 megawatts or less is not subject to this limitation. (Sec. 809)

The Conference substitute did not adopt this provision.

(39) Monitoring of Grant Recipient Activities

The House bill requires grant recipients to keep such records as the Secretary may require, and on notice by the Secretary, grant reasonable access to facility and an opportunity to review records. (Sec. 921(d))

The Senate amendment requires grant recipients to keep such records as the Secretary may require, and on notice by the Secretary, grant reasonable access to facility and an opportunity to review records. (Sec. 809(c)(3))

The Conference substitute did not adopt this provision.

(40) Monitoring of Effects of Treatment

The House bill requires the Secretary to monitor federal lands from which hazardous fuels are removed and sold to biomass-to-energy facilities to determine and document the reduction in fire hazard. (Sec. 921(e))

The Senate amendment requires the Secretary to monitor federal lands from which hazardous fuels are removed and sold to a biomass-to-energy facility to determine the environmental impact of fuels removal; requires the Comptroller General to monitor the number of jobs created, the opportunities created for small and micro-businesses and the types and amounts of energy supplies created and energy prices for eligible communities; and requires the Comptroller General to submit an annual report to Congress beginning in fiscal year 2003 that describes the information obtained through monitoring. (Sec. 809(c)(4))

The Conference substitute did not adopt this provision.

(41) Authorization of Appropriations

The House bill authorizes $50 million in appropriations for each fiscal year. (Sec. 921(g))

The Senate amendment authorizes $50 million in appropriations for each fiscal year from 2002 to 2006. (Sec. 809(c)(7))

The Conference substitute did not adopt this provision.

(42) Review and Report

The Senate amendment directs the Comptroller General to submit a report to Congress that describes the results and effectiveness of the Wildfire Prevention and Hazardous Fuel Purchase Program not later than September 30, 2004; requires the Secretary to submit to Congress an annual report describing the results of the pilot program that includes an identification of the size of each facility that receives a grant and the haul radius associated with each grant; and requires the Secretary to submit a report to Congress by December 1, 2003 which describes the technical feasibility of the use of small diameter trees and biomass for energy production, the environmental impacts of using small diameter trees and forest residues and any social or economic benefits of small-scale biomass energy units for rural communities. (Sec. 809 (c)(5))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(43) Grants to Other Persons

The House bill contains no comparable provision.

The Senate amendment allows the Secretary to make grants to persons in rural communities that are seeking to ways to improve the use of, or add value to, hazardous fuels. (Sec. 809(c)(6))

The Conference substitute did not adopt this provision.

(44) Excluded Areas

The Senate amendment allows the Secretary to carry out the Wildfire Prevention and Hazardous Fuel Purchase Program only in the wildland/urban interface. (Sec. 809(e))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(45) Termination of Authority

The Senate amendment terminates the Secretary's authority under the Wildfire Prevention and Hazardous Fuel Purchase Program on September 30, 2006. (Sec. 809(f))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(46) McIntire-Stennis Cooperative Forestry Research Program

The House bill reaffirms the importance of the McIntire-Stennis Cooperative Forestry Act. (Sec. 807)

The Senate amendment reaffirms the importance of the McIntire-Stennis Cooperative Forestry Act. (Sec. 802)

The Conference substitute adopts the House provision with minor technical change to public law number. (Sec. 807)

The Managers recognize the importance of university-based programs in forest and natural resources to the success of many of the technical assistance and cost-share programs in the Conservation and Forestry Titles of this Act including the Conservation Reserve Program, EQIP, Sustainable Forestry Outreach Initiative, Forest Land Enhancement Program. As these programs are expanded and enhanced, there will be an increased need for science-based information in the development of these initiatives. The nation's forestry schools and colleges are uniquely equipped to expand the base of knowledge and to assist in the delivery of educational outreach to our nation's nonfederal forest landowners. The Managers expect the Department to seek greater cooperation and collaboration with universities as it implements these various technical assistance and cost-share programs.

(47) Sustainable Forestry Cooperative Program

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by inserting a new section 5A:

The Senate amendment defines: (a) farmer or rancher, (b) forestry cooperative, and (c) non-industrial private forestland.

The Senate amendment directs the Secretary to establish a program to provide grants to nonprofit organizations on a competitive basis to establish and support forestry cooperatives.

The Senate amendment requires funds to be used for the support of forestry cooperatives or the support of a sustainable forestry practice of a member of a cooperative.

The Senate amendment requires the Secretary to provide funds only to a nonprofit organization with demonstrated expertise in cooperative development as determined by the Secretary. Requires funds being used to support a land management practice to comply with an approved forest plan.

The Senate amendment makes $2 million available from the Treasury to remain available until expended. (Sec. 805)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(48) Forest Fire Research Centers

The Senate amendment lists Congressional findings with respect to: (1) increasing threat of fire to forest land and rangeland, (2) concentration of fire threat in the western part of the United States, (3) degraded condition of forest land and rangeland, (4) results of current land management practices in the United States, (5) population movement into wildland-urban interface, (6) budgets of governments, (7) diminishing Federal resources for fire research, (h) funding for Federal fire research program, and (8) critical need for cost-effective investments in improved fire management technologies (Sec. 808(a)).

The Senate amendment directs the Secretary to establish at least 2 forest fire research centers at institutions of higher education to: (1) conduct integrative, interdisciplinary research into the ecological, socioeconomic and environmental impact of fire control and the use of managing ecosystems and landscapes to facilitate fire control, and (2) to develop mechanisms to transfer new fire technologies (Sec. 808(b)).

The Senate amendment directs the Secretary, in consultation with the Secretary of Interior, to establish an advisory committee to establish priorities for research projects conducted at the forest fire research centers established above (Sec. 808(c))

The Senate amendment authorizes the appropriation of such sums as are necessary to carry out this section. (Sec. 808(d))

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(49) Watershed forestry assistance program

The Senate amendment lists Congressional findings with respect to: (1) public attitudes about forest management, (2) benefits of proper stewardship, (3) importance of forests to protecting the drinking water supply, (4) forest loss and fragmentation in urbanizing areas, (5) scientific evidence and public awareness about forest management and water quality, (6) application of forestry best management practices, (7) efforts to improve forestry best management practices, (8) role of forests in maintenance of clean water, (9) burden of management on private forest land owners, (10) need to integrate management, conservation, restoration and stewardship, (11) responsibility of federal government, (12) availability of federal assistance, and (13) the need for increased research, education, technical and financial assistance to private forest land owners.

The Senate amendment describes the purposes of this section as: (1) improving the understanding of landowners and public with respect to the relationship between water quality and forest management, (2) encouraging landowners to utilize trees to promote water quality, (3) enhancing and complementing source water protection in watersheds that provide drinking water, (4) establishing new partnerships, and (5) providing technical and financial assistance to States.

The Senate amendment directs the Secretary to establish a new program to provide states, through the State foresters, technical, financial, and related assistance to expand forest stewardship and prevent water quality degradation and address watershed issues on non-Federal forestland (Sec. 812(c)); requires the Secretary to cooperate with the State Foresters to develop a plan to provide technical assistance to States in addressing water quality; requires the plan to include provisions to accomplish the following tasks: (1) build and strengthen watershed partnerships, (2) provide State BMPs and water quality technical assistance to landowners, (3) provide technical guidance to land managers and policymakers, (4) complement State non-point source assessment and management plans, (5) provide opportunities for coordination and cooperation among Federal and State agencies for water and watershed management, and (6) provide forest resource data for improved implementation of state BMPs; directs the Secretary to develop a cost-share program to provide grants and other assistance for eligible programs and projects; sets forth criteria which the Secretary must consider in allocating funds among the states; requires the State foresters, in coordination with the State Coordinating Committee, to provide annual grants and cost-share payments to communities, non-profit groups, and landowners to carry out eligible programs and projects; directs the Secretary to prioritize cost-share assistance to eligible programs and projects that are identified by the State foresters and the State Stewardship Committees as having a greater need for assistance; limits the amount of federal cost-share to not exceed 75% and permits the non-federal share to be made in the form of cash, services, or in-kind contributions; allows states to use a portion of the funds made available to the state to establish and fill a position of watershed forester to lead state-wide programs; authorizes $20 million to be appropriated for each fiscal year through 2006; and requires funding to be allocated in such a manner that 75% is going to the cost-share portion of the program and the remainder for other provisions within the section. (Sec. 812)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(50) General Provisions

The Senate amendment amends section 13 of the Cooperative Forestry Assistance Act to enable the Secretary to make grants and enter into contracts, agreements or other arrangements to carry out the Cooperative Forestry Assistance Act. (Sec. 814)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(51) State Forest Stewardship Coordinating Committees

The Senate amendment amends section 19(b) of the Cooperative Forestry Assistance Act by adding the U.S. Fish and Wildlife Service as a member of the State Forest Stewardship Coordinating Committees.

The Senate amendment also directs the Committees to submit to the Secretary, and House and Senate Agriculture Committees an annual report of the list of members on the Committee, and an explanation of why certain groups may not be represented. (Sec. 815)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(52) Forest Legacy Program

The Senate amendment amends section 7(l) of the Cooperative Forestry Management Act to allow a state to authorize any local government or qualified organization to acquire land or conservation easements to carry out the Forest Legacy Program in that state. (Sec. 807)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(53) Chesapeake Bay Watershed Forestry Program

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by adding a new section 9A:

The Senate amendment lists definitions for: (1) agreement, (2) Bay-Area state, (3) Chesapeake Bay Executive Council, (4) director, (5) eligible entity, (6) eligible project, (7) program, and (8) Secretary.

The Senate amendment directs the Secretary to establish a Chesapeake Bay Watershed Forestry Program to provide technical and financial assistance to carry out eligible projects; and directs the Secretary to designate a Forest Service employee to serve as a director for the Chesapeake Bay watershed forestry efforts.

The Senate amendment allows the Secretary, in coordination with the director, to provide grants to assist eligible entities in carrying out eligible projects; and limits the federal share of the cost-share assistance to 75%.

The Senate amendment requires the director, in cooperation with the Council, to conduct a study to: (1) assess the extent and location of forest loss and fragmentation, (2) identify critical forest land, (3) prioritize afforestation needs, (4) recommend management strategies to expand conservation and stewardship of the forest ecosystem and ways in which the Federal government can work with State, county, local, and private entities to conserve critical forests including establishing new units of the National Forest System, and (5) identify further inventory assessment and research which is needed and requires the director to report to Congress not later than 2 years after the date of enactment of this legislation.

The Senate amendment allows the Secretary, in cooperation with the director, to establish a cooperative program to provide technical and financial assistance to eligible entities to meet the needs of the urban population of the watershed in managing forest land.

The Senate amendment authorizes $3 million in appropriations for fiscal year 2002 and $3.5 million for each fiscal year in 2003 through 2006. (Sec. 810)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(54) Suburban and Community Forestry and Open Space Initiative

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by adding a new section 7A:

The Senate amendment lists definitions for: (1) eligible entity, (2) Indian tribe, (3) private forestland, (4) program, and (5) Secretary.

The Senate amendment establishes a Suburban and Community Forestry and Open Space Initiative within the Forest Service to provide assistance to eligible entities to carry out projects and activities to conserve private forest land and maintain working forests in suburban environments.

The Senate Amendment requires the Secretary, in consultation with the State foresters, to establish criteria for identifying private forest land in each state that may be conserved, and identifying eligible entities; requires the Secretary to then award grants to eligible entities to carry out certain projects or activities; and requires the Secretary to give priority to projects that promote the following objectives: (1) sustainable forest management, (2) education programs and curricula relating to sustainable forestry, and (3) community involvement in determining the objectives for projects or activities that are funded under this program, and limits grants to 50% of the cost of a project or activity.

The Senate amendment allows funds to be used to purchase land or easements only from willing sellers at fair market value; requires sales at less than fair market value only on certification by the landowner that the sale is being entered into willingly and without coercion; and allows title to be held, as determined by the Secretary, by a State or non-profit organization.

The Senate amendment authorizes $50 million to be appropriated for fiscal year 2003 and such sums as are necessary for each fiscal year thereafter. (Sec. 813)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(55) USDA National Agro forestry Center

The Senate amendment amends section 1243 of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101–624) by striking the section heading and inserting: ''USDA National Agro forestry Center''. (Sec. 816)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.. (Sec. 819)

(56) Office of Tribal Relations

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by inserting a new section 19A:

The Senate amendment defines the following: (1) Indian tribe, (2) office, and (3) Secretary.

The Senate Amendment directs the Secretary to establish an Office of Tribal Relations within the Forest Service and requires the Secretary to appoint a director of such office and to consult with interested tribes in making this determination; and requires the director to report directly to the Secretary.

The Senate amendment requires the director to provide assistance to the Secretary on all issues, policies, actions, and programs of the Forest Service that affect Indian tribes and requires the director to submit an annual report on the status of relations between the Forest Service and Indian Tribes to the Secretary. (Sec. 817)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(57) Assistance to Tribal Governments

The Senate amendment amends the Cooperative Forestry Assistance Act of 1978 by adding a new section 21:

The Senate amendment defines an Indian tribe.

The Senate amendment allows the Secretary to provide financial, technical, educational and related assistance to Indian tribes.

The Senate amendment directs the Secretary to promulgate regulations in consultation with Indian tribes and representatives of tribes, to implement the program.

The Senate amendment directs the Secretary to coordinate with the Secretary of the Interior to establish, implement and administer the program.

The Senate amendment authorizes the appropriation of such sums, as are necessary for fiscal year 2002 and each fiscal year thereafter. (Sec. 818)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(58) Sudden Oak Death Syndrome

The Senate amendment directs the Secretary to research, monitor and carry out a treatment program to develop, control, manage, or eradicate Sudden Oak Death Syndrome on public and private land.

The Senate amendment requires the Secretary to conduct management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by Sudden Oak Death Syndrome.

The Senate amendment requires the Secretary to conduct education and outreach activities to make information available to the public on Sudden Oak Death Syndrome.

The Senate amendment requires the Secretary to establish a Sudden Oak Death Syndrome advisory committee to assist the Secretary in carrying out this section.

The Senate amendment authorizes $14.25 million in appropriations for each of the fiscal years in 2002 through 2006. (Sec. 819)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(59) Independent Investigation of Fire-Fighter Fatalities

The Senate amendment requires the Inspector General of the Department of Agriculture to conduct an independent investigation whenever there is a fatality of an officer or employee of the Forest Service that occurs due to wildfire entrapment or burn over and requires the IG to submit a report to Congress and the Secretary of Agriculture. (Sec. 820)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

(60) Adaptive Ecosystem Restoration of Arizona and New Mexico Forests and Woodlands

The Senate amendment lists Congressional findings with respect to: (1) degradation of ecological conditions of forests and woodlands in Arizona and New Mexico, (2) unnaturally high quantities of biomass, (3) effects of degraded forests and woodlands, (4) benefits of healthy forests and woodland ecosystems, (5) importance of best available scientific knowledge in developing forest and woodland treatments, (6) failure of treatments not based on sound science, (7) integration of scientific research and land management activities, and (8) translation of scientific knowledge;

The Senate amendment describes the purposes of this section as: (1) improving the ecological health, resource values, and sustainability of forest and woodland ecosystems in Arizona and New Mexico, (2) reducing the threat of unnatural wildfire, disease, and insect infestations in those states, (3) restoring ecosystem structure and function so that ecosystems will support biodiversity; enhance watershed values; increase water flow; and increase tree, grass, forb, and shrub vigor and growth to provide sustainable economic activities, (4) developing the scientific knowledge to inform adaptive ecosystem management restoration treatments that will restore long-term ecological health to forests and woodlands in the States, and (5) encouraging collaboration among land management agencies, communities, and interest groups in developing, implementing, and monitoring adaptive ecosystem management restoration treatments that are ecologically sound, economically viable, and socially responsible;

The Senate amendment lists definitions for: (1) adaptive ecosystem management, (2) ecological integrity, (3) ecological restoration, (4) institute, (5) land management agency, (6) practitioner, (7) Secretaries, and (8) state.

The Senate amendment requires the Secretary of Agriculture, in consultation with the Secretary of the Interior, to establish: (1)

an Ecological Restoration Institute in Flagstaff, Arizona, and (2) an institute at a college or university in the State of New Mexico.

The Senate amendment requires each institute to plan, conduct, or otherwise arrange for applied ecosystem management research that: (1) assists in answering questions identified by land managers, practitioners, and others concerned with land management, (2) will be useful in the development and implementation of practical, science-based, ecological restoration treatments, (3) translate scientific knowledge into communication tools that are easily understood by land managers, natural resource professionals, and concerned citizens, and (4) provide similar information to land managers and other interested persons.

The Senate amendment requires each institute to cooperate with various entities, including colleges and universities.

The Senate amendment requires the Secretary, in consultation with the Secretary of Interior, to complete a detailed evaluation of each institute not later than 5 years after the date of enactment of this Act, and every 5 years thereafter.

The Senate amendment authorizes $10 million in appropriations for each fiscal year. (Sec. 821)

The House bill contains no comparable provision.

The Conference substitute did not adopt this provision.

TITLE IX—ENERGY

(1) Findings

The Senate amendment provides Congressional findings with respect to the development of agriculturally based renewable energy, the promotion of energy efficiency and biobased products. (Section 901)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(2) Consolidated Farm and Rural Development Act

The Senate amendment amends the Consolidated Farm and Rural Development Act by adding a new subtitle on ''Clean Energy'' and includes definitions for biomass, renewable energy, and rural small business. (Section 902)

The House bill contains no comparable provision.

The Conference substitute does not amend the Consolidated Farm and Rural Development Act, but rather maintains the section as individual stand-alone provisions. The substitute adopts the Senate definitions with amendments. (Section 9001)

(3) Federal Procurement of Biobased Products

The Senate amendment establishes a federal purchasing program for biobased products if they are on a United States Department of Agriculture biobased products list and the biobased products are reasonably comparable in price, performance and availability to non-biobased products. The section also instructs the Secretary to develop a labeling program for biobased products similar to the Energy Star program of the Environmental Protection Agency and Department of Energy. The amendment provides $2,000,000 annually in each of fiscal years 2002–2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The substitute establishes a new program for the purchase of biobased products by Federal agencies, which is modeled on the existing program for purchase of recycled materials under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962). The intent of the section is to stimulate the production of new biobased products and to energize emerging markets for those products. The section also includes a voluntary biobased-labeling program. The Conference substitute provides $1,000,000 annually for each of fiscal year 2002–2007 for testing biobased products to carry out this section. (Section 9002) The Managers encourage the Secretary to make the results of such testing available to the public.

The United States Department of Agriculture, in consultation with the Environmental Protection Agency, General Services Administration, and the Department of Commerce, will serve as the final arbiter of what is or is not considered a biobased product to be listed and afforded Federal procurement preference. The Office of Federal Procurement Policy will ensure compliance by all Federal agencies, including executive departments, military departments, Government corporations, Government controlled corporations, and other establishments of Federal government.

The Managers intend that any procurement regulations implementing this section will be promulgated within the existing procurement system through revisions to the Federal Acquisition Regulation by the Civilian Agency Acquisition Council and the Defense Acquisition Council and through revisions as necessary to individual agency acquisition regulations by such agencies.

The Managers encourage the Secretary to carry out the biobased product analysis in this section through the Office of Energy Policy and New Uses, which have undertaken economic and technical feasibility analysis and have identified numerous examples of biobased products that can be easily substituted for nonbiobased products.

(4) Biorefinery Development Grants

The Senate amendment establishes a competitive grant program to support the development of biorefineries for the conversion of biomass into multiple products such as fuels, chemicals and electricity. The amendment provides $15,000,000 annually in each of fiscal years 2002–2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The section is subject to appropriated funds. (Section 9003)

In making selections for competitive awards, the Secretary is encouraged to give particular weight to projects that produce multiple products- fuels, chemicals, and in some cases power—and do so in a cost effective and environmentally sound manner.

(5) Biodiesel Fuel Education Program

The Senate amendment establishes a competitive grant program to educate governmental and private entities with vehicle fleets and the public about the benefits of biodiesel fuel use. The amendment provides $5,000,000 annually in each of fiscal year 2003–2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The Substitute provides $1,000,000 annually in each of fiscal year 2003–2007. (Section 9004)

The Managers encourage the Secretary to utilize the expertise of the Office of Energy Policy and New Uses in carrying out the purposes of this section.

(6) Renewable Energy Development Loan and Grant Program

The House bill amends Section 310B of the Consolidated Farm and Rural Development Act by adding other renewable energy systems including wind energy and anaerobic digesters to the list of purposes for which loans and loan guarantees are available. (Section 606) The House bill also contains a provision that provides value-added grants to entities to develop new marketing and income opportunities for farmers. (Section 602)

The Senate amendment establishes a competitive grant and loan program to assist new cooperatives and business ventures, which are at least 51 percent owned by farmers or ranchers, in the development of renewable energy projects to produce electricity. The amendment provides $16,000,000 annually in each of fiscal years 2002–2006. (Section 902)

The Conference substitute adopts the House provisions with amendment. The value-added grant program in the Rural Development title has been expanded to better achieve the purposes of this section. This expansion, along with the adoption of House language that allows loans for these purposes, should accomplish the goals of the Senate's provision and encourage more farmers and ranchers to become involved in the ownership of renewable energy systems. (Sections 6401 and 6013)

(7) Energy Audit and Renewable Energy Development Program

The Senate amendment establishes a competitive grant program for entities to administer energy audits and renewable energy development assessments for farmers, ranchers and rural small businesses. The amendment provides $15,000,000 annually in each of fiscal years 2002–2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. The section is subject to appropriated funds. (Section 9005)

(8) Renewable Energy Systems and Energy Efficiency Improvements

The House bill authorizes the Secretary to provide to individuals a loan guarantee under Section 4 of the Rural Electrification Act to finance the purchase of renewable energy systems, including wind energy systems and anaerobic digesters for the purpose of energy generation. (Section 605)

The Senate amendment establishes a loan, loan guarantee and grant program to assist eligible farmers, ranchers and rural small businesses in purchasing renewable energy systems and making energy efficiency improvements. The amendment provides $33,000,000 annually in each of fiscal years 2002–2006. (Section 902)

The Conference substitute adopts the Senate provision with amendments. The Conference substitute provides $23,000,000 annually in each of fiscal year 2003–2007. (Section 9006)

The Managers intend for the Secretary to consider funding energy audits an eligible energy efficiency improvement measure under this section.

(9) Hydrogen and Fuel Cell Technologies

The Senate amendment establishes a competitive grant program to eligible entities to demonstrate the use of hydrogen and fuel cell technologies in farm and rural applications. The amendment provides $5,000,000 in each of fiscal years 2002–2006. (Section 902)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision and replaces it with language directing the Secretaries of Agriculture and Energy to enter into a memorandum of understanding regarding hydrogen and fuel cell technology applications for agricultural producers and rural communities. The memorandum of understanding also requires the Secretary of Agriculture to disseminate information relating to hydrogen and fuel cell

technologies to rural communities and agricultural producers. (Section 9007)

The Managers encourage the Secretary to utilize the expertise of the Office of Energy Policy and New Uses in carrying out this section.

(10) Technical Assistance for Farmers and Ranchers to Develop Renewable Energy Resources

The House bill expands the purpose of the Environmental Quality Incentives Program to include assistance to farmers and ranchers for the assessment and development of their on-farm renewable resources, including biomass for production of power and fuel, wind and solar. (Section 942a)

The House bill also provides that the Secretary of Agriculture, through the Cooperative State Research, Education, and Extension Service and, to the extent practicable, in collaboration with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other appropriate entities, may provide education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources, including biomass for the production of power and fuels, wind, solar, and geothermal. (Section 942b)

The Senate amendment provides that the Secretary, acting through the Cooperative State Research, Education, and Extension Service in consultation with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other entities as appropriate, may provide for education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources. The Secretary may retain up to 4 percent to pay administrative expenses incurred in carrying out this section. (Section 902)

The Conference substitute deletes both the House and Senate provisions.

The Managers encourage the Cooperative State Research, Education, and Extension Service to provide education and technical assistance to agricultural producers for the development of renewable energy resources. Such assistance should enable producers to become more energy efficient and provide for the development and marketing of renewable energy resources. In assisting producers, the Cooperative Extension Service may consult with other entities as appropriate.

(11) Biomass Research and Development

The House bill extends the Biomass Research and Development Initiative through 2011. (Section 736)

The Senate amendment extends the Act's termination date to September 30, 2006. The amendment provides $15,000,000 in each of fiscal years 2002–2006. (Section 903)

The Conference substitute adopts the Senate provision with amendments. The substitute provides $5,000,000 for fiscal year 2002, and 14,000,000 annually for each of fiscal year 2003–2007. (Section 9008)

(12) Cooperative Research and Extension Projects

The Senate amendment establishes a carbon sequestration research and development program to promote understanding of the net sequestration of carbon in soil and net emissions of other greenhouse gases from agriculture. The amendment requires that, within three years, the Secretary convene a conference of key scientific experts on carbon sequestration from various sectors to establish benchmark standards for measuring soil carbon content and net emissions of other greenhouse gases, designate measurement techniques and modeling approaches to achieve such standards, and evaluate results of analyses on baseline, permanence and leakage issues. The section authorizes appropriations of $25,000,000 annually. (Section 902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments that incorporate this section into Section 221 of the Agricultural Risk Protection Act of 2000 (114 Stat. 407)—Carbon Cycle Research. (Section 9009) The substitute also reauthorizes Section 221 of the Agriculture Risk Protection Act of 2002 (114 Stat. 407)—Carbon Cycle Research through fiscal year 2007. (Section 7223)

The Managers encourage the Secretary to convene a conference of key scientific experts on carbon to evaluate tools and procedures for measuring the carbon content of soils and plants (including trees) and net emissions of other greenhouse gases from agriculture, and identify techniques and modeling approaches for measuring carbon content associated with several different levels of precision. Conference participants should include grant or cooperative agreement recipients under federal carbon cycle research programs, other experts on carbon sequestration from academia and the private sector, and government scientists in the area of carbon sequestration, from the Department of Agriculture and other federal agencies with programs in carbon cycle research. The Secretary is encouraged to provide information to the public regarding any such conference proceedings.

The Managers encourage the Secretary to establish demonstration projects that assist agricultural producers and farmer-owned cooperatives in paying the costs associated with the testing of methods developed under this section (including costs incurred in employing certified independent third persons to carry out those activities). In the view of the Managers, such demonstration projects may provide valuable data in testing the methods by which farmers measure their storage of carbon and reduce net emissions of greenhouse gases.

(13) Demonstration Projects and Outreach

The Senate amendment establishes carbon sequestration monitoring programs; demonstration projects of methods for measuring, verifying and monitoring changes in carbon content and greenhouse gas emissions; and periodic outreach to farmers and ranchers regarding the connection between global climate change mitigation strategies and agriculture. The section authorizes appropriations of $10,000,000 annually. (Section 902)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. Some of the goals of this section have been incorporated into Section 9009.

(14) Rural Electrification Act of 1936

The House bill amends Section 310B of the Consolidated Farm and Rural Development Act to specifically include wind energy systems and anaerobic digesters in the list of purposes for which loans and loan guarantees are available. (Section 606)

The Senate amendment amends the Rural Electrification Act of 1936 by adding Section 21 at the end which establishes a grant and loan program to assist rural electric cooperatives and other rural electric utilities in developing renewable energy to serve the needs of rural communities or for rural economic development. Grants may be used to help pay for renewable energy project feasibility studies and technical assistance. Loans are available for other costs associated with a project. The amendment provides $9,000,000 in each of fiscal years 2002–2006. (Section 904)

The Conference substitute adopts the House provision. (Section 6013)

The Managers encourage the Secretary to use existing authorities to provide loans, loan guarantees and grants to rural electric cooperatives and other electric utilities to promote the development of economically and environmentally sustainable renewable energy projects to serve the needs of rural communities or to promote rural economic development.

(15) Carbon Sequestration Demonstration Program

The Senate amendment establishes a competitive research and development program to test the methodologies by which private parties may pay farmers and foresters a market-based fee to store carbon and to otherwise reduce net emissions of greenhouse gases. Under this program, the Department of Agriculture would share in the costs of monitoring, verifying and auditing such trades on a demonstration basis and would also make grants to researchers to establish the best methodologies for measuring additional carbon sequestration in soils and plants. The section authorizes appropriations of $20,000,000 annually. (Section 905)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. Some of the goals of this section are incorporated into Section 9009.

(16) Sense of Congress Concerning National Renewable Fuels Standard

The Senate amendment expresses the sense of Congress that a national renewable fuels program should be adopted and that the Department of Agriculture should ensure that its policies and programs promote the production of fuels from renewable fuel sources. (Section 906)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(17) Continuation of the Bioenergy Program

The House bill requires the Secretary to include animal fats, agricultural by-products, and oils as eligible commodities under the existing Bioenergy Program (7 CFR 1424). (Section 922)

The Senate amendment expresses the sense of Congress that biofuel production capacity will be needed to phase out methyl tertiary butyl ether in gasoline, and because of the dependence of the United States on foreign oil, the bioenergy program of the Department of Agriculture should be continued and expanded. (Section 907)

The Conference substitute deletes both provisions, and instead authorizes the continuation of the Commodity Credit Corporation Bioenergy Program and includes animal byproducts and fat, oils and greases (including recycled fats, oils and greases) as eligible commodities. The conference substitute provides a total of $204 million to fund this program during fiscal years 2003–2006. (Section 9010)

The Managers encourage the Secretary to investigate the feasibility of utilizing wheat that has been infested with karnal bunt spores, and for which a market is not readily available, in the operation of the Commodity Credit Corporation Bioenergy Program.

General Intent—Title IX. The Managers intend for all reports to Congress required under Title IX to be transmitted to the Senate Committee on Agriculture, Nutrition and Forestry; the House Committee on Agriculture; the House Committee on Energy and Commerce and the House Committee on Science.

The Managers intend for the Secretary to identify and incorporate the mission of Title

IX and the strategy for implementation as part of the reporting required by the Government Performance and Results Act.

TITLE X—MISCELLANEOUS PROVISIONS

SUBTITLE A—TREE ASSISTANCE PROGRAM

(1) Eligibility

The House bill requires the Secretary of Agriculture to provide assistance to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of a natural disaster. Orchardists qualify for assistance only if tree mortality exceeds 15%. (Section 901)

The Senate amendment amends Sec. 194 of the Federal Agriculture Improvement Act of 1996 as follows: Sec. 194(b) requires the Secretary of Agriculture to provide assistance to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of a natural disaster. Orchardists qualify for assistance only if tree mortality exceeds 15%. (Sec. 1062)

The Conference substitute adopts the House provision. (Sec. 10202)

(2) Assistance

The House bill amends the Tree Assistance Program authorized by the Disaster Assistance Act of 1988 to establish a reimbursement of either 75% of the cost of replanting eligible trees lost or, at the discretion of the Secretary, sufficient seedlings to reestablish the stand. (Sec. 902)

The Senate amendment amends Sec. 194(c)(1) consists of either reimbursement of 75% of the cost of replanting eligible trees lost or, at the discretion of the Secretary, sufficient seedlings to reestablish the stand. (Sec. 1062)

The Conference substitute adopts the House provision. (Sec. 10203)

(3) Limitation on Assistance

The House bill establishes that a limit on payments per person may not exceed $50,000 or an equivalent value in tree seedlings; requires the Secretary to issue regulations defining a person; and requires the Secretary to issue regulations prescribing rules to ensure a fair and reasonable application of the limitation established under this section. (Sec. 903)

The Senate amendment amends Sec. 194(c)(2) by setting payment limitations per person to not exceed $100,000 or an equivalent value in tree seedlings; requires the Secretary to issue regulations defining a person; and requires the Secretary to issue regulations prescribing rules to ensure a fair and reasonable application of the limitation established under this section. (Sec. 1062)

The Conference substitute adopts the House provision with an amendment that a payment limitation per person may not exceed $75,000 or an equivalent in tree seedlings. (Sec. 10204)

(4) Definitions

The House bill defines eligible orchardist, natural disaster and tree. (Sec. 904)

The Senate amendment defines Sec. 194 (a) eligible orchardist, natural disaster, tree and Secretary. These definitions are very similar to the House bill, with one exception as follow: there is no requirement that an eligible orchardist owns 500 acres or less of such trees. (Sec. 1062)

The Conference substitute adopts the House provision with amendments that the total quantity of acres for which a person shall be entitled to receive payments under this chapter may not exceed 500 acres and adds ''lightning'' to the definition of natural disaster. (Sec. 10201)

The Senate amendment makes the Tree Assistance Program an authorization subject to appropriations.

The Conference substitute adopts the Senate amendment's authorization of Appropriations. (Sec. 10205)

The Managers acknowledge that assistance was provided to producers to compensate for losses of trees from which a crop is harvested under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2000, for losses suffered in 1999, but not since that time. Establishment of legislative authority for the Tree Assistance Program does not preclude seeking assistance under any other authority on behalf of tree crop producers who suffered similar losses between January 2000 and the date of enactment of this Act.

SUBTITLE B—OTHER MATTERS

(5) Hazardous Fuels Reduction Grants to Prevent Wildfire Disasters and Transform Hazardous Fuels to Electric Energy, Useful Heat or Transportation Fuels

The House bill (1) provides the findings of the Congress on hazardous fuel reduction grants; (2) authorizes the Secretary concerned to make a grant to a person that operates a biomass-to-energy facility to offset the costs incurred to purchase hazardous fuels from forestlands. (3) establishes the grants shall be equal to $5 per ton but not to exceed $10 per ton of hazardous fuels based on distance from source to facility; (4) establishes as a condition of receiving a grant under this section, the owner of the facility is required to keep records as required by the Secretary, and to award the Secretary or their designee access to the facility to examine inventory and records of the facility; (5) authorizes the Secretary concerned to monitor Federal lands from which hazardous fuels are removed and sold to a biomass-to-energy facility to determine and document the reduction in fire hazards on such lands; defines biomass-to-energy facility, forest biomass, hazardous fuels, and Secretary concerned; authorizes $50 million for each FY for the duration of the bill. (Sec. 921)

The Senate amendment (1) provides findings similar to House version findings under Hazardous Fuels Reduction Grants; (2) defines ''eligible community'' as any town, township, municipality, or other similar unit of local government or any area represented by a nonprofit to promote broad-based economic development, and has a population of not more than 10,000, and is located within a county with 15% of total labor and income is derived from forestry and is located near forest land the Secretary determines poses a potential hazard, the ''hazardous fuels'' definition is different from the House version, only in that it specifies the land must be in an wildland-urban interface area or in an area located near an eligible community, Indian tribe, Secretary, and others; (3) authorizes the Secretary concerned to make a grant to a person that operates a biomass-to-energy facility to offset the costs incurred to purchase hazardous fuels from forestlands. The Secretary shall select recipients based on planned purchases of hazardous fuels and the anticipated associated wildfire risk reduction; (4) establishes the grant amounts shall be equal to $5 per ton but not to exceed $10 per ton of hazardous fuels based on distance from source to facility; OR based on the distance from source to facility and the cost of removal of fuels; (5) establishes a grant shall not exceed $1.5 million for any facility for any year with the exception of a small facility with an annual production of 5 megawatts or less; provides the monitoring of grants is very similar to House version, but with a little more detail; (6) authorizes the Secretary concerned shall monitor Federal lands from which hazardous fuels are removed and sold to a biomass-to-energy facility to determine and document the reduction in fire hazards on such lands; (7) authorizes $50 million for each FY for the duration of the bill. (Sec. 809)

The Conference substitute deletes both the House and Senate provisions.

(6) Bioenergy Program

The House bill requires the Secretary to include animal fats, agricultural by-products, and oils as eligible commodities under the existing Bioenergy Program (7 CFR 1424). (Sec. 922)

The Senate amendment establishes the Sense of Congress that Ethanol and Biodiesel production capacity will be needed to phase out MTBE and U.S. dependence on foreign oil and that the Bioenergy Program (7 CFR 1424) should be continued and expanded. (Sec. 907)

The Conference substitute deletes both provisions, and instead authorizes the continuation of the Commodity Credit Corporation Bioenergy Program and includes animal byproducts and fat, oils and greases (including recycled fats, oils and greases) as eligible commodities. The conference substitute provides a total of $204 million to fund this program during fiscal years 2003–2006. (Section 9010)

(7) Availability of Section 32 Funds

The House bill amends the second undesignated paragraph of section 32 of 7 U.S.C. 612c by striking $300,000,000 and inserting $500,000,000. (Sec. 923)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10602)

(8) Seniors Farmers Market Nutrition Program

The House bill allows the Secretary to use $15,000,000 of CCC funds for each of fiscal years 2002 through 2011 to carry out and expand a seniors farmers' market nutrition program. Further explains purposes of program. (Sec. 924)

The Senate amendment requires the Secretary of the Treasury to transfer $15,000,000 30 days after enactment and each fiscal year 2003 through 2006 to the Secretary of Agriculture to carry out and expand a seniors farmers' market nutrition program. Further explains purposes of program. (Sec. 459)

The Conference substitute adopts the House provision with an amendment to provide $5 million in 2002, $15 million per year thereafter 2003 through 2007 (The program already received $10 million for FY2002 in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002.). (Sec. 4402)

(9) Federal Marketing Order for Cane Berries

The House bill requires the Secretary to issue a Federal marketing order for producers and processors of cane berries grown in the United States. (Section 925)

The Senate amendment provides marketing orders for producers of cane berries. (Sec. 161)

The Conference substitute adopts the Senate provision. (Sec. 10601)

A Federal Marketing Order for cane berries will allow producers to promote orderly marketing through collectively influencing the supply, demand or price and to pool resources to finance research and promotion. Producers need this tool to address low prices due, in part, to overproduction.

(10) National Appeals Division

The House bill provides that if an appellant prevails at the regional level in an administrative appeal of a decision by the National Appeals Division, the Agency may not pursue an administrative appeal of that decision to the national level. (Sec. 926)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(11) Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers

The House bill amends the outreach program for socially disadvantaged farmers and

ranchers contained in Sec. 2501 of the Food, Agriculture, Conservation and Trade Act of 1990 by increasing the authorization of appropriations from $10 million in each fiscal year to $25 million and further explains assistance and eligibility. (Sec. 927)

The Senate amendment is similar except that subsection (a)(5)(B) allows for interagency funding and subsection (b) adds ''gender'' to the definition of ''Socially Disadvantaged Group''. (Sec. 1054)

The Conference substitute adopts the Senate language with an amendment to strike the reference to ''gender,'' and maintain eligibility for certain institutions. (Sec. 10707)

(12) Reference to Sea Grass and Sea Oats as Crops Covered by Noninsured Crop Disaster Assistance Program

The House Bill amends Section 196(a)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 to include sea oats and sea grass as crops covered by Noninsured Crop Disaster Assistance Program. (Section 929)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10101)

(13) Operation of Graduate School of Department of Agriculture

The House bill requires that contracts entered into between the USDA Graduate School and Federal agencies for educational, training, and professional development activities must be open to competitive bidding with the private sector. (Sec. 930)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment striking section 1669 of the Food, Agriculture, Conservation, and Trade Act of 1990, adding an audit authority to section 921 of the Federal Agriculture Improvement Reform Act of 1996, and delaying the effective date of the amendment to October 1, 2002. (Sec. 10705)

(14) Assistance for Livestock Producers

The House bill authorizes, subject to appropriations, assistance for livestock and dairy producers who have suffered economic losses. (Sec. 931)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10104)

(15) Compliance With Buy American Act

The House bill prevents the use of funds, under the Act, from being used by any producer, person, or entity that does not agree to comply with the Buy American Act in the expenditure of such funds; expressed the Sense of Congress that producers and other recipients of funds should, in expending the funds, purchase only American-made equipment, products, and services; and the directs Secretary to provide to each recipient of funds a notice describing these requirements. (Sec. 932)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(16) Report Regarding Genetically Engineered Foods

The House bill instructs the Secretary, through the National Academy of Sciences to complete and transmit a report to Congress including the data and test needed to assess human health risk from consumption of genetically engineered foods; the types of monitoring systems that should be created for future assessment; and a federal regulatory structure to approve such foods as safe for human consumption. (Sec. 933)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(17) Market Name for Pangasius Fish Species

The House bill clarifies that the term catfish may not be considered a common or usual name for the fish Pangasius bocourti, or any other fish not classified within the family Ictalariidae, including the importation of such fish pursuant to section 801 of the Federal Food, Drug and Cosmetic Act. (Section 934)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with amendment to clarify labeling restrictions of catfish pursuant to the Federal Food, Drug and Cosmetic Act. (Sec. 10806)

(18) Program of Public Education Regarding Use of Biotechnology in Producing Food for Human Consumption

The House bill instructs the Secretary to develop and implement a program to communicate with the public regarding the use of biotechnology in producing food for human consumption, including science-based evidence of the safety of such foods and the human outcomes of biotechnology used to produce food for human consumption. (Sec. 935)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10802)

(19) GAO Study

The House bill instructs the Comptroller General to conduct a study and make findings and recommendations with respect to determining how producer income would be affected by updating yield bases. The comptroller shall submit a report to Congress not later than 6 months after the date of enactment. (Sec. 936)

The Senate amendment contained no comparable provision.

The Conference substitute adopts the House provision. (Sec. 10903)

(20) Interagency Task Force on Agricultural Competition

The House Bill instructs the Secretary to, within 90 days of enactment, establish an Interagency Task Force on Agricultural Competition, consisting of 9 employees of the Department of Agriculture and the Department of Justice. The task force shall conduct hearings to review the lessening of competition among purchases of livestock, poultry, and unprocessed agricultural commodities. The task force shall submit a report to the committee of Agriculture in both the House and the Senate within 1 year after the last member of the task force is appointed. (Sec. 937)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(21) Authorization for Additional Staff and Funding for the Grain Inspection, Packers, and Stockyards Administration

The House bill authorizes to be appropriated such sums as are necessary to enhance the capability of GIPSA to monitor, investigate, and pursue the competitive implications of structural changes in the meat packing industry. Sums are specifically earmarked to hire litigating attorneys to allow GIPSA to more comprehensively and effectively pursue its enforcement activities. (Sec. 938)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(22) Enforcement of the Humane Methods of Slaughter Act of 1958

The House bill (1) added the following findings:

Public demand for passage of P.L. 85–765;

The Humane Method of Slaughter Act of 1958 requires that animals be rendered insensible to pain when they are slaughtered;

Scientific evidence indicates that treating animals humanely result in tangible economic benefits;

The United States Animal Health Association passed a resolution to encourage strong enforcement of the Act;

The Secretary of Agriculture is responsible fore enforcing the Act, including monitoring and compliance;

(2) expressed the Sense of Congress that the Secretary should fully enforce P.L. 85–765 by ensuring humane methods in the slaughter of livestock; and (3) determined it is the policy of the U.S. that the slaughter of livestock and handling of livestock in connection with slaughter shall be carried out only by humane methods, as proved by P.L. 85–765. (Sec. 939)

The Senate amendment provided for the same general intent as the House provision, but with drafting differences. (Sec. 1067)

The Conference substitute adopts the House provision with an amendment eliminating Congressional findings. In Sec. 1067(1)(A) ''resume'' is changed to ''continue'' with regard to the reporting requirement. The Managers expect the Department to include a report on violations of this Act in its annual report to Congress. (Sec. 10305)

(23) Penalties and Foreign Commerce Provisions of the Animal Welfare Act

The House bill increased the penalties provided by current law, by raising the maximum penalty for violation from $5,000 to $15,000 and raising the maximum imprisonment for violation from 1 year to 2 years and also closes the ''foreign commerce loophole'' by prohibiting transportation of animals for fighting purposes from any state into any foreign country effective 30 days after enactment. (Sec. 940)

The Senate amendment is identical to the House provision. (Sec. 1052)

The Conference substitute also provides an amendment to eliminate the increase in maximum prison terms found in the House and Senate provision. (Sec. 10303)

(24) Prohibition on Interstate Movement of Animals for Animal Fighting

The House bill amends Sec. 26(d) of the Animal Welfare Act to prohibit the interstate shipment of birds for fighting purposes. (Sec. 941)

The Senate amendment is identical to the House provision. (Sec. 1053)

The Conference substitute made technical changes to make it illegal ship a bird in interstate commerce for the purpose of engaging in a animal fight and further, makes it illegal to fight a bird in a fight in which any bird in the fight was transported illegally. (Sec. 10302)

(25) Renewable Energy Resources

The House bill expands the purpose of the Environmental Quality Incentives Program to include assistance to farmer and ranchers for the assessment and development of their on-farm renewable resources, including biomass for production of power and fuel, wind and solar. (Section 942a)

The House bill also provides that the Secretary of Agriculture, through the Cooperative State Research, Education, and Extension Service and, to the extent practicable, in collaboration with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other appropriate entities, may provide education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources, including biomass for the production of power

and fuels, wind, solar, and geothermal. (Section 942b)

The Senate amendment provides that the Secretary, acting through the Cooperative State Research, Education, and Extension Service in consultation with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other entities as appropriate, may provide for education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources. The Secretary may retain up to 4 percent to pay administrative expenses incurred in carrying out this section. (Section 902)

The Conference substitute deletes both the House and Senate provisions.

The Managers encourage the Cooperative State Research, Education, and Extension Service to provide education and technical assistance to agricultural producers for the development of renewable energy resources. Such assistance should enable producers to become more energy efficient and provide for the development and marketing of renewable energy resources. In assisting producers, the Cooperative Extension Service may consult with other entities as appropriate.

(26) Use of Amounts Provided for Fixed, Decoupled Payments to Provide Necessary Funds for Rural Development Programs

The House bill reduces the total amount payable under Sec. 104 (Fixed Decoupled Payments) of the Act on a pro rata basis, so that the total amount of such reductions equals $100,000,000, fiscal years 2002–2001.

The House bill expends such sums as follows:

(A) $45,000,000 for grants under 306A of the Consolidated Farm and Rural Development Act (relating to the community water assistance grant program);

(B) $45,000,000 for grants under 613 of this Act (relating to the pilot program for development and implementation of strategic regional development plans); and(C) $10,000,000 for grants under section 231(a)(1) of the Agricultural Risk Protection Act of 2000 (relating to value-added agricultural product market development grants). (Section 943)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(27) Country of Origin Labeling of Perishable Agricultural Commodities

The House bill amends the Perishable Agricultural Commodities Act, 7 USC 499a, to mandate country of origin labeling on all perishable agriculture commodities, including both imported and domestically produced commodities by adding the following sections:

Sec. 18(a) A retailer of a perishable agricultural commodity shall inform consumers, at the final point of sale of the perishable agricultural commodity to consumers, of the country of origin of the perishable agricultural commodity. This applies to both imported and domestically produced commodities.

Sec. 18(b) Provides an exemption for the labeling requirements for perishable agricultural commodities that are prepared in a food establishment, sold or offered for sale at the food service establishment in normal retail quantities and served to consumers at the food service establishment.

Sec 18(c) The information regarding the country of origin may be provided to consumers via a label, stamp, mark, placard, or other clear and visible sign on the perishable agricultural commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers. A retailer is not required to provide any additional information on a commodity that has already been individually labeled with the country of origin by the packer, importer, or other individual.

USDA may assess Sec. 18(d) Civil penalties ($1,000 for the first day the violation occurs; $250 for each day the violation continues) against any retailer who fails to indicate the country of origin.

Sec. 18(e) Amounts collected under subsection (d) shall be deposited in the Treasury.

The House bill states the provision would take effect six month following enactment. (Section 944)

The Senate amendment amends the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.). Sec. 281 & Sec. 282(a)(1) requires labeling for muscle cuts and ground beef, lamb and pork as well as farm-raised fish and shellfish (including steaks, nuggets and any other flesh from farmed raised fish and shellfish) and produce as defined in the Perishable Agricultural Commodities Act.

Sec. 282(a)(2) Only those products that are exclusively born, raised and slaughtered, hatched, raised, harvested, and processed and produced in the U.S. may be designated as U.S. country of origin.

Sec 282(b) Subsection (a) shall not apply if the covered commodity is prepared or served in a food service establishment and offered for sale or sold at the food service establishment in normal retail quantities or served to consumers at the food service establishment.

Sec. 282(c) The information regarding the country of origin may be provided to consumers via a label, stamp, mark, placard, or other clear and visible sign on the perishable agricultural commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

Sec. 282(d) Those who prepare, store, handle or distribute a covered commodity shall maintain a verifiable record keeping an audit trail.

Sec. 282(e) 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.

Sec. 282(f) The Secretary shall not establish a mandatory identification system to verify the country of origin of a covered commodity. Model certification programs the Secretary can use for verification purposes include the carcass grading system, voluntary country of origin beef labeling system, and those systems used to carry out market access program under the Agricultural Trade Act and the National School Lunch Act.

Sec. 283 The Secretary of USDA will notify a retailer if a violation is found, give the retailer 30 days to cure, provide notice and an opportunity for a hearing and may fine the retailer in an amount determined by the Secretary.

Sec. 284 The Secretary may promulgate regulations and may enter into partnerships with individual states for enforcement purposes.

Sec. 285 Takes effect 180 days following enactment. (Sec. 1001)

The Conference substitute adopts the Senate language with an amendment to provide for the implementation of two-years of voluntary guidelines to precede mandatory labeling. The exclusion from a covered commodity has been further defined to include items that are an ingredient in a processed food item. The conference substitute provides that animals trans-shipped from Alaska or Hawaii through Canada shall be eligible to be designated as ''U.S. Country of Origin'' as long as the period of trans-shipment does not exceed 60 days. (Sec. 10506)

(28) Unlawful Stockyard Practices Involving Nonambulatory Livestock

The House bill amends Title III of the Packers and Stockyards Act, 1921 by adding following on Sec. 318:

Sec. 318(a) defines the terms: humanely euthanize and nonambulatory livestock.

Sec. 318(b)(1) It shall be unlawful for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized.

Sec. 318(b)(2) provides exceptions.

Sec. 318 (c) stipulates that the application of this prohibition is to commence one year after enactment of the Farm Security Act of 2001. The Secretary shall promulgate regulations to carry out this section. (Sec. 945)

The Senate amendment is a substantively identical provision with the following difference: Sec. 318 (c) stipulates that the application of this prohibition is to commence one year after enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2002. (Sec. 1045)

The Conference substitute adopts the House provision with an amendment to require the Secretary to investigate the problem of nonambulatory livestock and report the findings to Congress. Based on the findings of the report the Secretary shall promulgate regulations if the Secretary deems them necessary to regulate the humane treatment, handling and disposition of nonambulatory livestock. The Conference substitute provides for investigative and penalty authority consistent with the Animal Health Protection Act. (Sec. 10502)

(29) Annual Report on Imports of Beef and Pork

The House bill requires the Secretary of Agriculture to submit to Congress an annual report on the amount of beef and pork that is imported into the U.S. each calendar year. (Sec. 946)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(30) Quality Grade Labeling of Imported Meat and Meat Food Products

The Senate amendment amends the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.):

Sec. 291 defines the Secretary;

Sec. 292 prevents an imported carcass, part thereof, meat, or meat food product (as defined by the Secretary) from bearing a quality grade label issued by the Secretary;

Sec. 293 Secretary to promulgate regulations. (Sec. 1002)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(31) Continuous Coverage

The Senate amendment amends Section 508(e)(4) of the Federal Crop Insurance Act to impose a permanent prohibition on the availability of continuous coverage. (Sec. 1012)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 10002)

(32) Quality Loss Adjustment Procedures

The Senate amendment amends Sec. 508(m) of the Federal Crop Insurance Act to require the Federal Crop Insurance Corporation to implement quality loss adjustment procedure review recommendations effective for the 2003 reinsurance year. (Sec. 1013)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to implement recommendations effective for the 2004

reinsurance year and provides additional language to require the Secretary, for purposes of quality loss adjustment under the Federal crop insurance program, to allow certain classifications of warehouse operators to make adjustments for quality. Should the Secretary find that this provision causes fraud and abuse of the Federal crop insurance program by warehouse operators, the Managers intend for the Secretary to take appropriate measures against those operators to alleviate the problem. (Sec. 10003)

It is the intent of the Managers that quality loss adjustments reflect market discounts in the year of adjustment. The term ''local'' outlined in Section 508(m) of the Federal Crop Insurance Act may include discounts determined based on regional surveys.

(33) Conservation Requirements

The Senate Amendment amends Section 1211(1) and Section 1221(b) of the Food Security Act of 1985 and Section 519(b) of the Controlled Substances Act to prohibit the issuance of an indemnity payment under the Federal Crop Insurance Act to a producer who has planted on highly erodible land, converted wetland, or has produced a controlled substance (Sec. 1014).

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(34) Animal Health Protection

The Senate amendment provides for the consolidation and updating of existing animal health authorities at USDA. (Sec. 1021 to Sec. 1038)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments 1) regarding the definition of disease (S1023.CR10403) 2) requires notification to the Secretary of Treasury as well as public notification regarding development of rules on restrictions of imports (S1024. CR10404) 3) directs the Secretary of Agriculture to consult with State animal health officials and veterinary health professionals regarding the establishment of the veterinary accreditation program, gives guidelines for suspension or revocation of accreditation of any veterinarian accredited under this subtitle that violates this subtitle, and clarifies that the criminal and civil penalties in section 1034 shall not apply to violations of this section that are not violations of any other provision of this subtitle (S1030. CR10410) 4) establishes increased criminal penalties in cases of violations of the Animal Health Protection Act involving persons knowingly destroying records or moving pests in commerce for distribution. Criminal penalties are likewise increased in cases of persons who have committed multiple violations of the Animal Health Protection Act. Strike the provision of Section 1034 regarding criminal and civil penalties relating to suspension or revocation of accreditation. (S1034. CR10414) 5) authorization of appropriations and to provide for more efficient management of declarations of extraordinary emergencies and transfer of funds from the Commodity Credit Corporation (S1037.CR 10417) 6) strikes the repeal of the Pseudorabies Eradication Program which is reauthorized in the Conference substitute in Section 10507. (S1038. CR10418)

The managers recognize that the principal purpose of the Animal Health Protection Act is to protect against animal disease. With this in mind, the managers have considered numerous options with regard to a statutory definition of disease. In considering these options, the managers were concerned that an overly broad definition could result in litigation forcing the Agency to divert scarce resources to protecting against conditions which have little if anything to do with the scientific understanding of disease. Likewise, the managers were equally concerned that an arbitrarily narrow definition would limit the ability of the Agency to respond to as of yet unknown threats to animal health. The managers have therefore concluded that in order for the Agency to have maximum flexibility to focus it's resources and respond to new or emerging disease threats that a regulatory definition of disease should be left to the discretion of the Secretary. In so doing, the managers strongly encourage the Secretary to continually reexamine the principal definitions developed during implementation of this statute and make such changes as deemed necessary to achieve the goal of protecting animal health.

It is also the Managers intent that nothing in the Act should be construed in a manner that will unduly restrict or delay the importation, export, or transportation of biomedical research materials, including tissues, specimens, samples, animal embryos, or animals designated for use in research. The Managers do not expect the Secretary to issue any rule or regulation that would unduly restrict or delay the importation, export, or transportation of biomedical research materials, including tissues, specimens, samples, animal embryos, or animals designated for use in research.

It is the Managers understanding that Veterinary Services, within the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), has a long history of cooperation with the veterinary community in performing important regulatory work nationwide. Private practitioners were first used to perform regulatory work in 1907. However, the current voluntary accreditation program (National Veterinary Accreditation Program) officially began in 1921, when USDA, Bureau of Animal Industry, administered the first accreditation examination to certify practitioners as representatives of the Federal government. Accredited veterinarians are the backbone of U.S. regulatory programs for livestock and poultry diseases. The overriding goal of the National Veterinary Accreditation Program is for Veterinary Services, veterinarians, State Animal Health Officials and veterinary colleges to work cooperatively toward the goal of protecting and improving the health, quality, and marketability of U.S. animals. Increased collaboration will be crucial to the success of new enhancements to this program. It is the intent of the Managers that APHIS' existing Veterinary Accreditation Program and implementing regulations continue unimpeded pursuant to section 1038 (c). With regard to future revisions by APHIS to its Veterinary Accreditation Program, the Managers strongly encourage APHIS' Veterinary Services to consult with State animal health officials and veterinary professionals, including State Veterinary Medical Associations and private veterinary practitioners.

The Managers note that USDA currently is evaluating three rapid screening tests to determine which is the most sensitive and effective at detecting scrapie. Ensuring proper screening and testing, and, where necessary, the eradication of animal diseases, is of paramount importance to American Agriculture, USDA, the Congress, and the American people. With the stakes to animal health and the farm economy so high, the U.S. government should use the very best methods available to detect animal diseases. Accordingly, the Managers request that USDA use science-based criteria to evaluate the tests under review and invite third-party animal health diagnostic test experts to review preliminary findings and evaluation methodology.

The purpose of the Animal Health Protection Act is to address pest and disease threats to animal health and production. The managers do not intend for the Animal Health Protection Act to be used to manage or control predation. The Managers expect the Secretary of Agriculture to continue to use the authorities under the Act of March 2, 1931 (7 U.S.C. 426–426b) as amended.

In a case of extraordinary emergency, the section regarding seizure, quarantine, and disposal provides express authority in the Secretary to hold, seize, treat, and apply other remedial actions to or destroy or otherwise dispose of any animal. However, nothing in this section or in this title should be construed as impliedly vesting in the Secretary authority to manage fish or wildlife populations. If fish or wildlife is affected by control or eradication measures proposed by the Secretary in an extraordinary emergency, the Managers expect that the Secretary will consult with officials of the State agency having authority for protection and management of such wildlife, as is the current practice in such instances.

(35) Pesticide Fees

The Senate amendment (1) amends the FIFRA, with respect to the pesticide registration maintenance fee system, to: (a) make uniform the amount of the annual fee for each registration; (b) set maximum amounts payable by a registrant and an increased aggregate amount of collected fees; (c) expand the definition of a small business; and (d) extend the authority to collect such fees and the prohibition on levy of fees other than those specified in the Act's fee provisions; (2) extends the requirement that the Administrator use maintenance fees to ensure expedited processing of similar applications and adds a requirement that the fees be used to review inert ingredients; (3) the Administrator the authority to change current fee amounts by the same percentage as the annual adjustment to the Federal General Schedule pay scale. If fully implemented the total cost of the provision will be $214 million over 4 years. (Sec.1041)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

On June 9, 1999, EPA proposed a rule, ''Pesticides; Tolerance Processing Fees Proposed Rule,'' 64 FR 31039, Docket Number OPP–30115. EPA proposed to increase tolerance fees dramatically and to collect fees retroactively back to 1996. The Managers question the legal basis and are concerned about imposing fees retroactively and with the proposed level of fees. Retroactive imposition of increased tolerance fees, if imposed, could result in unnecessary loss of valuable pesticide products for American farmers. The Managers strongly encourage the EPA to withdraw its proposed tolerance fee rule, and instead, work with the appropriate oversight committees in the House of Representatives and the U.S. Senate to develop comprehensive pesticide user fee legislation.

The Managers continue to be concerned that the Administrator has yet to issue protocols for the issuance of registrations for antimicrobials under the Food Quality Protection Act. The Managers expect the Administrator to expeditiously develop and implement these protocols. The Managers further expect the Administrator to give full consideration to an exemption under Sec. 25(b) of the Federal Insecticide, Fungicide and Rodenticide Act (7 USC 136) for antimicrobial products approved for use in food packaging immediately before aseptic fill.

(36) Pest Management in Schools

The Senate amendment amends FIFRA to create a new section 33, ''School Environment Protection Act of 2002'' that requires

Pest Management in Schools. Requires states to develop pest management plans as part of state cooperative enforcement agreements with the EPA. Sets requirements for what should be included in plans and requires the EPA to distribute guidelines to states no later than one year after enactment, after which State educational agencies would be required to develop plans and submit them to the Administrator for approval. Local education agencies would be required to implement their state plan within one year of receiving it. (Sec. 1042).

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(37) Packer Ownership

The Senate amendment amends Section 202 of the Packers and Stockyards Act of 1921 (7 U.S.C. 192(f)) (as amended by section 1043(a)) by banning ownership or control of livestock by a packer prior to 14 days before slaughter. An exemption from the ban is provided for any packer that is a cooperative entity with a majority ownership interest held by livestock producers who own, feed or control their own livestock which are provided to the cooperative for slaughter, or for any packer who kills less than 2 percent of the total U.S. annual slaughter for that type of livestock. In general, the ban becomes effective upon enactment of the Act, but packers of swine would not be required to complete livestock divestitures until 18 months following the enactment of the Act. For packers of any other type of livestock, the ban would become effective no later than 180 days following enactment of the Act. (Section 1043, amended by Sec. 1072 of the Senate amendment below).

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers recognize the importance of Congress holding hearings to address issues affecting livestock producers, such as agribusiness consolidation, and livestock marketing issues.

(38) Packers and Stockyards

The Senate amendment (1) amends Section 2(a) of the Packers and Stockyards Act by adding definitions of 'livestock contractor', 'livestock production contract', and 'livestock production contract grower'; (2) Amends sections 202, 203, 205, 204, 308, 401, and 403 of the P&S Act to include ''livestock contractor'' as a covered entity under the P&S Act; (3) adds new section 417 to the P&S Act that allows, notwithstanding a provision of a livestock or poultry contract, a party to the contract to discuss terms of the contract with a legal advisor, a lender, an accountant, an executive or manager, a landlord, a family member, or a Federal or State agency with responsibility for enforcing a statute designed to protect a party to the contract. (Sec. 1044)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that includes only swine production contractors as a covered entity under the P&S Act. (Sec. 10503) The amendment was rewritten so that the disclosure and preemption provisions appear in Sec. 10504. This section clarifies that people can discuss contracts with state & federal agencies and certain other individuals. The language does not preempt any state law that addresses confidentiality provisions in contracts for the sale or production of livestock or poultry except any provision of state law that makes lawful a contract provision that prohibits a party from or limits a party in engaging in a discussion that this section otherwise requires to be permitted.

(39) Arbitration Clauses

The Senate amendment adds No Comparable Provision 413A to the Packers and Stockyards Act that states that a person that seeks to resolve a dispute in the contract may, notwithstanding the terms of the contract, elect to arbitrate the dispute in accordance with the contract; or resolve the dispute in accordance any other lawful method of dispute resolution, including mediation and civil action. (Sec. 1046)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(40) Cotton Classification Services

The Senate amendment amends the first sentence of section 3a of the Act of March 3, 1927 (commonly known as the 'Cotton Statistics and Estimates Act') by striking '2002' and inserting '2006'. (Sec. 1047)

The House bill had an identical provision contained in the Research Title. (Sec. 740)

The Conference substitute adopts the Senate provision with technical and clarifying amendments and extends the program through 2007. (Sec. 10801)

(41) Protection for Purchasers of Farm Products

The Senate amendment (1) amends Section 1324 subsection (c)(4)(B) of the Food Security Act of 1985 by striking signed, and inserting signed, authorized, or otherwise authenticated by the debtor and (2) amends subsection (c)(4) by striking subsection (C); (2) amends subsection (c)(4)(D)(iv) by striking applicable and all that follows and inserting applicable, and the name of each county or parish in which the farm products are growing or located;(3) redesignates subparagraph numbering; (4) amends subsection (e)(1)(A)(ii)(IV) by striking crop year, and all that follows and inserting crop year, and the name of each county or parish in which the farm products are growing or located;(5) amends subsection (c)(4)(D)(iv) by inserting contains before any payment;(6) the same changes are made in subsection (g)(2)(A). (Sec. 1048)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 10604)

(42) Improved Standards for the Care and Treatment of Certain Animals

The Senate amendment provides for the socialization of puppies intended for sale as pets, and prohibits female dogs from being bred before they are one year old, or from having more than three litters every two years. The Act also establishes a ''three strikes'' system for AWA licensees that commit 3 or more serious violations of the Act over an eight-year period. (Sec. 1049)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(43) Farmers Market Promotion Program

The Senate amendment (1) makes minor technical changes to the Sec. 4 and Sec. 5 of the Farmer-to-Consumer Direct Marketing Act of 1976; (2) amends Sec. 5 to include a Development of Farmers Markets whereby the Secretary of Agriculture will work to train managers of farmers markets, develop opportunities to share information among managers of farmers markets, develop a program to train extension service employees in the development of direct marketing techniques, and work with producers to develop farmers markets; (3) amends the Farmer-to-Consumer Direct Marketing Act of 1976 by adding Sec. 6 to establish the Farmers' Market Promotion Program to make grants to eligible entities to establish, expand and promote farmers' markets. (Sec. 1050)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make minor technical changes to Section 4 and Section 5, only authorizes the new Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976, and further prohibits the use of funds appropriated under this new section for construction of buildings or structures. (Sec. 10605)

(44) Definition of Animal under the Animal Welfare Act

The Senate amendment amended the definition of animal to add birds, rats, and mice bred for use in research to the list of those animals excluded from coverage under the Animal Welfare Act. (Sec. 1051)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 10301)

(45) Wild Fish and Wild Shellfish

The Senate amendment amends section 2104 of the Organic Foods Production Act of 1990 by inserting a new subsection (c) to provide, notwithstanding section 2107(a) (i.e., notwithstanding the requirement that an organic product be farm-raised), the Secretary may allow for certification and labeling of wild fish and wild shellfish harvested from salt water as organic, following a rulemaking. In doing this, The Secretary is required to consult with the Secretary of Commerce; the National Organics Standards Board; producers, processors, and sellers; and interested members of the public; and to the maximum extent practicable, the Secretary is to accommodate the unique characteristics of the industries in the United States that harvest and process wild fish and wild shellfish. (Sec. 1055)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(46) Assistant Secretary of Agriculture for Civil Rights

The Senate amendment directs the Secretary to establish within USDA a position of Assistant Secretary of Agriculture for Civil Rights. President shall appoint the Assistant Secretary with the advice and consent of the Senate. Duties include enforcing and coordinating compliance with all civil rights laws; ensuring that USDA has measurable goals for fair and nondiscriminatory treatment; compiling and disclosing data used in assessing civil rights compliance in the socially disadvantaged farmer program; holding USDA agency heads and senior executives accountable for civil rights compliance and assessing their performance; ensuring that there is sufficient level of participation by socially disadvantaged farmers and ranchers in deliberations of county and area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and that participation and election data are made publicly available. (Sec. 1056)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that ensures the new Assistant Secretary of Agriculture for Civil Rights is under the authority of the Secretary of Agriculture. (Sec. 10704)

(47) Transparency and Accountability for Socially Disadvantaged Farmers and Ranchers; Public Disclosure Requirements for County Committee Elections

The Senate amendment:

(1) Amends the Food, Agriculture, Conservation and Trade Act of 1990 by inserting Sec. 2501A to ensure compilation and disclosure of data to assess and hold the Department of Agriculture accountable for the nondiscriminatory participation of socially disadvantaged farmers and ranchers in programs of the department;

(2) Amends Section 8(b)(5) of the Soil Conservation and Domestic Allotment Act by striking subparagraph (B) and replacing it with a modified subparagraph (B), which in addition to those things already required under current law: Requires that each solicitation of nominations for, and notice of elections of, a county, area, or local committee shall include the nondiscrimination statement used by the Secretary;

(3) Sets forth procedure for the opening of ballots as follows:

At least 10 days before the date on which ballots are to be opened and counted, a county, area, or local committee shall announce the date, time, and place at which election ballots will be opened and counted. Election ballots shall not be opened until the date and time announced. Any person may observe the opening and counting of the election ballots;

(4) Requires that not later than 20 days after the date on which an election is held, a county, area, or local committee shall file an election report with the Secretary and the State office of the Farm Service Agency;

(5) Requires that not later than 90 days after the date of the election, the Secretary shall complete a report that consolidates all the election data reported to the Secretary;

(6) Provides that, if after analyzing the election data it is necessary, the Secretary shall promulgate proposed uniform guidelines for conducting elections;

(7) Provides that the term of office for a member of a county, area, or local committee shall not exceed 3 years; and

(8) provides that the Secretary shall maintain and make readily available to the public all the data required to be collected under this section. (Sec. 1057)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to require the Secretary to report participation rates of socially-disadvantaged farmers and ranchers by race, ethnicity and gender and in those instances when socially-disadvantaged farmers or ranchers are not adequately represented on a local or area committee, the Secretary may appoint one additional voting member to the local or area committee. (Sec. 10708)

(48) Animal Terrorism Penalties

The Senate amendment amends title 18 USC 43 to revise and enhance criminal penalties and restitution for offenses against animal enterprises. Subsection (a) of existing law for offenses causing economic damages is revised to add a 6 month sentence and/or fines for offenses involving less than $10,000 in economic damages and increases the penalty for offenses causing more than $10,000 from one to three years, plus retaining fines.

Subsection (b) is revised to increase the penalty for offenses causing serious bodily injury from 10 to 20 years, plus adding the possibility of a fine, or both, and for an offense causing death adding the possibility of a fine, or both a fine and criminal penalty, to the existing law penalties of life or a term of years.

Subsection (c) is amended to allow restitution for ''any other economic damage resulting from the offense''. (Sec. 1058)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(49) Pseudorabies Eradication Program

The Senate amendment amends Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 by striking '2002' and inserting '2006'. (Sec. 1059)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the Pseudorabies Eradication Program to 2007. (Sec. 10507)

(50) Transportation of Poultry and Other Animals

The Senate amendment amends the FY 02 Treasury Appropriations measure which provides a provision allowing the Postal Service to require air carriers to accept as mail, day old poultry if the air carrier allows the shipment of any live animals as cargo. The Appropriations provision only covers the period through June 30, 2002. The Senate provision makes the provision in the Appropriations bill permanent. (Sec. 1060)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include honeybees. (Sec. 10501)

(51) Emergency Grants to Low-Income, Migrant and Seasonal Farm workers

The Senate amendment amends Section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 by specifying an authorization for appropriations at $40,000,000 for each fiscal year. (Sec. 1061)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as are necessary. (Sec. 10102)

(52) Preclearance Quarantine Inspections

The Senate amendment adds a no comparable provision to the FACT Act to require the APHIS to conduct preclearance quarantine inspections at all direct departure and interline airports of persons, baggage, cargo and other items destined from Hawaii to the U.S. mainland, Guam, Puerto Rico, and the U.S. Virgin Islands, but provides this provision shall not be implemented unless the APHIS appropriation for inspection, quarantine, and regulatory activities is increased by $3,000,000 in a non-Agriculture FY 2002 appropriations act. (Sec. 1063)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize appropriations in fiscal year 2003. (Sec. 10811)

(53) Emergency Loans for Seed Producers

The Senate amendment amended Section 253(b)(5)(B) of the Agricultural Risk Protection Act of 2000 regarding loans to seed producers who were unsecured creditors of a seed company that filed for bankruptcy in 2000. The provision changed the duration of these loans from 18 months to 54 months. (Sec 1064)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the duration of the loans from 18 months to 36 months. (Sec. 10103)

(54) National Organic Certification Cost Share Program

The Senate amendment directs the Secretary of Agriculture (acting through the Agricultural Marketing Service) to use $3,500,000 of Commodity Credit Corporation funds for each of the fiscal years 2002 through 2004, and $3,000,000 for fiscal year 2005 to establish a national organic certification cost-share program to assist producers and handlers of agricultural products in obtaining certification under the National Organic Production Program established under the Organic Foods Production Act of 1990. Maximum federal cost share is 75% and the maximum amount of a payment made to a producer or handler under this provision shall be $500. (Sec. 1065)

The House Bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing in fiscal year 2002, $5,000,000 to remain available until expended to (in a cost-share manner) assist producers and handlers of organic agricultural products in obtaining certification under the National Organic Production Program established under the Organic Foods Production Act of 1990. (Sec. 10606)

The Managers urge the Secretary to assist producers, processors and firms interested in shifting production into organic products in making this transition and, to the extent possible, work to eliminate unnecessary, over burdensome and any other barriers to this process. As soon as practicable, the Secretary is urged to undertake a study to ascertain the availability of key inputs into organic production, including the availability of organically produced feedstuffs for the organic production of livestock and poultry.

(55) Food Safety Commission

The Senate amendment establishes the Food Safety Commission composed of 15 members from consumer groups; food processors, producers, and retailers; public health professionals; food inspectors; former or current food safety regulators; members of academia; or any other interested individuals. The Commission shall make specific recommendations that build on and implement, to the maximum extent practicable, the recommendations contained in the report of the National Academy of Sciences entitled Ensuring Safe Food from Production to Consumption and that shall serve as the basis for draft legislative language to improve the food safety system; improve public health; create a harmonized, central framework for managing Federal food safety programs (including outbreak management, standard-setting, inspection, monitoring, surveillance, risk assessment, enforcement, research, and education); enhance the effectiveness of Federal food safety resources; and eliminate, to the maximum extent practicable, gaps, conflicts, duplication, and failures in the food safety system. Not later than 1 year after the date on which the Commission first meets, the Commission shall submit to the President and Congress a comprehensive report.

The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the recommendations and report. (Sec. 1066)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that members be appointed by the President, changing the eligibility standards for appointees, and requiring the Commission's recommendations to include descriptions of how each would improve food safety. (Sec. 10807)

The Managers expect that the Commission shall make recommendations to improve public health, help create a harmonized framework for managing Federal food safety programs (including outbreak management, standard-setting, inspection, monitoring, surveillance, risk assessment, enforcement, research and education), and enhance the effectiveness of Federal food safety resources

(including the application of all resources based on risk, including resources for inspection, research, enforcement, and education).

The recommendations should build on, to the maximum extent practicable, the recommendations contained in the report of the National Academy of Sciences entitled 'Ensuring Safe Food from Production to Consumption'.

(56) Penalties for Violations of Plant Protection Act

The Senate amendment amends criminal penalty provisions of the Plant Protection Act (7 U.S.C. 7734) to include felony and misdemeanor penalties. Violations involving plant pests, more than 50 pounds of plants, more than 5 pounds of plant products, more than 50 pounds of noxious weeds, possession with the intent to distribute items known to be in violation of this Act, or any fraud involving official documents issued under this act shall be subject to felony penalties (not more than 5 years imprisonment and/or not more than $25000 fine). Misdemeanor penalties (not more than 1 year imprisonment and/or not more than $1000 fine) for violations involving less than 50 pounds of plants, less than 5 pounds of plant products, or less than 50 pounds of noxious weeds. Felony and misdemeanor penalty limits are increased for second and subsequent violations. Violations involving intent to harm U.S. agriculture would be subject to not less than 10 years, nor more than 20 years imprisonments and/or a fine not to exceed $500,000. Finally, additional sections are added authorizing criminal and civil forfeiture for violations other than misdemeanors. (Sec. 1068)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to establish increased criminal penalties in cases of violations of the Plant Protection Act involving persons knowingly destroying records or moving pests in commerce for distribution. Criminal penalties are likewise increased in cases of persons who have committed multiple violations of the Plant Protection Act. (Sec. 10810)

The Managers encourage the Secretary to consider the need for the post-harvest treatment of imported and domestic agricultural products, and for untreated agricultural products moving into or through the United States, for fruit flies and other plant pests and diseases to improve the protection of domestic crops from plant pests and diseases. Such facilities could be located in ports of entry on the border between the United States and Mexico from Nogales, Arizona to Galveston, Texas as well as in Wilmington, North Carolina, Atlanta, Georgia, Gulfport, Mississippi, and Seattle, Washington.

(57) Connecticut River Atlantic Salmon Commission

The Senate amendment changes the effective period of the Connecticut River Atlantic Salmon Commission from 20 to 40 years and authorizes $9,000,000 for each of fiscal years 2002 through 2010 to the Secretary of the Interior to carry out the activities of the Connecticut River Atlantic Salmon Commission. (Sec. 1069)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the compact and strike the authorization of appropriations. (Sec. 10812)

(58) Bear Protection

The Senate amendment prohibits movement in interstate or foreign commerce of bear viscera—defined as the body fluids and organs, not including blood or brains, of any species of bear. Exceptions are made for wildlife law enforcement purposes, and nothing in this section affects state regulation of bear populations or any hunting of bears allowed under state law and establishes civil and criminal penalties for violations. (Sec. 1070)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(59) Family Farmer Bankruptcy Provisions

The Senate amendment makes permanent Chapter 12 of the bankruptcy code effective, October 1, 2001, the date on which the section lapsed. Chapter 12 covers bankruptcies where the total debts can be no more than $1.5 million, where 50% of the income and 80% of the debts are farm related. (Sec. 1071)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend Chapter 12 Bankruptcy through December 31, 2002. (Sec. 10814)

(60) Packer Ownership

The Senate amendment adds a new subsection to the Packers and Stockyards Act that prohibits meatpackers from owning or feeding livestock directly, through a subsidiary, or through an arrangement that gives the packer operational, managerial, or supervisory control over the livestock, or over the farming operation that produces the livestock, to such an extent that the producer is no longer materially participating in the management of the operation with respect to the production of the livestock.

Exempts from prohibition:

1. Arrangements entered into within 14 days before slaughter;

2. A cooperative or entity owned by a cooperative, if a majority of the ownership interest in the coop is held by active coop members that own, feed, or control livestock and provide the livestock to the coop; and

3. A packer that is owned by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock in the U.S. (Sec. 1072 which amends Sec. 1043)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(61) Hass Avocados

The Senate amendment (1) amends Section 1205 to require the Secretary to revisit the issue of seat allocation on the board; (2) amends subsection (h)(1)(C)(iii) by allowing importers to pay the assessment ''not less than 30 days after the avocado clears customs, unless deemed not feasible as determined by the Commissioner of Customs and the Secretary''. (Sec. 1073)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(62) Social Security Surplus Funds

The Senate amendment expresses the Sense of the Senate regarding social Security; that no social security surplus funds should be used to make currently scheduled tax cuts permanent or for wasteful spending. (Sec. 1074)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(63) Repeal of Estate Taxes

The Senate amendment expresses the Sense of the Senate that the repeal of the estate tax should be made permanent by eliminating the sunset provision's applicability to the estate tax. That estate tax provision expires on Dec 31, 2010. (Sec. 1075)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(64) Commercial Fisheries Failure

The Senate amendment permanently revokes Northeast U.S. multi-species fishing permits using a ''reverse auction,'' method, a method developed to remove the maximum amount of capacity from the fishery at the lowest possible price to the taxpayers. The goal is to reduce the total number of days multi-species fishing is allowed in certain areas off the New England coast because of depletion of key fish species. $10 million is provided in CCC funds for the purpose; USDA with consultation with the Department of Commerce would administer the program. The provision provides for expedited procedures under an existing rule but does not prevent alternative rules if developed. The provision remains in effect for 1 year. (Sec. 1076)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize such sums as necessary. (Sec. 10107)

(65) State Meat Inspection Programs

The Senate amendment (1) requires the Secretary not later than September 30, 2003, to conduct a comprehensive review of each State meat and poultry inspection program, to include—

An analysis of the effectiveness of the State program;

Identification of changes necessary to enable the possible transformation of the State program to a State program that includes the mandatory requirements of the Federal Meat Inspection Act and the Poultry Products Inspection Act;

(2) Requires the Secretary to obtain comment from interested parties in carrying out the review and authorizes appropriations. (Sec. 1077)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers recognize that it is the policy of Congress to ensure that consumers continue to have access to a safe, wholesome, abundant and affordable supply of meat and meat food products. The Managers further believe the goal of providing a safe, wholesome, abundant and affordable supply of meat and meat food products throughout the United States is achieved, in part, through the role played by both State and Federal food safety inspection systems. The State and Federal meat inspection programs should continue to function together to create an inspection system that ensures food safety and increases consumer confidence in the food supply in both intrastate and interstate commerce. The Managers recognize that these goals cannot be met in the absence of viable State meat inspection programs that help to foster the participation of smaller establishments in the food production economy. Therefore, the Managers intend that when the Secretary of Agriculture submits the annual report to Congress on the activities of the Food Safety Inspection Service, the Secretary should include a full review of State inspection systems. This review should also offer guidance about changes the State systems might expect should the statutory prohibition against the interstate shipment of state inspected product be removed.

(66) Agricultural Research and Technology

The Senate amendment authorizes such sums as necessary from 2002 through 2006 for (1) studies on the transmission of spongiform

encephalopathy in deer, elk, and moose and chronic wasting disease with results to be reported to the Ag Committees; (2) a research and extension grants program to develop prevention and control methodologies for infectious animal diseases of livestock and laboratory tests to expedite detection of infected livestock and presence of disease in herds or flocks; (3) a vaccine storage study to determine how much vaccine is needed, how much is available, and directing the Secretary to take action to correct any identified shortfall; and (4) a program of veterinary training to retain sufficient capacity of State and Federal vets in all regions well-trained in recognition and diagnosis of exotic and endemic animal diseases. (Sec. 1078)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide additional discretion to the Secretary with regard to implementation of the program and authorize the program through 2007. The research and extension grant program for livestock production is deleted. A new research and extension grant program for livestock production is established within the High Priority Research and Extension grants program [See Sec. 7208]. (Sec. 10907)

(67) Office of Science Technology Policy

The Senate amendment authorizes the President to establish an SES position in the Office of Science and Technology Policy for a Veterinary Advisor. (Sec. 1079)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The U.S. Department of Agriculture holds primary responsibility for preventing, monitoring and responding to outbreaks of diseases that affect livestock and other animals used for agricultural purposes. Recent experiences in Europe with Bovine Spongiform Encephalopathy and with Foot and Mouth Disease, however, demonstrate that the technical expertise of other federal agencies will also be required if a similar outbreak ever erupts in the United States.

The Managers are aware of successful efforts by the White House Office of Science and Technology Policy (OSTP) to pull together and draw upon the scientific and technical expertise of experts from across the federal government to evaluate solutions to emerging problems. When these or similar problems arise, the Managers expect that OSTP will draw heavily upon the expertise of veterinarians to provide similar leadership to facilitate multi-agency efforts to prevent, detect, and respond to outbreaks of animal diseases.

(68) Operation of Agricultural and Natural Resource Programs on Tribal Lands

The Senate amendment requires the Secretary of Agriculture with consultation of the Secretary of the Interior, to conduct a review on tribal and trust land. The review will address natural resource management programs, incentive programs and farm income support programs. The report will contain a plan to carry out actions found in this section and shall be submitted to Congress not later than 1 year after the date of enactment of this Act. (Sec 1079A)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate language with an amendment to include a report in consultation with the Secretary of the Interior and clarify that the report will apply to commodity supports, natural resource, credit and forestry programs. (Sec. 10910)

(69) Geographically Disadvantaged Farmers

The Senate amendment, Subsection (a), (1) provides a definition of eligible entity, which includes community-based organizations with experience in serving geographically disadvantaged farmers, land-grant colleges, and national tribal organizations that have experience in serving geographically disadvantaged farmers; (2) defines geographically disadvantaged farmer as one in an insular area (as defined in 7 U.S.C. 3103); (3) requires the Secretary to carry out an assistance program to encourage and assist geographically disadvantaged farmers in owning and operating farms and participating equitably in USDA programs; (4) provides Secretary authority to make grants and enter into contracts with eligible entities to provide information and technical assistance; and (5) authorizes $10,000,000 each year to carry out the program. (Sec. 1079B)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate language with an amendment to require a report describing how to improve geographically disadvantaged farmers' participation in USDA programs. (Sec. 10906)

(70) Naming Ginseng

The Senate amendment expresses the Sense of the Senate that the Commissioner of FDA should promulgate regulations to ensure that the name ''ginseng'' or any name that includes the word ''ginseng'' shall be used in reference to an herb or herbal ingredient that is part of the plant of one of the species of the genus Panax and is produced in compliance with U.S. law regarding the use of pesticides (Sec. 1079C).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that the term ''ginseng'' may not be considered to be a common or usual name for any herb or herbal ingredient not derived from a plant classified within the genus Panax, including with respect to importation under section 801 of the Federal Food, Drug, and Cosmetic Act. (Sec. 10806)

(71) Adjusted Gross Revenue Insurance Pilot Program

The Senate Amendment amends Section 523 of the Federal Crop Insurance Act to require the Federal Crop Insurance Corporation to expand for the 2003 reinsurance year the Adjusted Gross Revenue Insurance Pilot Program into at least 8 counties in the State that produces the highest quantity of specialty crops for which adjusted gross revenue insurance is not available. The language requires the Corporation to include those counties that produce a significant quantity of specialty crops (Sec. 1079D).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to expand the Adjusted Gross Revenue Insurance Pilot Program for the 2003 reinsurance year to at least 8 counties in the State of California and at least 8 counties in the State of Pennsylvania. The substitute language requires the Corporation to work with the respective State Departments of Agriculture to establish criteria to determine which counties to include in the pilot program. (Sec. 10004)

(72) Report on Specialty Crop Insurance

The Senate Amendment amends Section 522(e) of the Federal Crop Insurance Act to provide additional mandatory funding to reimbursements made available under research and development; amends Section 524(a)(4) of the Federal Crop Insurance Act to provide additional mandatory funding to education and information programs established under paragraph (2) of that section; provides that 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 that describes the progress made by the Corporation in research and development of innovative risk management products to include cost of production insurance that provides coverage for various crops, the progress made by the Corporation in increasing the use of risk management products offered through the Corporation by producers of specialty crops, by small- and moderate-sized farms, and in areas that are underserved, as determined by the Secretary, and how the additional funding provided under the amendments made by the section has been used. (Sec. 169(h)(3))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision pertaining only to the report with commensurate changes. The Senate language amending Section 522(e) and Section 524(a)(4) of the Federal Crop Insurance Act is deleted. (Sec. 10006)

The Managers expect the Federal Crop Insurance Corporation to fully utilize contracting allocations for research and development of policies in underserved states under Section 522(e)(2)(B) of the Federal Crop Insurance Act.

The Managers urge the Federal Crop Insurance Corporation to consider expanding its contract for research and development of a cost of production policy in order to cover as many commodities as is practicable. The Managers recognize the attraction of the cost of production plan currently under development and recommend that the current list of 12 crops be expanded over the next several years to include but not be limited to: alfalfa, apples, asparagus, avocados, bananas, barley, beans, beets, blueberries, boysenberries, broccoli, cabbage, canola, cantaloupes, carrots, cauliflower, celery, cherries, chicory, Christmas trees, coffee, cucumbers, dry beans, eggplant, escarole, flaxseed, floriculture, forest products, garlic, grain sorghum, grapefruit, grapes, guava, guar, grass seed, greenhouse and nursery agricultural commodities, hay, herbs, honeydew melons, lemons, lettuce, lima beans, limes, loganberries, maple, mango, mushrooms, mustard greens, okra, olives, oranges, papaya, peanuts, peas, pears, pecans, peppers, plums, pineapple, pistachios, potatoes, prunes, pumpkins, raspberries, rye, safflower, spinach, squash, strawberries, sugar beets, sunflower, sweet corn, sweet potatoes, tangerines, tangelos, tobacco, tomatoes, walnuts, and watermelons.

The Managers recognize that there are several types of innovative insurance plans, such as whole farm revenue insurance, which have the potential to help farmers better manage the risks associated with agricultural production. Whether whole farm revenue insurance, commodity-specific cost of production plans, or other innovative approaches, the Managers encourage the development of actuarially sound policies that do not distort markets and that keep moral hazard and adverse selection problems to a minimum.

(73) Pasteurization

The Senate amendment provides a common definition of pasteurization for ''any provision of federal law under which a food or food product is required to undergo a treatment of pasteurization'' which means ''any safe treatment that—

(1) Is a treatment prescribed as pasteurization applicable to the food or food product under any Federal law (including regulation); or

(2) Has been determined to the satisfaction of the Secretary of HHS to achieve a level of reduction in the food or food product of the

microorganisms of public health concern that—

(A) Is at least as protective of the public health as a treatment described in paragraph (1); and

(B) Is effective for a period that is at least as long as the shelf life of the food or food product when stored under normal, moderate, and severe abuse conditions''. (Sec. 1079E)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that clarifies the Food and Drug Administration approval process for claims of pasteurization. FDA is directed to revise as appropriate its existing regulation covering the labeling of foods. Pending the completion of such a review, such authorization is provided for any person to seek FDA approval of an irradiation-labeling claim. (Sec. 10808)

The Managers have included a provision to require the Secretary of Health and Human Services to complete a rulemaking to review current Food and Drug Administration requirements for the labeling of irradiated foods. Since 1997, Congress has repeatedly urged the performance of such a review to ensure that any required disclosure statement in the labeling of irradiated foods should ''be of a type and character such that it would not be perceived to be a warning or give rise to inappropriate consumer anxiety.'' House Conference Report No. 105–399, U.S. Code Congr. & Admin. News 1997, pp. 2,888–89. Pending completion of the rulemaking required by this provision, any person may petition the Secretary regarding the adequacy of proposed labeling for a particular irradiated food so that the person may receive from the Secretary a determination as to whether labeling inconsistent with current regulatory requirements is truthful and non-misleading and, therefore, permissible. If such petition is neither approved nor denied within 180 days of receipt (unless the petitioner and the Secretary mutually agree to extend this time frame), the petition will be deemed denied and the denial will constitute final agency action subject to judicial review.

The Managers have included a provision to facilitate the use of effective food safety technologies. Specifically, an amendment to Section 403 of the Federal Food, Drug, and Cosmetic Act is included to recognize that the term ''pasteurization'' or ''pasteurized'' may be uniformly used to advise consumers that a treatment or process, including a series of treatments or controls, may be used if it achieves the same food safety effect as currently recognized pasteurization methods. The intent of this provision is to make explicit that the term ''pasteurization'' is available to describe a food safety effect, regardless of the technology or process employed to achieve that result. Currently, regulations regarding milk and egg products recognize that technologies other than thermal treatment may achieve a food safety effect equivalent to pasteurization and, therefore, employ the term in product labeling. This provision provides for FDA to receive pre-market notification of the basis for use of this provision. Enactment of this provision should not be construed as a basis for regulatory action against any products that have borne the term ''pasteurization'' in a truthful and non-misleading manner prior to enactment of the provision or bear the term ''pasteurization'' under other authority. Further, nothing in this provision mandates that products not required to be labeled, as ''pasteurized'' presently is required to be labeled as ''pasteurized'' solely for the fact that they could be labeled as ''pasteurized'' under this provision.

The Managers encourage the Secretary in consultation with the Secretary of Health and Human Services, to pursue a comparable pasteurization labeling program for meat and poultry products. Such labeling could allow use of the termpasteurization for meat and poultry products treated by similar processing technologies such as irradiation.

(74) Report on Pouched and Canned Salmon

The Senate amendment requires the Secretary not later than 120 days after enactment to submit to Congress a report on efforts to expand the promotion, marketing, and purchasing of pouched and canned salmon harvested and processed in the U.S. under food and nutrition programs administered by the Secretary. (Sec. 1081)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to increase the required amount of time for the report to be completed from 120 to 180 days. (Sec. 10902)

(75) Tobacco Settlement Agreement Report

The Senate amendment requires the Comptroller General of the U.S. to submit to Congress not later than December 31, 2002 and annually thereafter through 2006, a report that describes all programs and activities that States have carried out using funds received under all phases of the Master Settlement Agreement of 1997. (Sec. 1082)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 10908)

(76) Report on GM Pest Protected Plants

The Senate amendment requires the Secretary to report to the House and Senate Agriculture Committees within 90 days of enactment on the actions taken by USDA to implement recommendations made by the Committee on Genetically Modified Pest-Protected Plants of the Board on Agriculture and Natural Resources of the National Research Council in 2000 regarding food safety, ecological research, and monitoring needs for transgenic crops with plant incorporated protectants; and regarding enhancements to certain operational aspects of the regulatory framework for agricultural biotechnology, including improving coordination and enhanced consistency of review across regulatory agencies and clarifying the regulatory jurisdiction of APHIS. (Sec. 1083)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment accepting the Sense of the Congress provision of Senate Sec. 1083 and dropping remaining provisions. (Sec. 7410)

(77) Study of Creation of Litter Bank by University of Arkansas

The Senate amendment directs the Secretary to conduct a study to evaluate the creation of a litter bank by USDA at the University of Arkansas for the purpose of enhancing health and viability of watersheds in areas with large concentrations of animal producing units and report the results of the study to Congress. (Sec. 1084)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment changing the reference from ''litter bank'' to ''nutrient banking,'' deleting any reference to a particular institution, and providing the Secretary with discretion to carry out a study under this section. (Sec. 7411)

(78) Study of Feasibility of Producer Indemnification from Government-Caused Disasters

The Senate Amendment requires the Secretary of Agriculture to conduct a study of the feasibility of expanding eligibility for crop insurance under the Federal Crop Insurance Act and noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 to agricultural producers experiencing disaster conditions caused primarily by Federal agency action. (Sec. 1085)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to clarify that the feasibility study shall focus on disaster conditions caused by Federal agency action restricting access to irrigation water, including any lack of access to an adequate supply of water caused by failure by the Secretary of the Interior to fulfill a contract in accordance with the Central Valley Project Improvement Act. (Sec. 10108)

The Managers expect the study to include losses to farmers due to regulatory actions or inactions, which result in failure to meet water delivery targets as specified under the Calfed Record of Decision for agriculture service contractors who receive water from the Central Valley Project.

(79) Report on the Sale and Use of Pesticides for Agricultural Uses

The Senate amendment directs the Administrator to submit to Congress a report on the manner in which the Agency is applying regulations of the Agency governing the sale and use of pesticides for agricultural use to electronic transactions. (Sec. 1086)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to increase the required amount of time for the report to be completed from 120 to 180 days. (Sec. 10909)

(80) Report on Birds, Rats and Mice

The Senate amendment requires a GAO report on the implications of including birds, rats, and mice in the definition of ''animal'' under USDA's regulations under the Animal Welfare Act. (Sec. 1087)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment for the National Research Council to submit this report to Congress. The report shall be completed with input from the Secretary of Agriculture, the Secretary of Health and Human Services and the Institute for Animal Laboratory Research. It shall contain an estimate of the number and types of entities that use rats, mice and birds for research purposes, and a description of the regulations to which these are subjected. It shall also contain an estimate of the rats, mice and birds used in research facilities and an indication of which of those facilities are currently under federal regulation. Further, the report shall include an estimate of the additional costs likely to be incurred by researchers resulting from additional regulations, recommendations for minimizing such costs, an estimate of the additional funding APHIS would require to ensure compliance, and recommendations for minimizing the regulatory burden on facilities already subject to federal regulations. (Sec. 10304)

(81) Task Force on National Institutes for Plant and Animal Sciences

The Senate amendment requires the Secretary not later than 90 days after enactment to establish a task force of 8 members (6 of them private or academic sector) to study review and evaluate publicly funded agricultural research activities and consider the merits of establishing 1 or more National Institutes for Plant and Agricultural Sciences similar to NIH. (Sec. 1088)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(82) Organic Products Promotion

The Senate Amendment authorizes the establishment of a new organic research and promotion check off program, which must be proposed and approved by a majority of certified organic producers and handlers. This provision is designed to facilitate the establishment of one order covering a category of products (organic products) rather than individual commodities, requires that the composition of the check off board must reflect both regional distribution and differing scales of organic production, and requires the Secretary to conduct a referendum on whether the order should continue at least once every four years. Assessments under an order established under this provision would be voluntary (at the option of individual farmers). To avoid having farmers paying more than one check off assessment, the provision provides that producers choosing to contribute to the organic order would be entitled to a credit against assessments under another order. (Sec. 1091–1098G)

The House Bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to allow a person that produces and markets only 100% organic products and does not produce any conventional or non-organic products, to be exempt from the payment of an assessment under a commodity promotion law with respect to any agricultural commodity that is produced on a certified organic farm. The Secretary shall promulgate regulations, not later than one year after the date of enactment of this Act, regarding eligibility and compliance for such an exemption. (Sec. 10607)

(83) Effect of Amendments

The Senate amendment provides that amendments made by the Act do not affect Secretarial authority to carry out current price support or production adjustment programs as in effect before the date of enactment. (Sec. 1099A)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(84) CCC Funding

The Senate amendment specifies that notwithstanding any other provision of the bill, any funds made available under the bill will be made available through the Commodity Credit Corporation. (Sec. 1099B)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(85) Implementation Funding and Information Management

The Conference Substitute provides $55 million for administrative costs associated with the implementation of Title I. Of that amount, not less than $5 million nor more than $8 million is to be available for the development of a comprehensive information management system for programs operated by the Farm Service Agency and the Federal Crop Insurance Corporation. The Conference Substitute requires that the Secretary enter into agreements or contracts with outside entities to development information management system. The Conference Substitute also provides that the new requirements shall not interfere with or delay existing agreements or requests for proposals of the agencies regarding data mining or data warehousing. Such sums as may be necessary are authorized to be appropriated for each of fiscal years 2003 through 2008. (Sec. 10706)

The Managers continue to be concerned about the lack of information sharing and progress toward a common information management system for the service agencies of the Department. The Managers believe that integrating information management systems at USDA will reduce the waste associated with the maintenance of duplicative systems and allow the agencies to operate more effectively and efficiently to the benefit of agricultural producers.

In the Agricultural Risk Protection Act of 2000 (ARPA), the Farm Service Agency (FSA) and the Federal Crop Insurance Corporation (Corporation) were required to reconcile producer information. FSA and the Corporation serve the same producers with commodity and crop insurance programs, respectively; it is logical that both agencies should use a common information management system so that the collection of data is not duplicated, the integrity of the data collected is improved and, most importantly, customer service to producers is enhanced. The Managers believe that the development of a common information management system for FSA and the Corporation will demonstrate substantial efficiencies and serve as a first step toward broader, Department-wide integration. Valuable groundwork will be laid for further modernization of information technology systems of USDA agencies in the future, and for the incorporation of those systems into that developed for FSA and the Corporation.

The Managers commend the work being done at the Center for Agribusiness Excellence at Tarleton State University in cooperation with the Corporation on crop insurance compliance as directed by ARPA. It is the expectation of the Managers that the Secretary of Agriculture will build upon the work currently being conducted at the Center for Agribusiness Excellence and through further contracting with the Center to develop the information management system for FSA and the Corporation.

The Managers intend for funds provided to the Farm Service Agency under this Section to be used for salaries and expenses of county office personnel in implementing this Act.

From the Committee on Agriculture, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

LARRY COMBEST,
BOB GOODLATTE,
RICHARD POMBO,
TERRY EVERETT,
FRANK D. LUCAS,
SAXBY CHAMBLISS,
JERRY MORAN,
CHARLES W. STENHOLM,
GARY CONDIT,
COLLIN C. PETERSON,
EVA M. CLAYTON,
TIM HOLDEN,

As additional conferees from the Committee on the Budget, for consideration of sec. 197 of the Senate amendment, and modifications committed to conference:

JIM NUSSLE,

From the Committee on Education and the Workforce, for consideration of secs. 453–5, 457–9, 460–1, and 464 of the Senate amendment, and modifications committed to conference:

MICHAEL N. CASTLE,
TOM OSBORNE,
DALE E. KILDEE,

From the Committee on Energy and Commerce, for consideration of secs. 213, 605, 627, 648, 652, 902, 1041, and 1079E of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JOE BARTON,
JOHN D. DINGELL,

From the Committee on Financial Services, for consideration of secs. 335 and 601 of the Senate amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
SPENCER BACHUS,
JOHN J. LAFALCE,
(except for sec. 335),

From the Committee on International Relations, for consideration of title III of the House bill and title III of the Senate amendment, and modifications committed to conference:

HENRY HYDE,
CHRISTOPHER SMITH,
TOM LANTOS,

From the Committee on the Judiciary, for consideration of secs. 940–1 of the House bill and secs. 602, 1028–9, 1033–5, 1046, 1049, 1052–3, 1058, 1068–9, 1070–1, 1098, and 1098A of the Senate amendment, and modifications committed to conference:

MARK GREEN,

From the Committee on Resources, for consideration of secs. 201, 203, 211, 213, 215–7, 262, 721, 786, 806, 810, 817–8, 1069, 1070, and 1076 of the Senate amendment, and modifications committed to conference:

JAMES V. HANSEN,
DON YOUNG,

From the Committee on Science, for consideration of secs. 808, 811, 902–3, and 1079 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
ROSCOE G. BARTLETT,
RALPH M. HALL,

From the Committee on Ways and Means, for consideration of secs. 127 and 146 of the House bill and sections 144, 1024, 1038, and 1070 of the Senate amendment, and modifications committed to conference:

CHARLES B. RANGEL,
Managers on the Part of the House.

TOM HARKIN,
PATRICK LEAHY,
KENT CONRAD,
TOM DASCHLE,
THAD COCHRAN,
Managers on the Part of the Senate.

□ 1215

EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2001

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to House Resolution 402 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2871.

□ 1215

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2871) to reauthorize the Export-Import Bank of the United States, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, pending was the amendment numbered 4 printed in House Report 107–423 offered by the gentleman from Vermont (Mr. SANDERS). The gentleman from Vermont (Mr. SANDERS)

had 7½ minutes of debate remaining, and the gentleman from Nebraska (Mr. BEREUTER) has 15 minutes remaining.

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment offered by the gentleman from Vermont (Mr. SANDERS) has deceptive appeal. One would think it seems quite reasonable, and I have gone through this process with the gentleman from Vermont (Mr. SANDERS), and initially did not recognize some of the very real problems with the amendment; but they are real. Therefore, I rise in strenuous opposition to the amendment by the gentleman from Vermont (Mr. SANDERS).

The goal of protecting U.S. jobs is highly commendable. However, this amendment may actually result in U.S. jobs being lost or sent overseas. As I pointed out in general debate, corporations, American and others, are generally footloose these days. If in fact they cannot export successfully against competitor exporters from other countries, they may well have encouragement to move those jobs abroad. But by the use of the Export-Import Bank, we are encouraging the continued production of products and services in this country for export abroad.

Now, the adoption of this amendment would limit the ability of U.S. companies to compete in the global marketplace. If we reduce the number of firms eligible for Ex-Im financing through this amendment, we will also reduce the number of U.S. workers who manufacture U.S. goods or provide services for export. We simply cannot look at it and say if they have actually moved this many jobs by their action in the past, that is inappropriate. We hate to see any jobs exported, and one of the reasons we try to negotiate under multilateral terms better arrangements for trade in this country is to keep those jobs in this country and to reduce the disincentives for American firms to have their manufacturing and services produced in this country.

Without Ex-Im financing, in short, U.S. jobs will be forced to move abroad. It is not surprising when we think about it that this legislation is actually supported by John J. Sweeney, the president of AFL–CIO who says, ''As far as we are concerned, corporations which receive subsidies from the Export-Import Bank are merely vehicles through which jobs and income for American workers are created.''

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Vermont.

Mr. SANDERS. When did Mr. SWEENEY make that statement?

Mr. BEREUTER. In 1997 with respect to Export-Import Bank.

Mr. SANDERS. Mr. Chairman, that was 1997. We are in the year 2002.

Mr. BEREUTER. The International Association of Machinist and Aerospace Workers, of course, supports the legislation, and that is very current.

The Sanders amendment is really contrary to the rest of U.S. trade policy which seeks to open foreign markets to U.S. firms for increased trade investment. A U.S. company that receives less Ex-Im financing may be inclined to move those operations abroad. The requirement for an applicant to provide the information sought by the Sanders amendment is overly burdensome, and would make applying for Ex-Im financing too costly for many companies. I think their alternative is to simply take those export jobs abroad, and then try to penetrate those third-country markets.

Mr. Richard Christman, the president of Case N/H, an agricultural business, stated in a hearing before the Committee on Financial Services that one of the factors in deciding to maintain combine production in the U.S. and not to move it to Brazil was the potential availability of Export-Import Bank financing. Those are real jobs maintained by the existence of the Export-Import Bank. I will come back to that in a few minutes, but I remind Members that really we are talking about the subsidy of U.S. worker jobs here—it is not corporate welfare.

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

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to dialogue with the gentleman from Nebraska (Mr. BEREUTER). Jack Welch is the former CEO of General Electric, and this is what he said. ''Ideally what you want is to have every company on a barge.'' This is a man who advertised to the world that he is taking American jobs all over the world, laying off American workers. Why would we give a company like that Export-Import Bank money?

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, certainly I am not enthused about it, but to the extent that GE can keep jobs here because of export, those are jobs that are left in New York State.

Mr. SANDERS. But, Mr. Chairman, they have laid off hundreds of thousands of workers.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PAUL).

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

Mr. PAUL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of this amendment, being a cosponsor of this amendment. I am opposed to the Export-Import Bank because I see there is no benefit to it, it has nothing to do with capitalism and freedom. It has a lot to do with special interests, and I am opposed to that.

One thing I am convinced of over the years from looking at bad agencies of government, tinkering on the edges does not do a lot of good. Members might ask why am I tinkering here? Why do I want to tell corporations what to do? I am a capitalist. I believe in capitalism. I do not want to tell the corporations what to do at all as long as they do not commit fraud and live up to their promises, but this is different because they are getting taxpayer money. That is different than if they were just a corporation making it on their own.

The gentleman from Nebraska (Mr. BEREUTER) said if we do not give them these loans, the companies will not get any money and they will have to go overseas. This is a fallacy to believe if all of a sudden we took all of the Export-Import Bank money away from corporations, that they would have no funding. That is not true at all. There is a lot of funding available. It is just that they do not get the benefit, they do not get the subsidy.

What we are trying to do is make it fair to everyone so that the little guy who is competing for these same funds can compete on a level playing field and not give the advantage to the big guys.

What happens so often when government gets involved is there are unintended consequences. The original intent was to boost exports and jobs. After 70 years, there are unintended consequences. The world is a more world market. I am not opposed to that. I believe in free trade; but I think this is more protectionism. This is so minor and so modest that anybody who wants to be on record for fairness into curtailing the political power of the Export-Import Bank, has to vote for this. This will be a little bit of help to a few people in order to say to these corporations that if they are going to get tax subsidies for their loans, and they start laying off people, they better lay them off someplace else other than here. That is pretty modest. I have no interest in ever telling a corporation to do this if they were not getting the special benefits from government. That makes the big difference.

Mr. Chairman, there is a market allocation of credit and there is credit allocation by politicians, and that is what we are talking about here. We have credit allocation, and we have mal-investment and over capacity which causes the conditions to exist for the recession. Of course, a lot of this comes from what the Federal Reserve does in artificially lowering interest rates; but this is a compounding problem when government gets in and allocates credit at lower rates. It causes more distortions. This is why allocations to companies like Enron contributes to the bubble that ends up in a major correction.

Mr. BEREUTER. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong opposition to this amendment. It should be defeated for two reasons. First, the amendment makes the U.S. Government support for U.S. products conditional on determinations made about legitimate business activities regardless of the situation.

Say we have the Sanders widget company with plants in the Midwest, Vermont and offices in Brazil where there is a real demand for Sanders widgets. If the Midwest plant is destroyed by a tornado and they are forced to lay off the workers, they would be in violation of the standards set by this amendment and would be unable to access Export-Import Bank support until they get the factory rebuilt and operational.

The amendment would effectively damage the company a second time when they are not at fault in the first place. What disturbs me most about the amendment is the apparent belief if these companies must lay off U.S. workers, there would be no understandable circumstances in which that might happen.

Second, this amendment represents a large administrative burden on U.S. businesses which have operations overseas. Even when a manufacturer has not let go a single employee, they would be required to assemble and certify all of the information required by the amendment for each application for support for their U.S. made products.

What if a U.S. business with foreign operations asked for the resignation of one U.S. employee during the year because of a sexual harassment charge, but it kept all of the other employees? As I understand this amendment, that company would be prohibited from Export-Import Bank assistance. That is neither fair nor is it right.

This amendment presents a different philosophy of how the government should ensure the creation of more U.S. jobs. It comes down to carrot or a stick. Do we use incentives for companies to create more jobs in the United States, or do we enforce penalties against companies that increase foreign operations. It has been my experience that one can only drive business away with sticks, and we should provide more carrots for companies that do the right thing and keep U.S. jobs going. I ask my colleagues to do the right thing here today, and join me in opposition to the Sanders amendment.

Mr. BEREUTER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I very much appreciate the gentlewoman's points. Our corporations are involved in producing very different types of exports. One of their operations in the United States may face the fact that a product is obsolete or the whole sector has deteriorated, and we are not exporting anything in that product area, and resultantly we have large layoffs. But the other kinds of products or services that they produce which may need export credit financing for moving our exports abroad to keep those jobs safe in that sector. Mr. Chairman, that is the point that needs to be made. Our industries are very diverse in what they produce.

Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I would like to elaborate on what the gentleman from Nebraska (Mr. BEREUTER) just mentioned. We talked earlier about the need for this legislation to prohibit the stark choice between moving activities overseas and being able to continue in this country.

I had mentioned a specific example that is relevant to my district. Less than a mile from where I live, there is a unionized factory, Freight Liner, owned by Chrysler Daimler-Benz which has used this program to export heavy, high-value trucks to Chile, sales that would not have occurred otherwise.

Now, Daimler-Benz is involved with not just owning a subsidiary that produces these huge, high-end, very expensive trucks, it also is involved with luxury automobiles. Now if we were to adopt the gentleman's amendment that requires that all activities be treated exactly the same, we could be in an ominous situation where there might be layoffs that were warranted because there has been a reduction in the luxury car business that might result in a rational business decision, but we would not necessarily want to be holding to the same standard a requirement that there be reductions in the heavy truck manufacturing. They are two entirely different product lines subjected to different market forces, and they are located in different parts of the world.

Mr. Chairman, I think that attempts to micromanage this can have some very serious unintended consequences. I think it is not rational to assume that everybody is doing the same in these large enterprises today, and to subject on top of it rather extensive reporting and paperwork requirements. I would strongly urge that we set this amendment aside, reject it, support the underlying bill and allow the process to work.

□ 1230

Mr. BEREUTER. Mr. Chairman, it is my pleasure to yield 2 minutes to the distinguished gentleman from Texas (Mr. BENTSEN), a member of the committee.

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

Mr. BENTSEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the amendment and in support of the underlying bill. We considered this amendment in the subcommittee, and I think we may have considered it in the full committee. While I think the gentleman and the cosponsors of the amendment are well-meaning, I think, as the gentleman from Oregon who just spoke noted, this amendment is overly broad and will not accomplish the goal that it sets out to do, and, in effect, creates a one-size-fits-all approach to American companies that most likely are producing multiple types of products, which the underlying goal of this bill and the underlying goal of the Congress since the creation of the Export-Import Bank is to expand the access of foreign markets for products that are produced in the United States and for companies that are based in the United States.

While the gentleman seeks to try to address a concern that many of us have that in some cases we are losing our manufacturing base in the United States because of reasons of economics, the effect of the amendment, I believe, would be completely counter to what he is trying to achieve, because what you would be doing is penalizing those companies in the United States which are trying to maintain a manufacturing base and trying to export products abroad, as opposed to those companies who seek to just pack it in and move completely abroad or cede the field to foreign companies without having any manufacturing here in the United States.

So I would hope that the House will reject the gentleman's well-meaning, but an amendment with I think great unintended consequences, and support the underlying bill.

Mr. SANDERS. Mr. Chairman, I am very pleased to yield 1½ minutes to the gentlewoman from California (Ms. WATERS.)

(Ms. WATERS asked and was given permission to revise and extend her remarks.)

Ms. WATERS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise to support the Sanders amendment to the Export-Import Bank Reauthorization Act. The Sanders amendment would prevent companies from receiving assistance from the Export-Import Bank if they lay off a greater percentage of workers in the United States than they lay off in other countries.

The purpose of the Export-Import Bank is to create American jobs for American workers. Unfortunately, the bank has a history of providing assistance to companies that have been exporting American jobs and hiring cheap foreign labor. For example, the Export-Import Bank insured a $3 million loan to help General Electric build a factory where Mexican workers will make parts for appliances that will be exported back to the United States. As a result, 1,500 American workers will lose their jobs to Mexican workers, who will be paid only $2 per hour. The Sanders amendment would ensure that the Export-Import Bank does not subsidize companies that are exporting American jobs instead of American-made products.

I urge my colleagues to support the Sanders amendment.

Mr. Chairman, many of us worked very hard on plant closure legislation

just a few years ago because we found that after we gave great tax cuts right here in the United States under the Reagan administration that our companies were exporting jobs to third-world countries for cheap labor. That is after we had given big tax breaks. They took the money and put it in their pockets and exported the labor. We can stop that with this simple amendment. This will help out. I would ask my colleagues to support this amendment.

Mr. BEREUTER. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from New Jersey (Mr. FERGUSON), a member of the committee.

Mr. FERGUSON. Mr. Chairman, I rise in opposition to the Sanders amendment. The goal of protecting U.S. jobs is a good goal; but this amendment, if implemented, would actually result in a reduction in U.S. jobs over the long term, jobs that would be sent overseas or lost altogether. The fact is that every transaction that the Ex-Im Bank is involved with helps to maintain U.S. jobs.

Now, I understand that the author of this amendment is opposed to the Ex-Im Bank. My friend, the gentleman from Vermont, has never been a fan of the Ex-Im Bank; and I have a sneaking suspicion, I have not been here very long, but I have a sneaking suspicion that this amendment is actually a poison pill that is targeted at trying to kill the underlying bill rather than trying to be helpful.

If this amendment were to be accepted, it would frustrate the main mission of the Ex-Im Bank in general and severely hinder the ability of the bank to support U.S. exports and U.S. jobs. The adoption of this amendment would limit the ability of U.S. companies to compete in the global marketplace. If we reduce the number of U.S. firms eligible for Ex-Im Bank financing, the number of firms that would be available for financing through this amendment, we are also going to reduce the number of U.S. workers who manufacture U.S. goods for export.

Now, I represent a district in a State, New Jersey, where we have seen a tremendous hemorrhaging of high-tech jobs from some of our companies in the high-tech sector and telecom sector. These are companies whose lifeline in many ways is the work of the Ex-Im Bank.

Some people talk about corporate welfare. This is not corporate welfare. This is investing in American companies and giving them the opportunity to be able to provide jobs and to provide manufacturing for goods all around the world, particularly at a time when we are trying to expand our economy, to expand job creation.

Some on the other side of the aisle have been talking about raising taxes. We are not going to tax our way to economic prosperity and job creation, and certainly by trying to kill or hinder the Export-Import Bank from doing the great work they do, we are not going to be creating jobs or helping our economy to grow either.

I stand in opposition to this amendment. I am a strong supporter of the Ex-Im Bank and the good work of this bill. It is so important during a time of economic recovery. If we are going to get Americans back to work, continue to be able to create the manufacturing and jobs that are so vital to this recovery, we are going to need to be able to continue to support the work of the Ex-Im Bank. Defeat this amendment.

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the issue here is so clear-cut that it is almost laughable. I was a mayor of a city for 8 years, and when someone from the business community came in and said they wanted something, I said, Let's talk about it. What are you going to do for the people?

What the Export-Import Bank does is they say to General Electric, You told the whole world your policy is to move jobs to China; we have no problem with that. You can help us with 200 jobs? That is fine. You are laying off 10,000 workers tomorrow? We are ignoring that.

People who have discussed this have used the word ''carrot.'' I believe in carrots. Use the carrot. What is the carrot? The carrot is if you come in and want taxpayer support, radical idea though it may be, you have got to protect American jobs.

It is beyond comprehension to me that we would provide huge amounts of funding to a company where the leadership says, like General Electric, This is our policy: Our policy is to lay off American workers and go to China. And the Ex-Im Bank says, Can we give you any more money? Thank you.

Eighty percent of the loans and subsidies given to the Export-Import Bank go to the Fortune 500 companies. Check their record. It is not just General Electric, it is not just General Motors, it is not just Motorola. Company after company are laying off American workers and going abroad.

It seems to me that if you want to use taxpayer money, if they want to take taxpayer money, the very least they can do is to work very, very hard to give us commitments to protect jobs in this country. We have a $360 billion trade deficit. The Ex-Im is a small part of that, but it is part of a failed policy which is selling out American workers; and I urge the Members of the body, finally, stand up to the campaign contributors and all these big companies that pour millions into the political process.

Stand with American workers. Let us reverse our trade policy. Let us demand that these companies, radical idea though it may be, invest in the United States of America. My word, what a radical idea. Create jobs in America, so that high school kids do not have to work at Burger King, but they can have a decent job. The Ex-Im can play a role in that.

Let us say ''yes'' to the Sanders amendment and work for the ordinary people of this country for a change, rather than the multinationals.

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

Mr. BEREUTER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE), the distinguished ranking member of the Committee on Financial Services.

Mr. LAFALCE. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I certainly share the gentleman from Vermont's desire to enhance jobs within the United States, and there are so many issues and areas where we are aligned in that effort. We are aligned in that effort in the areas of housing and community development, in public sector jobs, in private sector jobs, in infrastructure, in countless ways. I certainly share his desire to protect and promote workers' rights, not only domestically, but internationally, globally.

But one of the ways we do that is to enhance the ability of the United States companies to export products abroad, products that are made in the United States of America by workers in the United States of America. That is what Ex-Im is all about.

The amendment of the gentleman from Vermont (Mr. SANDERS) is counterproductive to that purpose. The Sanders amendment, in my judgment, as it is presently worded, would be impractical, impossible to effectuate. I may be wrong, but most everybody who favors Ex-Im Bank believes that this amendment would be harmful to the promotion of Ex-Im Bank's mission, goals and United States jobs; and I would encourage all allies of Ex-Im Bank to oppose the amendment.

Mr. BEREUTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I very much appreciate the bipartisan opposition to the Sanders amendment as voiced, for example, by the senior Democrat on the Committee on Financial Services.

We can all agree on a few things. We can all agree that we hate to see American jobs lost, whether it is because of decline in the industry or because of the fact that those jobs are moved abroad. We do not want to see layoffs.

The fact of the matter is, however, that sometimes one sector of a company's production simply becomes obsolete, or because of the fact that it is a labor-intensive or very low-skilled job that for economic reasons, the corporation feels it must move abroad.

Mr. Chairman and colleagues, do not penalize those parts of the company that are exporting products abroad. Vote ''no'' on the Sanders amendment.

Ms. DUNN. Mr. Chairman, I rise against the Sander's Amendment.

Washington State has the second highest unemployment rate in the nation. Many companies in the Northwest have suffered directly and indirectly because of September 11, including Boeing that announced the layoffs of

approximately 30,000 workers. I represent over 25,000 commercial Boeing workers and understand the impact of unemployment in my communities.

This amendment will not preserve jobs domestically, but actually lead to more unemployment in Washington State. At a time when domestic airlines are struggling, Boeing's only option is to expand commercial aircraft sales overseas. If companies in the Northwest do not have access to the financing resources provided by the Ex-Im Bank, we lose more jobs in the Northwest.

Boeing will not only be affected, but the impact will be felt throughout the region. Over 60 percent of the supplies and parts used to manufacture a commercial aircraft are made outside of Boeing. Denying Boeing Ex-Im Bank financing will result in greater unemployment for small companies and their workers that depend on business with Boeing.

If we want to protect jobs and stimulate our economy, we must make it easier to sell American products overseas. Simply denying U.S. businesses access to Ex-Im Bank financing because they are laying off workers in unfair. This amendment does not help our workers, but the workers of foreign competitors. Without Ex-Im Bank financing for Boeing, Airbus will be able to gain greater market shares by providing a much more effective financing package through their export credit agencies.

I ask my colleagues to oppose this amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). All time has expired.

The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

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

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 5 printed in House Report 107–423.

AMENDMENT NO. 5 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Chairman, I offer an amendment.

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

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. SCHAKOWSKY:

At the end of the bill, add the following:

SEC. ___. SENSE OF THE CONGRESS.

It is the sense of the Congress that, when considering a proposal for assistance for a project that is worth $10,000,000 or more, the management of the Export-Import Bank of the United States should have available for review a detailed assessment of the potential human rights impact of the proposed project.

The CHAIRMAN pro tempore. Pursuant to House Resolution 402, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from Illinois (Ms. SCHAKOWSKY).

(Ms. SCHAKOWSKY asked and was given permission to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to start by commending the chairman and ranking member of the Committee on Financial Services and the chairman and ranking member of the Subcommittee on International Monetary Policy and Trade for their work on this important bill, and I want to particularly express my gratitude to the gentleman from Nebraska (Mr. BEREUTER), the chairman of the Subcommittee on International Monetary Policy and Trade, and his staff for working with me so that human rights concerns and protections would be included in this debate and be part of this legislation.

Our ranking member on the subcommittee, the gentleman from Vermont (Mr. SANDERS), has been a leader throughout this process, and I commend him for his tireless efforts on behalf of working people, small businesses, human rights, and the environment.

This is a modest amendment to the Export-Import Bank Reauthorization Act. My amendment states the sense of the Congress that detailed information on the potential impact on human rights of proposed Export-Import Bank projects should be more available to the management of the bank for all projects that are worth $10 million or more.

□ 1245

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the gentlewoman from Illinois for yielding me this time, and for her leadership and her persistence on this issue.

I rise in strong support of the Schakowsky amendment which requires the Export-Import Bank to consider the human rights implications of major projects that it funds. Now, in the last week, the United States has regained its seat on the United Nations Human Rights Commission. We now have another opportunity and an obligation to reassert our leadership on human rights issues and to really, in essence, practice what we preach. The entire world is watching.

At each and every juncture, human rights concerns must enter into our policy decisionmaking and our policy initiatives. The world needs the United States' leadership on human rights issues. Here we have a chance, thanks to the gentlewoman from Illinois, to exercise this leadership.

The Export-Import Bank deals with projects that reach into the millions of dollars. These projects have major repercussions on the ground and human rights analysis must be a part of this fair equation. This amendment just provides accurate information on these projects so that economic development would not come at the cost of further erosion of basic human rights. Under current policy, cancellation is the only option. We need a more precise instrument. This is a very modest measure in the right direction.

So I urge my colleagues to stand up for human rights today by supporting the Schakowsky amendment.

Mr. BEREUTER. Mr. Chairman, in the absence of any known opposition to the Schakowsky amendment, I claim the time in opposition, and I yield myself such time as I may consume.

Mr. Chairman, I will say to the gentlewoman that during the debate on the rule, the gentleman from Florida (Mr. HASTINGS) and I had a discussion about the gentlewoman's amendment. The only concern we have had about the gentlewoman's amendment at any time in this whole process is that the State Department is that entity we have selected at this point within our government to prepare the country reports on human rights. The view of this Member and others was that the State Department should continue to be the agency responsible for conducting that kind of review for our entire government.

But the gentlewoman has an amendment before us which is in no way inconsistent with that concept. I think what she is proposing to do is very important. We hope that human rights considerations are a factor in the deliberations of the Export-Import Bank, and so I would say we are prepared to accept enthusiastically the gentlewoman's amendment, and I yield to her if she might wish to respond.

Ms. SCHAKOWSKY. Mr. Chairman, I thank the gentleman very much for his support of this amendment. We have taken into serious consideration the gentleman's concern in raising the issue that it is the State Department, in fact, that authorizes on human rights grounds the commencement of a project and would make decisions as to whether or not a project should be canceled on the basis of human rights. We have been talking with the Bureau of Democracy, Human Rights and Labor within the State Department, and I have spoken with senior officials there who agree that more scrutiny should be placed on major Ex-Im projects that are proposed.

So while I am very pleased and grateful about the prospects of the amendment today and for the gentleman's support, we are going to continue those discussions to see if we cannot further this agenda of more inquiry into human rights.

Mr. BEREUTER. Mr. Chairman, I appreciate what the gentlewoman is doing and if there is anything we could do in report language to facilitate stronger encouragement to use those State Department country reports, we should do that, and I would be committed to that end.

Mr. Chairman, I yield to the gentleman from New York (Mr. LAFALCE), the ranking member of the full committee.

Mr. LAFALCE. Mr. Chairman, I too rise in support of the amendment, but I also want to make some complimentary comments about the fine work of the gentlewoman from Illinois (Ms. SCHAKOWSKY).

When she initially surfaced the idea, I think the specific words of the proposed bill or amendment might have been unworkable and perhaps counterproductive, but she worked with everyone in a very collegial fashion. She worked with the State Department, she worked with Ex-Im, the Republicans, the Democrats, and we have an excellent amendment now that is workable, that is productive, that should be passed and should be implemented aggressively by Ex-Im and Treasury. I thank the gentlewoman for her great collegial work.

Mr. BEREUTER. Mr. Chairman, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Chairman, I certainly appreciate the tenor of this discussion, and I would like to continue it just for a bit.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, first I would like to say to my colleague, the gentleman from Nebraska (Mr. BEREUTER), that I am appreciative for his willingness to try and work out support for amendments that may not have a lot of support, but the gentleman understands the importance of a particular amendment and has worked with the author to try and get it done. So let me thank the gentleman.

In addition, I would like to thank the gentlewoman from Illinois (Ms. SCHAKOWSKY) for being there always on these kinds of issues.

This is so important. I came up to support the amendment because I was concerned about a project that was approved by the Export-Import Bank for $92 million for diamond mine processing equipment and services to Alrosa, a Russian diamond company, that operates in countries such as Angola where conflict diamonds are sold by paramilitary groups that propagate internal conflicts and engage in gross violations of human rights. So it is so important that we know what they are doing, or at least we have an assessment.

Most Americans do not understand that we put $1 billion into this Export-Import Bank. Many would see this as simply corporate welfare. And while we have increasing problems with our own budget, while we are trying to fund education, while we are trying to secure Social Security, it is very important that we look at projects such as this one and begin to raise the questions about who is really benefiting from the Export-Import Bank. While this will do an assessment on human rights, which we need to do, I think we are going to have to go deeper. While I thank my colleague for supporting this amendment, we are going to have to go deeper to look at the Export-Import Bank and see if this is something we want to continue to do.

Ms. SCHAKOWSKY. Mr. Chairman, I do have a few additional remarks, and I yield myself such time as I may consume.

It seems to me that additional information on human rights is necessary, because current policy provides really only one remedy, and that is to deny a project on human rights grounds. But those denials are made on the basis of an assessment by the State Department of human rights for an entire country in which the project will be located, and not an assessment of the project itself. There should be more tools available to Ex-Im Bank to assess human rights.

In reality, there are very few projects that would warrant cancellation or total denial of Ex-Im funding because of severe human rights impacts, but many more projects may have human rights concerns that, if adequately identified beforehand, could be mitigated during project design. Ex-Im Bank needs detailed assessments on a project-by-project basis of the potential impact proposed projects may have on human rights.

Again, this is a modest amendment. It is not the total solution to what I believe to be the legitimate and serious concerns of human rights experts like Human Rights Watch and Members of Congress and numerous other human rights experts and advocates throughout the world.

Mr. Chairman, this amendment is an acknowledgment that we have much more to do to improve the human rights record of the Ex-Im Bank, prevent human rights abuses, and ensure U.S. taxpayer dollars are spent responsibly, without compromising the project financing portfolio of the bank. The key to achieving those goals is information.

Had such information existed during consideration of the Enron power project in India, for example, Ex-Im staff would have identified previous human rights problems and could have consulted with local national or international human rights organizations for further information. This would have allowed for recommendations that Enron make certain commitments to corporate responsibility, for example, that would have mitigated the problems that occurred later in the project and after Ex-Im funding was approved. Yet another lesson of the Enron collapse has been the clear need for greater oversight of projects financed with taxpayer dollars.

The Dahbol power project is partially owned and operated by Enron. The project received approximately $290 million in Ex-Im Bank guarantees despite the World Bank's refusal to fund it and serious human rights problems related to its construction.

According to Human Rights Watch, ''Enron subsidiaries paid local law enforcement to suppress opposition to its power plant. They broke down the door and window of one of the protestor's bathrooms and dragged her naked into the street, beating her with batons. The protestor was 3 months pregnant at the time.''

It seems to me that especially now, in a world where we are trying to build international coalitions to fight terrorism, as we should, that the United States should lead the world in the struggle for human rights, fairness, and equality for all in every way we can. We must never send a message to our neighbors in the international community or to the American corporate community that we are willing to compromise human needs for corporate greed.

Ex-Im Bank has a responsibility to U.S. taxpayers to ensure our money is well spent, and the Congress has a responsibility to place human rights on an equal footing with all other considerations in our international economic agenda. Passage of this amendment would be a measured step in that direction.

Again, I want to thank my colleagues on the Committee on Financial Services, particularly the chairman and ranking Democratic members of the full committee and the Subcommittee on International Monetary Policy for their work and leadership.

Mr. Chairman, I urge all of my colleagues to support this modest amendment and put the Congress on record in support of human rights and responsible behavior when we conduct business abroad.

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

Mr. BEREUTER. Mr. Chairman, to reiterate, we support and can accept the gentlewoman's amendment. I urge support for it.

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

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on Amendment No. 4.

AMENDMENT NO. 4 OFFERED BY SANDERS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 283, not voting 16, as follows:

[Roll No. 120]

AYES—135

Abercrombie
Allen
Andrews
Baca
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Berry
Bishop
Blagojevich
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Capuano
Carson (IN)
Chabot
Clay
Clyburn
Coble
Conyers
Costello
Coyne
Cummings
DeFazio
DeGette
Dingell
Doyle
Duncan
Engel
Evans
Farr
Fattah
Filner
Goode
Graham
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holden
Hostettler
Hunter
Jackson (IL)
Jackson-Lee (TX)
Jones (NC)
Jones (OH)
Kaptur
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Lee
Lewis (CA)
Lewis (GA)
Lipinski
Luther
Lynch
Matheson
McCollum
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Miller, George
Mink
Mollohan
Nadler
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Peterson (PA)
Phelps
Platts
Rahall
Regula
Rivers
Rodriguez
Roemer
Rohrabacher
Ross
Roybal-Allard
Sanders
Sawyer
Schakowsky
Serrano
Sherman
Sherwood
Slaughter
Smith (NJ)
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thurman
Tierney
Towns
Udall (NM)
Visclosky
Wamp
Waters
Watson (CA)
Watt (NC)
Weiner
Woolsey
Wynn

NOES—283

Ackerman
Aderholt
Akin
Armey
Bachus
Baird
Baker
Ballenger
Barr
Barton
Bass
Bentsen
Bereuter
Berman
Biggert
Bilirakis
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chambliss
Clement
Collins
Combest
Cooksey
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Dreier
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McHugh
McInnis
McKeon
Meehan
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Rothman
Roukema
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sandlin
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Tauscher
Tauzin
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Velazquez
Vitter
Walden
Walsh
Watkins (OK)
Watts (OK)
Waxman
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NOT VOTING—16

Cannon
Clayton
Condit
Cox
Crane
Doolittle
Ehrlich
Green (TX)
Honda
Mascara
Millender-McDonald
Murtha
Traficant
Udall (CO)
Weldon (PA)
Young (FL)

□ 1322

Messrs. ROTHMAN, TIBERI, FLAKE, BLUNT, ROYCE, and RANGEL changed their vote from ''aye'' to ''no.''

Mr. TANCREDO and Mr. GRAHAM changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. HONDA. Mr. Chairman, on rollcall No. 120, I was unavoidably detained by important matters involving my district. Had I been present, I would have voted "no."

Mr. EHRLICH. Mr. Chairman, unfortunately, I was unavoidably detained earlier this afternoon and consequently was unable to vote on the floor of the House on pending business. As you know, Mr. Speaker, Charles, Dorchester, and Calvert Counties in Maryland recently experienced devastating tornadoes resulting in the loss of three lives and costing over $100 million in damage. In an effort to aid in the procurement of federal disaster assistance, I responded to a request from local officials to visit the site of the storms.

Had I been present, I would have voted "no" on rollcall vote 120.

The CHAIRMAN pro tempore. There being no further amendments in order under the rule, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2871) to reauthorize the Export-Import Bank of the United States, and for other purposes, pursuant to House Resolution 402, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

The bill was ordered to be engrossed and read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2871, the bill just passed.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 2871, EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2001

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2871, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

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

There was no objection.

EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2001

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1372) to reauthorize the Export-Import Bank of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1372

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 ''Export-Import Bank Reauthorization Act of 2001''.

SEC. 2. EXTENSION OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking ''2001'' and inserting ''2006''.

SEC. 3. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.

Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended to read as follows:

''(iii) The sub-Saharan Africa advisory committee shall terminate on September 30, 2006.''.

SEC. 4. GUARANTEES, INSURANCE, EXTENSION OF CREDIT.

Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)) is amended—

(1) in the fourth sentence, by striking ''on an annual basis'' and inserting ''not later than June 30 each year'';

(2) in the fifth sentence, by inserting ''(including through use of market windows)'' after ''United States exporters''; and

(3) by inserting after the fifth sentence, the following new sentence: ''With respect to the proceeding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from other governments and government-related agencies.''.

SEC. 5. FINANCING FOR SMALL BUSINESS.

Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended by striking ''10'' and inserting ''18''.

SEC. 6. MARKET WINDOWS.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

''SEC. 15. MARKET WINDOWS.

''(a) ENHANCED TRANSPARENCY.—To ensure that the Bank financing remains fully competitive, the United States should seek enhanced transparency over the activities of market windows in the OECD Export Credit Arrangement. If such transparency indicates that market windows are disadvantaging United States exporters, the United States should seek negotiations for multilateral disciplines and transparency within the OECD Export Credit Arrangement.

''(b) AUTHORIZATION.—The Bank is authorized to provide financing on terms and conditions that are inconsistent with those permitted under the OECD Export Credit Arrangement—

''(1) to match financing terms and conditions that are being offered by market windows on terms that are inconsistent with those permitted under the OECD Export Credit Arrangement, if—

''(A) matching such terms and conditions advances the negotiations for multilateral disciplines and transparency within the OECD Export Credit Arrangement; or

''(B) transparency verifies that the market window financing is being offered on terms that are more favorable than the terms and conditions that are available from private financial markets; and

''(2) when the foreign government-supported institution refuses to provide sufficient transparency to permit the Bank to make a determination under paragraph (1).

''(c) DEFINITION.—In this section, the term 'OECD' means the Organization for Economic Cooperation and Development.''.

SEC. 7. INSPECTOR GENERAL OF THE EXPORT-IMPORT BANK.

(a) ESTABLISHMENT OF POSITION.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking ''or the Board of Directors of the Tennessee Valley Authority;'' and inserting ''the Board of Directors of the Tennessee Valley Authority; or the President of the Export-Import Bank;''; and

(2) in paragraph (2), by striking ''or the Tennessee Valley Authority;'' and inserting ''the Tennessee Valley Authority, or the Export-Import Bank,''.

(b) SPECIAL PROVISIONS.—The Inspector General Act of 1978 is amended—

(1) by redesignating section 8I as section 8J and inserting after section 8H the following new section:

''§ 8I. Special Provisions Relating to the Export-Import Bank of the United States

''(a) IN GENERAL.—The Inspector General of the Export-Import Bank shall not prevent or prohibit the Audit Committee from initiating, carrying out, or completing any audit or investigation or undertaking any other activities in the performance of the duties and responsibilities of the Audit Committee, including auditing the financial statements of the Export-Import Bank, determining when it is appropriate to use independent external auditors, and selecting independent external auditors. In carrying out the duties and responsibilities of Inspector General, the Inspector General of the Export-Import Bank shall not be prevented or prohibited from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. The Audit Committee shall make available to the Inspector General of the Export-Import Bank the reports of all audits the Committee undertakes in the discharge of its duties and responsibilities.

''(b) AUDIT COMMITTEE.—For purposes of this section, the term 'Audit Committee' means the Audit Committee of the Board of Directors of the Export-Import Bank or any successor thereof.'';

(2) in section 8J (as redesignated), by striking ''or 8H of this Act'' and inserting ''8H, or 8I of this Act''.

(c) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Inspector General of the Environmental Protection Agency the following:

''Inspector General, Export-Import Bank.''.

(d) INITIAL IMPLEMENTATION.—Section 9(a)(2) of the Inspector General Act of 1978 is amended by inserting ''to the Office of the Inspector General,'' after ''(2)''.

(e) TECHNICAL CORRECTIONS.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking the second semicolon after ''Community Service'';

(B) by striking ''and'' after ''Financial Institutions Fund;''; and

(C) by striking ''and'' after ''Trust Corporation;''; and

(2) in paragraph (2), by striking the second comma after ''Community Service''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2002.

MOTION OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OXLEY moves to strike out all of the enacting clause of the Senate bill S. 1372 and insert in lieu thereof the provisions of H.R. 2871 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 2871, was laid on the table.

APPOINTMENT OF CONFEREES

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to S. 1372 and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Financial Services, for consideration of the Senate bill and the House amendment, and modifications committed to conference: Messrs. OXLEY, BEREUTER, TOOMEY, GARY G. MILLER of California, LAFALCE and SANDERS.

From the Committee on Government Reform, for consideration of section 7 of the Senate bill, and modifications committed to conference: Messrs. BURTON of Indiana, HORN and WAXMAN.

There was no objection.

PERSONAL EXPLANATION

Mr. HOLT. Mr. Speaker, on Thursday April 26, 2002, I was unavoidably detained in my congressional district in New Jersey, attending a memorial service for a close friend and former coworker. Because of that, I missed record votes in the House. Had I been present, Mr. Speaker, I would have voted yes on rollcall 111, yes on rollcall 112, yes on rollcall 113, no on rollcall 114, no on rollcall 115, and yes on rollcall 116.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 495. An act to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the ''Ron de Lugo Federal Building''.

H.R. 819. An act to designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the ''Donald J. Pease Federal Building''.

H.R. 3093. An act to designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the ''William L. Beatty Federal Building and United States Courthouse''.

H.R. 3282. An act to designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the ''Mike Mansfield Federal Building and United States Courthouse''.

The message also announced that the Senate has passed a bill and a concurrent resolution of the following titles

in which the concurrence of the House is requested:

S. 1721. An act to designate the building located at 1 Federal Plaza in New York, New York, as the ''James L. Watson United States Courthouse''.

S. Con. Res. 102. Concurrent resolution proclaiming the week of May 4 through May 11, 2002, as ''National Safe Kids Week''.

MULTINATIONAL DEVELOPMENT BANKS AUTHORIZATION ACT

Mr. OXLEY. Mr. Speaker, pursuant to the previous order of the House, I move to suspend the rules and pass the bill (H.R. 2604) to authorize the United States to participate in and contribute to the seventh replenishment of the resources of the Asian Development Fund and the fifth replenishment of the resources of the International Fund for Agricultural Development, and to set forth additional policies of the United States toward the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American Development Bank, and the European Bank for Reconstruction and Development, as amended.

The Clerk read as follows:

H.R. 2604

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

SECTION 1. UNITED STATES CONTRIBUTION TO THE SEVENTH REPLENISHMENT OF THE RESOURCES OF THE ASIAN DEVELOPMENT FUND.

The Asian Development Bank Act (22 U.S.C. 285–285aa) is amended by adding at the end the following:

''SEC. 31. SEVENTH REPLENISHMENT.

''(a) CONTRIBUTION AUTHORITY.—

''(1) IN GENERAL.—The United States Governor of the Bank may contribute on behalf of the United States $412,000,000 to the Asian Development Fund, a special fund of the Bank.

''(2) SUBJECT TO APPROPRIATIONS.—The authority provided by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

''(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For contribution authorized by subsection (a), there are authorized to be appropriated to the Secretary of the Treasury not more than $412,000,000, without fiscal year limitation.''.

SEC. 2. UNITED STATES CONTRIBUTION TO THE FIFTH REPLENISHMENT OF THE RESOURCES OF THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT.

(a) CONTRIBUTION AUTHORITY.—

(1) IN GENERAL.—The United States Governor of the International Fund for Agricultural Development may contribute on behalf of the United States $30,000,000 to the International Fund for Agricultural Development.

(2) SUBJECT TO APPROPRIATIONS.—The authority provided by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For contribution authorized by subsection (a), there are authorized to be appropriated to the Secretary of the Treasury not more than $30,000,000, without fiscal year limitation.

(c) REPORT ON PARTICIPATION OF THE IFAD IN THE ENHANCED HIPC INITIATIVE.—Within 3 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the participation of the International Fund for Agricultural Development in the Enhanced HIPC Initiative. The report shall include a statement of the cost to the International Fund for Agricultural Development of participating in the Enhanced HIPC Initiative, the effects of such participation (if not reimbursed) on current and future programs of the International Fund for Agricultural Development, the feasibility of allowing the World Bank HIPC Trust Fund to reimburse the International Fund for Agricultural Development for the costs of such participation, and the amount of additional appropriations from the United States to the World Bank HIPC Trust Fund that would be necessary to allow such participation.

SEC. 3. HIV/AIDS STRATEGIC PLAN.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is amended by adding at the end the following:

''SEC. 1625. HIV/AIDS STRATEGIC PLAN.

''The Secretary of the Treasury shall instruct the United States Executive Directors at the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, and the Inter-American Development Bank, and the United States Governor of the International Fund for Agricultural Development to support continued efforts by such institutions as appropriate in regard to HIV/AIDS, tuberculosis, malaria, and other infectious diseases, including—

''(1) development and implementation of a strategic plan to fight against the spread of HIV/AIDS, tuberculosis, malaria, and other infectious diseases;

''(2) integration of HIV/AIDS, tuberculosis, malaria, and other infectious diseases activities in ongoing projects as appropriate, development of new dedicated HIV/AIDS, tuberculosis, malaria, and other infectious diseases, projects as appropriate that take into consideration the institution's mandate and core strengths, and the building of AIDS-mitigation measures into other projects;

''(3) design and implementation of HIV/AIDS, tuberculosis, malaria, and other infectious diseases impact assessment criteria into environmental and social assessment processes that the institution considers when designing and evaluating new project proposals;

''(4) work on disseminating information on best practices and project design for HIV/AIDS, tuberculosis, malaria, and other infectious diseases projects; and

''(5) support training for professional staff on HIV/AIDS, tuberculosis, malaria, and other infectious disease prevention issues to ensure that these health-related concerns are integrated into all aspects of the work of the institution.''.

SEC. 4. USER FEES.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is further amended by adding at the end the following:

''SEC. 1626. USER FEES.

''The Secretary of the Treasury shall instruct the United States Executive Director at the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, and the Inter-American Development Bank, and the United States Governor of the International Fund for Agricultural Development to oppose any loan, grant, document, or strategy that is subject to endorsement or approval by the board of directors of any such institution, which includes user fees or service charges in impoverished countries directly or under the guise of community financing, cost-sharing, or cost recovery mechanisms, for primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being.''.

SEC. 5. TRANSPARENCY.

(a) UNITED STATES POLICY IN REGIONAL MULITLATERAL DEVELOPMENT INSTITUTIONS.—Title XV of the International Financial Institutions Act (22 U.S.C. 262o—262o–2) is further amended by adding at the end the following:

''SEC. 1504. TRANSPARENCY.

''(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director at the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, the Inter-American Development Bank, and the European Bank for Reconstruction and Development, and the United States Governor of the International Fund for Agricultural Development to—

''(1) continue to make efforts to promote greater transparency regarding the activities of such institutions, including project design, project monitoring and evaluation, project implementation, resource allocation, and decision-making;

''(2) support continued efforts to allow informed participation and input by affected communities, including translation of information on proposed projects, providing information through information technology applications, oral briefings, and outreach to and dialogue with community organizations and institutions in affected areas; and

''(3) work toward ensuring that—

''(A) meetings of the Boards of Directors (or, in the case of the International Fund for Agricultural Development, the Board of Governors) of their respective institutions are open to the public and the media, except for discussion of sensitive matters such as individual personnel matters;

''(B) transcripts of such meetings are available to the public no later than 60 calendar days after the meetings, except for discussion of sensitive matters such as individual personnel matters; and

''(C) all key documents that are presented for endorsement or approval by the Board of Directors (or, in the case of the International Fund for Agricultural Development, the Board of Governors) of their respective institutions will be made available to the public at least 15 days before consideration by the Board.

''(b) STATEMENT OF GOALS.—The Secretary of the Treasury shall instruct the United States Executive Director at the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, the Inter-American Development Bank, and the European Bank for Reconstruction and Development, and the United States Governor of the International Fund for Agricultural Development to inform their respective institutions of the goals enumerated in subsection (a), in a manner that the Secretary of the Treasury deems appropriate.''.

(b) CONGRESSIONAL TESTIMONY REQUIRED.—The United States Executive Directors at the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, the Inter-American Development Bank, and the European Bank for Reconstruction and Development, and the United States Governor of the International Fund for Agricultural Development shall, at the request of the Committee on Financial Services of the House of Representatives or of the Committee on Foreign Relations of the Senate appear before the committee making the request, on an annual basis, and testify on the efforts undertaken pursuant to section 1504 of the International Financial Institutions Act and on other matters relating to any such institution.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary of the Treasury may make grants in such amounts as the

Secretary deems appropriate to any institution specified in paragraph (2) which—

(A) has implemented the measures described in section 1504 of the International Financial Institutions Act; and

(B) provides assurances to the Secretary that the institution will use the grant solely for transparency activities.

(2) INSTITUTIONS.—The institutions specified in this paragraph are the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, the Inter-American Development Bank, the European Bank for Reconstruction and Development, and the International Fund for Agricultural Development.

(3) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For grants under this subsection, there are authorized to be appropriated to the Secretary of the Treasury not more than $10,000,000 for fiscal year 2002.

(d) CONGRESSIONAL PURSUIT OF TRANSPARENCY GOALS IN INTERPARLIAMENTARY DIALOGUES AND MEETINGS.—The Congress shall pursue the transparency goals described in section 1504 of the International Financial Institutions Act, in all official interparliamentary dialogues and meetings as appropriate.

(e) PURSUIT OF TRANSPARENCY GOALS BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall submit annually to the Committee on Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a written report detailing the steps that have been taken by the United States Executive Directors at the institutions, by the finance ministers, and by the institutions, referred to in paragraph (1) to implement the measures described in such section 1504.

SEC. 6. GENERAL OBJECTIVES.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is further amended by adding at the end the following:

"SEC. 1627. GENERAL OBJECTIVES.

''The Secretary of the Treasury shall instruct the United States Executive Director at the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, and the Inter-American Development Bank, and the United States Governor of the International Fund for Agricultural Development to focus on poverty alleviation, economic growth, increased productivity, sustainable development, environmental protection, labor rights, and an increased focus on education.''.

SEC. 7. REQUIREMENTS FOR FINANCIAL SUPPORT FOR DAMS.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is further amended by adding at the end the following:

"SEC. 1628. REQUIREMENTS FOR FINANCIAL SUPPORT FOR DAMS.

''The Secretary of the Treasury shall instruct the United States Executive Directors at the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, and the Inter-American Development Bank, and the United States Governor of the International Fund for Agricultural Development to oppose any loan which provides support for any project that includes a dam unless the project conforms to all of the following terms:

''(1) Comprehensive and participatory assessments of the energy, water, and flood management needs to be met and different options for meeting these needs are developed before detailed studies are done on any specific project.

''(2) Priority is given to demand side management measures and optimizing the performance of existing infrastructure before building any new projects.

''(3) No dam is built without full consultation with affected people.

''(4) Periodic participatory reviews are done for existing dams to assess issues including dam safety, and the possibility of dam decommissioning.

''(5) Mechanisms are developed to provide social compensation for those who are suffering the impacts of dams, and to restore damaged ecosystems.''.

SEC. 8. STUDY BY THE GENERAL ACCOUNTING OFFICE.

Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Committee on Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the benefits and costs of the African Development Fund, the Asian Development Fund, a special fund of the Asian Development Bank, the International Fund for Agricultural Development, and the Fund for Special Operations of the Inter-American Development Bank, providing grants instead of loans.

SEC. 9. COMMENDATION.

(a) FINDINGS.—The Congress finds that—

(1) the African Development Bank and Fund elected Omar Kabbaj, an official of the Ministry of Finance of Morocco, as the new President in 1995;

(2) President Kabbaj implemented successful fiscal and managerial reforms, including refocusing the activity of the African Development Fund on poverty alleviation;

(3) under the leadership of President Kabbaj, the African Development Bank began to issue yearly portfolio status reports reflecting improved project monitoring and supervision;

(4) President Kabbaj successfully emphasized the importance of project post-evaluation in helping the Bank avoid problems identified with earlier funded projects;

(5) President Kabbaj has taken a program approach where all stakeholders, including the beneficiaries of the borrower countries, are involved in program design and implementation;

(6) President Kabbaj was unanimously appointed to a second 5-year term in May 2000; and

(7) under the leadership of President Kabbaj, on June 6, 2001, Standard & Poor's revised the outlook on its AA+ long term issuer ratings of the African Development Bank to stable from negative.

(b) COMMENDATION.—The Congress, on behalf of the people of the United States, commends President Omar Kabbaj for his successful reform efforts as President of the African Development Bank and Fund, and encourages his continued efforts at reform.

SEC. 10. ACTION BY THE PRESIDENT.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is further amended by adding at the end the following:

"SEC. 1629. ACTION BY THE PRESIDENT.

''If the President determines that a foreign country has taken or has committed to take actions that either contribute or do not contribute to efforts of the United States to respond to, deter, or prevent acts of international terrorism, the Secretary of the Treasury may, consistent with other applicable law, instruct the United States Executive Director at, or the United States Governor of, the regional multilateral devlopment bank to take the determination into account in considering whether to approve an application of the country for assistance from the institution.''.

SEC. 11. SENSE OF THE CONGRESS REGARDING PRIVATIZATION PROJECTS.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is further amended by adding at the end the following:

"SEC. 1630. SENSE OF THE CONGRESS REGARDING PRIVATIZATION PROJECTS.

''The Secretary of the Treasury should instruct the United States Executive Director at the Asian Development Bank, the African Development Bank, the African Development Fund, the International Fund for Agricultural Development, the Inter-American Development Bank, and the European Bank for Reconstruction and Development, and the United States Governor of the International Fund for Agricultural Development to use the voice and vote of the United States to oppose the provision by the respective institution of assistance for a project that involves privatization of a government-held industry or sector if—

''(1) the privatization transaction is not implemented in a transparent manner;

''(2) the privatization transaction is not implemented in a manner that adequately protects the interests of workers, small investors, and vulnerable groups in society to the extent that they are affected by the privatization transaction; or

''(3) appropriate regulatory regimes have not been established to ensure the proper function of competitive markets in the industry or sector.''.

SEC. 12. OPPOSITION OF UNITED STATES TO REDUCTION OF MINIMUM WAGE BELOW INTERNATIONALLY RECOGNIZED LEVEL OF POVERTY.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is further amended by adding at the end the following:

"SEC. 1631. OPPOSITION OF UNITED STATES TO REDUCTION OF MINIMUM WAGE BELOW INTERNATIONALLY RECOGNIZED LEVEL OF POVERTY.

''The Secretary of the Treasury shall instruct the United States Executive Director at the African Development Bank, the African Development Fund, the Asian Development Bank, the Asian Development Fund, a special fund of the Asian Development Bank, the Inter-American Development Bank, and the European Bank for Reconstruction and Development, and the United States Governor of the International Fund for Agricultural Development to oppose any loan, grant, document, or strategy that is subject to endorsement or approval by the board of directors of any such institution, which includes any provision that would recommend or encourage the reduction of a country's minimum wage to a level of less than $2.00 per day.''.

SEC. 13. SUPPORT FOR ASIAN DEVELOPMENT FUND ASSISTANCE FOR PROJECTS THAT ARE DIRECTED AT ADDRESSING ARSENIC CONTAMINATION IN DRINKING WATER IN SOUTH ASIA.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is further amended by adding at the end the following:

"SEC. 1632. SUPPORT FOR PROJECTS THAT ARE DIRECTED AT ADDRESSING ARSENIC CONTAMINATION IN DRINKING WATER IN SOUTH ASIA.

''The Secretary of the Treasury shall instruct the United States Executive Director at the Asian Development Fund, a special fund of the Asian Development Bank, to use the voice and vote of the United States to support projects that are directed at addressing arsenic contamination in drinking water in South Asia.''.

□ 1330

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Vermont (Mr. SANDERS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill under consideration.

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

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise today in support of H.R. 2604. This measure authorizes U.S. contributions of $412 million to the Asian Development Fund and $30 million to the International Fund for Agricultural Development for the replenishment of these two institutions.

These authorizations reflect the U.S. commitment to promote development in the poorest countries in the world. By encouraging development, fostering better health care and promoting education, we have the ability to improve living conditions and reduce global poverty.

I urge my colleagues to support these programs and to fulfill the U.S. commitment to these two key development institutions.

The Asian Development Fund is the concessional lending arm of the Asian Development Bank which provides loans to developing member countries with low per capita income and limited debt repayment capacities. Funds from this institution are used to build infrastructure projects, support health care services and promote education in the Asia Pacific region.

Created in 1973, the Asian Development Fund is funded by periodic replenishments. Last September, at the latest replenishment negotiations, the United States subscribed to a 4-year, $412 million contribution, roughly 14.4 percent of the total contributions.

The International Fund for Agricultural Development has a specific functional mandate to combat hunger and rural poverty in developing countries. Created in 1977 in the wake of the 1974 World Food Conference and the highly publicized famines of the 1970s in Africa, this finances projects covering everything from draught-resistant crops and management of livestock to marketing and microfinance. With nearly three-quarters of the world's 1.2 billion poorest people living in rural areas, the fund provides aid to small farmers, the rural landless, nomads, fishermen, indigenous peoples and rural poor women.

Mr. Speaker, H.R. 2604 fulfills our commitment to these institutions, and it makes important policy changes in how the U.S. executive directors at all of the international development institutions should work to influence policies of these institutions.

Some highlights of the legislation include: Language which works to combat HIV/AIDS, tuberculosis, malaria and other infectious diseases in developing countries; opposition to the application of user fees or service charges in impoverished countries directly or indirectly for primary education or primary health care.

This bill also encourages transparency in the operation of the development institutions affected by this legislation.

This is an important measure. It will affirm the U.S. commitment to reducing global poverty and encourage development. I want to thank the Subcommittee on International Monetary Policy and Trade chairman, the gentleman from Nebraska (Mr. BEREUTER), for all his hard work on this bill, and I strongly encourage my colleagues to support this legislation.

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

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

As the ranking member of the Subcommittee on International Monetary Policy and Trade, I rise in strong support of H.R. 2604, the Multinational Development Banks Authorization Act. I want to thank the subcommittee chairman, the gentleman from Nebraska (Mr. BEREUTER), for working in a bipartisan manner on this bill and for the way he has reached out to Members on this side of the aisle in drafting the bill.

I am pleased to support this bill, Mr. Speaker, because it addresses two very important issues at the regional development banks: transparency and user fees. The regional development banks are from among the most powerful institutions of the world with effective control over the economy of some of the poorest nations in the world, and yet these institutions make major decisions affecting the lives of hundreds of millions of the most vulnerable people on this planet, as well as working people throughout the world, in almost total secrecy.

This bill includes significant provisions to make the regional development banks more open and more accountable to the public. It requires the Secretary of the Treasury to instruct U.S. executive directors at the multilateral development banks to work towards opening the meetings of the boards of directors to the public and the media; making transcripts of executive board meetings available within 60 days of the meetings; and making all key documents that are to be used or to be considered by the executive boards available to the public before those documents are considered.

In addition, to make sure that the Treasury Department and U.S. executive directors at the multilateral development banks vigorously pursue these reforms, the bill includes a requirement that the U.S. executive directors must testify every year before the Committee on Financial Services on the efforts they have made to achieve these reforms.

Mr. Speaker, it is imperative that we work to make these international financial institutions more open and more accountable to the public. Without that transparency, it is impossible even for Congress to know if the laws we pass are being observed at these institutions.

That brings me to the second issue this bill addresses, user fees. This bill strengthens current law which requires U.S. executive directors at the regional development banks to oppose the imposition of user fees and service charges on primary education and primary health care, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis and infant, child and maternal health. In other words, for the poorest people in the world, we want to make sure that health access and educational access is available without user fees.

The current law on user fees includes several loopholes which the U.S. Treasury Department has unfortunately exploited. This bill closes those loopholes. For example, the Treasury Department has interpreted current law to require U.S. executive directors to oppose user fees only when they are part of a loan. This bill makes it clear that U.S. executive directors must oppose user fees in any loan, grant, document or strategy adopted by the regional development banks.

In addition, the Treasury Department interpreted law to apply unless the user fee provides an exemption for poor people; but exemptions for poor people, especially in impoverished countries, do not work. User fees discourage poor people from seeking primary health care and sending their kids to school because the poor are often not told about poverty exemptions and local officials often have an incentive to collect as many fees as possible. This bill makes it clear that U.S. executive directors must oppose user fees in impoverished countries as a whole. That is a major step forward.

In impoverished countries throughout the world there is documented evidence that user fees prevent people from sending their children to school and seeking medical care.

In Zambia, a researcher witnessed the arrival of a 14-year-old boy at a hospital, suffering from acute malaria. His parents were unable to pay the registration fee, which was equivalent to 33 American cents, but they were unable to afford that, and the boy was turned away. Within two hours the child was brought back dead.

In Kenya, the introduction of fees for patients of Nairobi's Special Treatment Clinic for Sexually Transmitted Diseases resulted in a decrease in attendance of 40 percent for men and 65 percent for women.

In Zimbabwe, there are reports of girls going into prostitution to pay school fees.

In Ghana, 77 percent of street children in the capital city dropped out of school because of inability to pay these fees.

It is essential that our country stop supporting the imposition of user fees on primary education and health care in impoverished countries and that we make the regional development banks more open and more accountable to the public. For these reasons, Mr. Speaker, I am pleased to support this bill, and I look forward to working with the subcommittee chairman, the gentleman

from Nebraska (Mr. BEREUTER), to see that it is enacted into law.

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

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that the remaining time be controlled by the gentleman from Nebraska (Mr. BEREUTER).

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

There was no objection.

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

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

Mr. BEREUTER. Mr. Speaker, first of all, I want to thank the distinguished chairman and ranking member of the committee for their support and assistance in moving this legislation. And to the ranking member of the subcommittee, the gentleman from Vermont (Mr. SANDERS), I say that I very much appreciate his constructive help throughout this process.

The product we have before us, I think, should give pride to an authorizing committee and indeed to the House as it considers it. It has the input of a number of Members throughout our subcommittee and committee, and their efforts have been incorporated in this legislation.

The bill we have before us and the bill just passed by the House have been linked by this Member as we proceeded through the process in subcommittee and committee. Many of the amendments that Members might have wanted to make for regional development banks also could have been offered in some ways to the Export-Import Bank, but not as appropriately, and so this has been an opportunity for Members to have worked together on the two bills.

Previously the administration made authorization requests for both the Asian Development Fund, and IFAD, the International Fund for Agriculture Development. Therefore, during a June 11 hearing last year before the subcommittee, we considered the regional multilateral financial development institutions, and a representative of the Treasury testified in support of these two authorization requests.

The Asian Development Fund, of which the U.S. is a non-regional member, is a concessional arm of the Asian Development Bank. The fund offers loans with interest rates of 1 percent to 1½ percent to the poorest countries in Asia. In September 2000, the U.S. agreed to a 4-year, $412 million contribution as a seventh replenishment contribution from this country to the Asian Development Fund, and section 1 takes the administration's request for this $412 million authorization for the Asian Development Fund.

Furthermore, IFAD provides loans and grants for agricultural and rural development projects for the world's poor living in rural areas, of which almost 75 percent of the world's 1.2 billion poorest people do live in such poor areas. Moreover, approximately two-thirds of IFAD loans are concessional. Section 2 of H.R. 2604 provides an authorization of $30 million for the fifth replenishment of IFAD which equals the administration's request.

Mr. Speaker, I would like to highlight about 5 or 6 points in the legislation. First, with respect to the subject of HIV/AIDS, during the subcommittee's hearings on May 15, a representative of the United Nations provided the subcommittee with an estimate that 36 million people are now living with HIV/AIDS, with 70 percent of those people residing in Sub-Saharan Africa. In order to address the HIV/AIDS epidemic, section 3 of this legislation instructs the U.S. executive directors of the different relevant regional multilateral development institutions, among other things, to support the integration of HIV/AIDS and other infectious disease strategies and training into the priorities and programs of the respective institutions.

Many Members are interested and were involved in this issue, but I give special credit to the gentlewoman from California (Ms. WATERS) for her leadership on this subject.

Second, with regard to the imposition of user fees, it must be noted that strong opposition and concern existed within the subcommittee to the imposition of certain user fees, and that was expressed at our April 25, 2001, hearing on the African Development Bank and fund. Therefore, section 4 of this bill instructs the U.S. executive directors of the different relevant regional multilateral development institutions to oppose any loan, grant, document or strategy that is subject to the endorsement or approval of the board of the institution which includes user fees in impoverished countries for the purposes of primary education and primary health care. No user fees for those subjects.

Third, section 5 addresses the very important topic of transparency, to which the distinguished gentleman from Vermont (Mr. SANDERS) gave special attention and for which he spoke a few minutes ago. Currently the regional development institutions do not have public meetings; nor are the transcript of their meetings typically made available to the public. Much of the lack of this transparency can be attributed to the acute lack of emphasis on transparency in governments in many foreign countries.

□ 1345

At the outset, I should state that it should be noted that the U.S. Treasury officials have been one of the catalysts towards increased efforts in transparency at these institutions. However, more emphasis on transparency is needed at the regional multilateral development institutions, and we have adopted a number of things in this legislation to ensure that is the case. We have given incentives for it, in fact. There is a $10 million authorization specifically made available to those regional institutions that have taken important strides to implement transparency provisions in this section.

Mr. Speaker, finally, I want to mention the African Development Bank and Fund. This has been one of the more troubled regional institutions, but they have been making important strides in recent times in improvement under new leadership, and I think we have given them encouragement to move ahead. Many Members of our subcommittee had a particular interest in these two entities, and in these institutions emphasizing the provision of adequate service and activities in sub-Saharan Africa. I believe this legislation does exactly that.

Mr. Speaker, in conclusion, this Member urges his colleagues to support H.R. 2604 since it has very important reform provisions and because it contains authorizations for the U.S. contribution to the Asian Development Fund and IFAD in the amounts requested by the administration. I thank my colleagues for their continuous support on this effort in the subcommittee and committee.

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

Mr. SANDERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATERS), who has been an outstanding leader on the Committee on Financial Services in a number of areas including this legislation.

Ms. WATERS. Mr. Speaker, I first would like to thank my colleague from Vermont for allocating the time, but I would further like to thank both the chairman, the gentleman from Nebraska (Mr. BEREUTER), and our ranking member, the gentleman from Vermont (Mr. SANDERS), for the bipartisan leadership that they offer to all of us on this very important committee and the Subcommittee on International Monetary Policy and Trade. They have worked very well together, and I appreciate what they have been able to produce.

I rise to express my support for H.R. 2604, the Multinational Development Banks Authorization Act. H.R. 2604 would reauthorize U.S. participation in the International Fund for Agricultural Development, IFAD, and the Asian Development Bank and set forth additional policies concerning several international financial institutions.

This bill includes provisions to promote transparency in the operations of international financial institutions, oppose the imposition of user fees on primary education and health care in impoverished countries, and support efforts to stop the spread of HIV/AIDS, tuberculosis, malaria, and other infectious diseases.

I am particularly interested in the United States participation in IFAD. Unlike other international financial institutions which have a broad range of objectives, IFAD has a very specific

mandate, to eliminate hunger and world poverty in developing countries. IFAD's target groups are the poorest of the world's poor. They include small farmers, the rural landless, nomadic people, indigenous people, and rural poor women. IFAD provides funding and resources to promote economic development for these impoverished rural people.

I am especially pleased that this bill includes a provision I offered as an amendment during the subcommittee markup on the participation of IFAD in the Heavily Indebted Poor Countries initiative. This provision requires the Secretary of the Treasury to submit a report to this committee on the participation of IFAD in the HIPC initiative. I appreciate the support of my colleagues in the Committee on Financial Services for this provision, and I would urge my colleagues to support this legislation.

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

Mr. SANDERS. Mr. Speaker, I yield myself the balance of my time to conclude by thanking the gentleman from Nebraska (Mr. BEREUTER). Again, he really did bring this legislation forward in an inclusive bipartisan way, and I very much appreciate it and I think the results speak for themselves. This is a very good bill. I support it.

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

Mr. BEREUTER. Mr. Speaker, I yield myself the balance of my time, and I appreciate the kind remarks of the gentleman from Vermont. They are reciprocated. We worked well on this together, and it is a case of an authorizing subcommittee and committee doing their job and simply not relying on appropriators to take all of the necessary steps. I am proud of it, and I think the House will be proud of its product coming from the House and ultimately to passage.

Mr. LAFALCE. Mr. Speaker, I would like to commend the efforts of the Subcommittee Chairman DOUG BEREUTER and the Ranking Member BERNIE SANDERS on H.R. 2604, legislation to reauthorize U.S. participation in the Asian Development Fund and the International Fund for Agricultural Development (IFAD). The Asian Fund and the IFAD are part of a network of regional development institutions that receive substantial support from the United States. Though lesser known than the World Bank, these institutions play a vital role in development efforts globally.

As we consider all possible tools at our disposal in the effort to combat terrorism, I believe that the provision of development assistance is a necessary element. Poverty and economic isolation are not excuses for terrorism, but they clearly create a fertile environment for the violence and fanaticism that characterizes terrorist movements.

Through the development aid provided by the regional development institutions, the United States is working to ensure that poor countries obtain vital linkages to the global economy and that economic opportunity in these countries is widely shared. These efforts mark not a good anti-terrorism strategy, but also good economic policy and good foreign policy for the United States. The Asian Development Fund, in particular, will play a key role in the redevelopment of Afghanistan in the coming years.

In addition to authorizing U.S. contributions to the IFAD and Asian Development Fund, this bill includes useful language related to U.S. goals on institutional transparency, user fees, and HIV/AIDS strategies in the developing world. The directive on AIDS strategies is particularly important—the AIDS crisis in the developing world remains just as acute today as it was a year ago, and the regional development institutions can and should play an important part in the global effort to address this devastating pandemic.

Finally, the bill provides guidance regarding U.S. support for privatization projects funded by the regional development institutions. The United States has long supported privatization efforts in the developing world, and appropriately so. This language simply provides general principles for how privatization efforts should proceed, recognizing the experiences of failed privatization efforts in recent years.

Mr. WATTS of Oklahoma. Mr. Speaker, I rise in support of H.R. 2604 the Multinational Development Banks Authorization Act. I would like to commend Mr. OXLEY, the Chairman of the Financial Services Committee, and Mr. LAFALCE, the Ranking Member, and also the sponsor, Mr. BEREUTER, for crafting a bill that addresses important development issues in those parts of our world which are struggling to end poverty, hunger and disease and working to restructure, reform and develop their economies for the benefit of all their citizens.

Last year I had the opportunity to travel to Africa on two occasions with a number of my Republican and Democratic colleagues under the auspices of the Trade-Aid Coalition which I initiated last year to focus on the links between trade and economic reform and prosperity.

The continent of Africa faces difficult challenges, but with the help of projects made possible by the multinational development banks, there are clear signs of progress in many of the countries we visited.

This progress is important not only to their economies and the American economy but also to American national security. Increased trade with Africa will lead to a more stable region, and we need only recall the bombings of our Embassies in Tanzania and Kenya to realize that the nations of sub-Sahara Africa are on the front lines of our war against terrorism.

Mr. Speaker, I would like to particularly commend the legislation for addressing the spread of AIDS and calling for the development of a strategic plan and professional training to attack this dreaded disease. This is Africa's greatest challenge, but success stories there prove that the spread of this disease can be controlled.

Additionally, I am pleased to see that the bill calls on GAO to submit a report on the benefits and costs of providing grants to heavily indebted countries instead of loans. Our Trade-Aid Coalition endorses this initiative as making a lot more sense then burdening nations with more loans when they are already fighting to pay off crushing foreign debts.

Mr. Speaker, the world changed last September 11th. That day exposed the fact that American security is very much reliant on stability and poverty reduction in every corner of the world. This legislation will reduce global poverty and increase global stability, and I urge my colleagues to vote yes.

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

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and pass the bill, H.R. 2604, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2215, THE 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Ms. DEGETTE. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Ms. DEGETTE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2215 be instructed to—

(1) agree to title IV of the Senate amendment (establishing a Violence Against Women Office); and

(2) insist upon section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 402 of the House bill (establishing duties and functions of the Director of the Violence Against Women Office).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Ms. DEGETTE) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Colorado (Ms. DEGETTE).

GENERAL LEAVE

Ms. DEGETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this motion to instruct conferees on H.R. 2215.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

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

Mr. Speaker, the motion before us now would instruct conferees to the U.S. Department of Justice authorization bill to agree on the Senate provisions to make the Violence Against Women Office independent within the Justice Department, and also the House language that provides a clearly defined list of important duties and authority that VAWO should have. The combination of these provisions will effectively strengthen the Violence Against Women Act so that it can carry out its mission.

Before I discuss the reasons why this is so important, I would like to begin by recognizing two Members who have been integral to this issue. The first one, the gentlewoman from Wisconsin (Ms. BALDWIN), has worked on this bill and this issue for quite some time, both as a member of the Committee on the Judiciary and as a member of the conference committee to H.R. 2215. Working to protect women from domestic violence has always been a high priority for her and her work to protect the integrity of the Violence Against Women Office in the Department of Justice has been invaluable.

I would also like to recognize the work of the gentlewoman from New York (Ms. SLAUGHTER), who has always been a champion in the fight against domestic violence throughout her distinguished tenure in Congress. As one of the original sponsors of the Violence Against Women Act, she was integral to its passage. The gentlewoman continues to be a leader who we all look to on the issues and many other issues as well.

I want to thank these esteemed Members for their leadership and say what an honor it has been to work with them on this issue.

Mr. Speaker, the Violence Against Women Office of the U.S. Department of Justice was created in 1995 to implement the programs created under the Violence Against Women Act of 1994. The creation of this office was critical to transforming the work done in the States to address the issues of domestic violence, sexual assault and stalking.

The establishment of this office meant that for the very first time there was a strong showing of leadership from the Federal Government on the issue of domestic violence. This leadership has lent guidance and support to all the different entities at the State level to work to reduce the incidence and lessen the impact of violence against women. Law enforcement officers, prosecutors, the courts, and victim service organizations have all been assisted by the guidance given by the Violence Against Women Office. That office has served as a powerful voice within the administration, ensuring that keeping women and children safe from abuse is a top priority of the Federal Government.

The office also administers grants to States, tribal communities, local communities, and domestic violence and sexual assault providers to assist with improving the methods in which the criminal and civil justice systems respond to violent actions against women.

How has the office improved the way we deal with domestic violence? I would just like to describe a few ways in which the office has been transformative on the issue. The Violence Against Women Office has worked with U.S. Attorneys to ensure enforcement of the Federal criminal statutes contained in the Violence Against Women Act and assisted the Attorney General in formulating policy relating to civil and criminal justice for women.

The office also works closely with State and local organizations, with the understanding that ending violent crimes against women and children requires coordinated community-based responses. It administers over $270 million in grants each year to assist States and tribes to deal with the problem of domestic violence. The office also ensures the appropriate training of judges and other law enforcement personnel.

The Department of Justice Health and Human Services National Council on Violence Against Women, staffed by the Violence Against Women Office, has raised awareness in this country about the nature and harmful effects of domestic violence and, as a result, there is a great deal more awareness of domestic violence and its effect among the general public.

These are just a few of the myriad ways in which the Violence Against Women Office has provided leadership. So what exactly is the problem we are here to address? Unfortunately, the Violence Against Women Office has never been instituted under Federal statute, and much of its power has been undermined, thereby reducing its effectiveness. Because this office was never instituted under a Federal statute, it is vulnerable to being stripped of its power. And, indeed, that is exactly what has been happening lately.

In fact, there is nothing to prevent this administration or any other administration from summarily shutting the office down completely. Right now, the office is in a location well outside the main Department of Justice building, and its director, who used to have a seat at daily meetings of executive leadership with the Attorney General, now has very limited access to the power structure within the agency.

Just a few months ago, in fact, the policy office was effectively shut down. This completely undermines it and hobbles the office's ability to retain its status both as a national resource and an international leader on the issue of domestic violence.

Currently, the Justice Department is engaged in reorganizing internal offices that distribute grant funding, including the Violence Against Women Office. These plans, unfortunately, include reducing the already understaffed office as well as consolidating its funding goals with other unrelated grant programs. This again will only serve to further undercut the effectiveness of the office.

Now, the good news is that both the Senate and the House DOJ authorization bills take important steps to remedy this situation. What we need to do now is to combine the best provisions of both bills to protect this office from any further erosion of its status and ability. Both the House- and Senate-passed bills would statutorily institute the Violence Against Women Office, which is a very important step. However, we need to make sure that the differences between the two bills are resolved in such a manner that it will guarantee the effectiveness of the office.

The Senate language creates an independent office within the Department of Justice, giving it a high profile and guaranteeing the ability of the office to formulate policy and to assist the other governmental agencies in their work on violence against women. This, combined with the House language, listing its duties and authorities, will restore the Violence Against Women Office to its former position as a national leader, and an agent for change on the issue of combating domestic violence around the country.

The Federal Government should not forfeit our leadership on such an important issue. We owe it to the women and children in this country who have been affected by the scourge of domestic violence. I urge my colleagues to vote for my motion to instruct.

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

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

Mr. Speaker, the motion to instruct conferees offered by the gentlewoman from Colorado would instruct conferees on H.R. 2215 to agree to title 4 of the Senate amendment but insist on adding the new section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 402 of the House bill.

I will not oppose the motion to instruct offered by the gentlewoman from Colorado, but there are a few things that I think she ought to think about before the conferees actually meet on this subject.

□ 1400

The motion will basically instruct conferees to create a separate and independent Violence Against Women's Office in the Department of Justice headed by a director appointed by the President by and with the advice and consent of the Senate. I supported such an amendment in the House Committee on the Judiciary, but in response to concerns about this proposal, it was amended to permit the attorney general the discretion to put the office in the Office of Justice Programs so that the grant-making function of both offices could coordinate. The Department of Justice has testified it prefers the House provision, and is concerned about balkanizing the various grant making offices that currently exist in OJP.

Most would agree that the current organizational structure at OJP is in need of reform, and this administration is undertaking steps to streamline and improve the organization and administration of OJP. As a result of various authorizing statutes and funding mandates by Congress, and organizational decisions made by past attorneys general, OJP consists of five bureaus, six

program offices, and seven administrative offices. Each of the five bureaus is headed by a presidential appointee by and with the advice and consent of the Senate. This structure does not include the Office of Community Oriented Policing.

Some argue persuasively that mandating that there be a separate VAWA office will further complicate the current structure at DOJ and make it more dysfunctional. Furthermore, a completely separate office would require additional resources to support the administrative functions of the office. I have heard that a completely separate office would require $10- to $15 million in funding, which I presume would come out of VAWA program funds.

I want to repeat that because the consequence of establishing this office precisely as the gentlewoman from Colorado (Ms. DEGETTE) is advocating might mean $10- to $15 million more in administrative expenses, and $10- to $15 million less in program, depending upon the decisions being made by the appropriators. I advise the gentlewoman that is a potential consequence of this motion.

I have discussed this matter with a number of Members and my constituents. The staff of the Committee on the Judiciary has met with Senator BIDEN's staff, the Senate Judiciary Committee staff, and various groups who support the creation of a separate office. As the conference proceeds, all of these viewpoints have and will continue to be heard, about I am confident a compromise can be reached.

The gentlewoman's motion says nothing about the coordination of grant-making functions of the new VAWA office with OJP. I can only assume that she would like to create a completely separate grant-making structure that does not have to coordinate with OJP, thereby siphoning program funds to pay for administrative infrastructure. A bigger bureaucracy is not necessarily better. Many would prefer to spend precious Federal dollars on combating violence against women instead of creating a new bureaucracy to implement the Violence Against Women Act.

Also, while the motion instructs conferees to include the provision of the House bill relating to the duties and functions of the director of the VAWA office, the motion says nothing about a similar provision found in section 403 of the Senate bill. I can only assume the gentlewoman wants it dropped.

To those who say that a separate office is needed to raise the profile of the director in these issues, I would direct them to the very language of the House bill which the motion would direct conferees to include. Under that language, the director of the VAWA office would serve as special counsel to the attorney general on the subject of violence against women. The director would work with the judicial branches of Federal and State governments on these issues. The director would serve at the request of the attorney general as the representative of the Department of Justice on task forces, committees and commissions addressing violence against women issues. The director would serve at the request of the President as the U.S. representative on these issues before international bodies.

The list goes on. I do not know what could be more high profile than designated in the statute that the director will be the point person in the Federal Government on issues relating to violence against women.

Mr. Speaker, I support the motion because it generally captures that which has already been agreed to and will allow the conferees to continue to work on these and other very important administrative and organizational issues.

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

Ms. DEGETTE. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER), and congratulate her for all of her many years of fine work on this issue.

Ms. SLAUGHTER. Mr. Speaker, this motion is in very good hands, and the gentlewoman has done such a good job describing it that I am going to be brief.

The DeGette motion instructs conferees to accept the Senate provision to create the independent Violence Against Women Office in the Department of Justice, and to accept the House provisions defining the duties and authority of the Violence Against Women's Office, and I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for accepting this motion. We appreciate that very much.

This office has been really important. Since 1995, it has heightened awareness throughout the United States about what happens with domestic violence, sexual assault and stalking. This office formulates policy, and administers more than $270 million annually in grants to State governments as well as to local community organizations, trains police and prosecutors and courts to address violence against women. In addition, it assists these organizations with the ability to give the highest quality of services to the victims and full administration of justice.

The importance of the Violence Against Women Office cannot be overestimated. In fact, and I think this is very important, a survey conducted by the National Coalition Against Domestic Violence reports that domestic violence has dropped 21 percent since the inception of this office, showing that the grants that they have given out have borne fruit. But much more remains to be done. Nearly 25 percent of the women in the United States, that is one-quarter of the women who are the majority in the country, reported that they have been physically or sexually assaulted by a current or former intimate partner at some point in their lifetime. We think that makes it worth $10- to $15 million.

The statistics illustrate the importance of that office to the health, safety and the very survival of women in many parts of this country. As has been pointed out, this wonderful resource is not authorized by statute, and as such, is not a permanent part of the anti-violence efforts. We want to pass the bill H.R. 28, the Violence Against Women Office Act, which would make it permanent. I was pleased that the bill was included in the Department of Justice authorization approved by the House last year.

It is for this reason we stand today to ask the conferees to agree to the House and Senate-passed language and ensure the Violence Against Women Office is given the permanent status that it desperately needs to address the crisis of violence against women in the coming years.

The office's work with grantees on very sensitive issues is vital, and can be best addressed through a separate and independent office and not the more broadly focused Office of Justice Programs. In addition, we want the conferees to adopt the detailed description of the duties of the director of the Violence Against Women's Office, contained in the House-passed Department of Justice authorization bill. It defines several important duties for the director, including serving as a special counsel to the attorney general on the subject of violence against women, and serving as a liaison with the judicial branches of the Federal and State governments on matters relating to violence against women.

Ending violence against women and girls is an ongoing struggle, and one of our best tools is the office. It is imperative that it be made permanent, and I urge my colleagues to support the office.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, first of all I thank the chairman of the Committee on the Judiciary for yielding me this time. I rise in strong support of the DeGette motion to instruct the conferees of H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act.

Since 1994, Congress has demonstrated our commitment to eradicating domestic violence. Passing the DeGette amendment is consistent with our demonstrated goal of protecting victims and stopping the cycle of violence that plagues millions of children every day.

This motion refers specifically to the bill introduced last year by the gentlewoman from New York (Ms. SLAUGHTER) and myself to make the Violence Against Women Office at the Department of Justice permanent and independent with qualified experts in the field of domestic violence. I support the inclusion of the Senate language in combination with the House language

in the Department of Justice Appropriations Authorization Act.

A permanent and visible office is essential. It is essential to implement the Violence Against Women Act programs, and expertise among personnel promotes the most effective and efficient use of Federal dollars. Since the creation of the Violence Against Women Office in 1995, we have learned the critical importance of securing permanence for this office. The office has successfully administered effective VAWA grant programs, and heightened awareness of domestic violence, sexual assault, and stalking within the Federal Government and throughout the Nation. The office also provides invaluable expertise to States, developing programs to reduce domestic violence in their communities.

Domestic violence rates have declined by over 21 percent since the passage of the Violence Against Women Act; and yet a July 2000 study reported by the Department of Justice, in that study nearly 25 percent of women surveyed stated that they had been physically and/or sexually assaulted by a current or a former intimate partner at some point in their lifetime. These statistics are unacceptable. As violence continues to demonstrate so many families, a permanent Violence Against Women Office is necessary to ensure that VAWA's benefits continue to reach victims all across the country.

The current office is not specifically authorized by statute, and as such, is a de facto part of the Office of Justice Programs. Within OJP, the Violence Against Women Office has developed exceptional expertise in both the efficacy of policy and the accountability of VAWA grant administration. The Violence Against Women Act grant programs are extensive and far reaching. The success of a grant depends on the Department of Justice's development of good implementation policies and technical assistance.

Additionally, strong leadership of an independent Violence Against Women Office is necessary for ensuring that the Federal criminal, civil and immigration law responsibilities created by the VAWA and its reauthorization in 2000 are carried out consistently, department-wide to protect victims of domestic violence, sexual assault, stalking and trafficking. The office's work with grantees such as State coalitions on these very sensitive and important issues is critical to meeting the goals in the Violence Against Women Act.

I am confident that a combination of these provisions can establish the independence of the office and avoid unnecessary duplication within the existing infrastructure of the Department of Justice. Ending violence against women requires constant education, advocacy and implementation at all levels of our society, work that depends on strong leadership from a Federal Violence Against Women Office.

Mr. Speaker, with this office, I believe that we can continue to make progress on minimizing the epidemic of domestic violence that we currently face. I urge my colleagues to join me in support of the DeGette motion to instruct the conferees.

Ms. DEGETTE. Mr. Speaker, I yield 3¼ minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary.

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Mr. CONYERS. Mr. Speaker, I am grateful to the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for coming here to make I think important improvements and to make recommendations that I think we will take to heart in considering where we go in terms of family abuse, violence against women, which has been gaining increasing bipartisan support in both bodies. I am very pleased with the work of the gentlewoman from Colorado (Ms. DEGETTE), who brings this motion to instruct before us.

Mr. Speaker, remember that it was the gentlewoman from New York (Ms. SLAUGHTER) who has tried to give statutory foundation to the Violence Against Women Office, and it was our colleague, the gentlewoman from Wisconsin (Ms. BALDWIN), on the Committee on the Judiciary whose amendment was accepted and is now a subject of us instructing our conferees how to move.

It is clear from this discussion that there is bipartisan support. We still have a long way to go. But in Michigan, in Detroit, we are getting ready for our second metropolitan area town hall meeting which will be at Greater Grace Church at the end of this month. The first one held over a year ago brought together for the first time police, prosecutors, social workers, victims, family, clergy, lawyers and community people who were really inspired by the Federal involvement in this.

What we are simply doing here today is letting our conferees know that this office should be as strong and as independent as they can make it because they have been working with the U.S. Attorneys, they have been training the judges and the prosecutors and the members of the private bar, they have been working with Immigration and Naturalization Service.

So this is a huge step forward. I am very pleased to be associated with it. Obviously, the only direction we can go now, and we are deciding this, I think, as we gain more experience with the office itself, what we are trying to make sure is that we do not have an office that is just a grant agency. We want to be able to distribute grants where they are appropriate, but also it has to be a policy mechanism that advises the administration and the Congress alike.

I thank all the Members on the floor that have spoken in support of this.

Mr. SENSENBRENNER. Mr. Speaker, I reserve my time.

Ms. DEGETTE. Mr. Speaker, I am delighted to yield 3 minutes to the distinguished gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, I thank my colleague for yielding me time and commend on a bipartisan basis the efforts of those on the floor right now to help battered women.

The Violence Against Women Act was a promise by Congress to make America and the home a safer place for women. This act promised to finally treat domestic violence like the crime that it is, to improve law enforcement, to make streets safer for women, and to vigorously prosecute perpetrators. It promised more counseling and more shelters to provide a safe haven for abused women.

But, Mr. Speaker, underfunding and neglect have made this promise half-filled at best. The Violence Against Women Office cannot lead our Nation's efforts to serve victims of domestic violence if it is merely a check-writing organization. It needs strong statutory authority and adequate staff to do its job.

The Violence Against Women Office is essential to the Government's role in preventing violence, but private industry must also play a vital role.

Mr. Speaker, let me give you one example. One year ago, Harman International lost a 26-year employee who was brutally attacked and killed by her estranged husband. In response, Harman International worked with the Family Violence Prevention Fund to develop a comprehensive domestic violence prevention policy and to educate its employees about domestic violence. Harman International's policy states that domestic violence is not tolerated, and provides employees flexibility to take time off to handle the legal and mental consequences of domestic violence. The program protects those employees and helps the company by recognizing that the work of a victim of domestic violence suffers as she suffers.

But as Harman International was developing this policy, it discovered that few other companies have similar policies and programs.

Mr. Speaker, we need to work across the board to prevent domestic violence in both public and private sectors. I commend successful efforts to date, like those of Rainbow Services, Ltd., a haven for battered women in San Pedro, California, and I commend companies like Harman International.

Mr. Speaker, I encourage my colleagues to vote for this important motion.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 4 minutes to the distinguished gentlewoman from Wisconsin (Ms. BALDWIN), a member of the Committee on the Judiciary, who has done so much on this bill.

Ms. BALDWIN. Mr. Speaker, I rise in support of the DeGette motion to strengthen the independence of the Violence Against Women Office within the Department of Justice.

As we all know, violence against women continues to be a significant

problem in our Nation. Domestic violence and sexual assault are still scourges on our Nation. The statistics are chilling. Nearly 1 in 3 women experience physical assault by a partner. These horrible crimes damage lives and tear families apart. The Violence Against Women Act, or VAWA for short, is a proven part of the solution to these problems.

There is much evidence of the success of VAWA. For example, in my State of Wisconsin, before the availability of VAWA grants there were only 15 nurses in the entire State who knew how to work with victims of sexual assault, collect forensic evidence, and work with law enforcement. Now there are over 150 nurses in Wisconsin who are trained to help victims. This training not only helps put the victim more at ease under the circumstances, but also increases the likelihood that prosecutions will be successful.

What was not included when VAWA was reauthorized last session was a permanent and statutorily authorized VAWA office within the Department of Justice. The VAWA office has been key to raising awareness within the Federal Government and the Nation about the impact of sexual assault and domestic violence. It is well-recognized for its distribution of $270 million in annual grants to local communities to fight violence against women.

But the office does far more. The office also works with U.S. Attorneys to enforce Federal criminal statutes. It provides technical assistance to local prosecutors, health care professionals, shelter staff, and domestic and sexual assault organizations.

Under the previous administration, the VAWO director was visibly and actively involved in the every-day work of the Justice Department. She participated in the daily meetings of the executive leadership with the Attorney General. She was a major international voice on violence against women issues, and consulted extensively with the various divisions within the department about violence against women issues. VAWA requires work with the FBI, the INS, and the civil and criminal divisions of the Department of Justice.

Mr. Speaker, while I understand the management concerns that lead some Members of Congress and the Department of Justice to want to locate the Violence Against Women Office within the Office of Justice Programs, I believe the mission of the Violence Against Women Office is much larger than just a grant administration organization. There are also limits on the Office of Justice Program's statutory authority to engage in policy work. Under the current structure this has been a serious impediment to the work against the Violence Against Women Office.

Mr. Speaker, I include for the RECORD testimony of Lynn Rosenthal, executive director of the National Network to End Domestic Violence, that was given before the Committee on Judiciary, Subcommittee on Crime and Drugs in the other body. Her testimony provides numerous examples of why we need an independent Violence Against Women Office.

TESTIMONY OF LYNN ROSENTHAL, EXECUTIVE DIRECTOR, NATIONAL NETWORK TO END DOMESTIC VIOLENCE BEFORE THE U.S. SENATE, JUDICIARY COMMITTEE, SUBCOMMITTEE ON CRIME AND DRUGS

Mr. Chairman and members of the Subcommittee, on behalf of the National Network to End Domestic Violence, thank you for providing the opportunity for me to share with you our views on the critical role of the Violence Against Women Office. The National Network is a network of statewide domestic violence coalitions around the country, who in turn represent more than 2,000 local domestic violence shelters and programs, and hundreds of thousands of battered women and their children.

In particular, I want to thank you, Senator Biden, for your landmark report ''Violence Against Women: A Week in the Life of American Women'' prepared by the Senate Judiciary in October of 1992. This report, a snapshot of the lives of women across the country, graphically described 200 incidents of domestic and sexual violence that occurred in just one week of one year. This report had a profound impact on my personal commitment to end violence against women, and many times over the past ten years I have returned to this report when I have needed inspiration and guidance to continue this important and often difficult work. It is this report that I begin with today.

September 1, 1992 12:45 a.m.: Rural California- ''A woman with five children is physically abused by her husband. He punches her in the head with his fist. She sustains bruises. She escapes and runs to a friend's house for the night. She reports that she is afraid to call the sheriff because her husband threatens to take their 11-month old baby.''

September 1, 1992 late afternoon: Maine- ''A woman in her early twenties is thrown out of her trailer home by her boyfriend as her two sons, ages two and three, watch. Bruised and cut she attempts to leave with her sons. The two-year old child is taken from her by her boyfriend and she is ordered to leave and threatened with further violence. She departs her home with one of her children, but does not contact the police.''

What might be different today for these women and countless like them because of the Violence Against Women Act? Because of VAWA, hundreds of police officers have been trained in the dynamics that keep these women trapped in violence relationships, and now play leadership roles in their communities. Because of VAWA, legal assistance is available for women facing the devastating fear of losing their children to perpetrators. Because of VAWA, more women reach out for help, seek shelter, obtain protective orders and are treated with dignity and respect by law enforcement officers. It was VAWA's critical focus on victim safety and offender accountability that brought about these important changes in our culture.

In retrospect, Congress conceived a brilliant formula for successful implementation of VAWA. Congress provided the states with critical funds and policy direction through the state formula grants and discretionary programs such as the pro arrest grants, rural, tribal, legal assistance to victims, research and training and technical assistance programs that collectively comprise the Violence Against Women Act.

But there is another partner to thank in this work, a partner who often works quietly but tirelessly to ensure that Congress' intent and the needs of the field are never forgotten as the day-to-day work in the field continues. That partner is the Violence Against Women Office.

First established as a high-level Office in Main Justice with full access to the policy-making and implementation functions of the Department, VAWO and its expert staff created a national awareness about the impact of violence against women that had never existed before. Within weeks of being appointed as the first director of VAWO, Bonnie Campbell was inundated with requests for help and technical expertise from the national and international leaders. Governors called, asking VAWO to help them plan statewide strategies for addressing domestic violence, sexual assault, and stalking. Leaders in government from other countries asked VAWO to share the U.S.'s groundbreaking legislation and methods with them. The Director of VAWO was a leader of the U.S. delegation to the U.N. World Conference on Women in Beijing.

These images of leadership greatly inspired the work of those of us on the frontlines, many of whom had been struggling for many years with limited resources and lack of public attention to the bruised and bleeding women we were seeking in our programs every day. The vision of a Presidentially-appointed, highly placed spokesperson galvanized the work at the state and local level. State and local legislators and policy makers were impressed with the strong commitment shown by the Department of Justice to ending violence against women, and became inspired to become leaders themselves in this battle.

The work of advocates at the state and local level was made easier and more effective because VAWO took on the equally important challenge of coordinating the interagency work that VAWA mandated. Your vision for ending violence against women was broad. VAWA created numerous grant programs in DOJ that required coordination with the grant programs in HHS, created new federal crimes, established new federal immigration rights, required states to honor each other's protection orders, established standards for the local issuance of protection orders and arrests of perpetrators of domestic violence, sexual assault, and stalking, and required state and local communities to come together in multidisciplinary efforts to develop policy and strategies for dealing with violence against women.

The number of agencies and offices required to carry out these substantive responsibilities is stunning. VAWA's mandates impact the U.S. Attorney's Offices, the INS, the FBI, HHS, the Civil and Criminal Divisions of DOJ, even parts of HUD, Labor, and DoD. Leadership was needed to coordinate these far-reaching implementation efforts—and VAWO stepped ably into that role, convening the National Advisory Council (an unprecedented public and private partnership of business, government, and public service sectors) and working with the various federal entities charged with the work of implementing VAWA. If VAWO had not been there, it is hard to imagine how the demand for federal and state coordination, leadership, and policy guidance could have been met.

When VAWO was housed in Main Justice, the director and her staff were able to work with other components of DOJ and other federal agencies to develop comprehensive policies regarding the implementation of VAWA. For example, the Full Faith and Credit Provision of VAWA 1994 simply said that states shall honor sister jurisdictions protective orders. The plan language of this provision did not explain how a state would know another

state's protective order is valid, nor did it say whether or not a state must establish a protective order registry to implement this law. These are the practical concerns of turning a visionary law into a reality. VAWO led a collaborative effort that included the DOJ Office of Policy Development and the Executive Office of the U.S. Attorneys to develop practical policy guidelines that make it possible for all states, territories and tribes to make good use of the Full Faith and Credit Provision of VAWA.

When VAWO moved to the Office of Justice Programs, the responsibilities of the Office became more focused on the technical aspects of grant making and less on the policy issues that emerge in building programs that address victim safety and offender accountability—the cornerstones of VAWA. This trend seems to have continued under the new administration, and is cause for great concern. Although we have made great strides in some ways, in others our work is just beginning. Our need for a vigorous, proactive Violence Against Women Office has not diminished.

The tremendous needs and gaps uncovered by VAWA in 1994 led to its reauthorization in 2000, and the work at the state and local level has become more, not less, complex. VAWA requires the criminal and civil justice systems to work together with community services. VAWA funds prosecutors, courts, law enforcement, victim services, community-based assistance programs, tribal governments, and state coalitions. This broad range of professionals in turn serves victims and survivors living in rural towns and large urban cities, as well as immigrant, disabled, and older victims of abuse. VAWA grants provide needed services in communities of color and communities of faith. And all of these services are provided in the context of a complex system of federal, state, local, and tribal laws.

Addressing all of these mandates, understanding all of these laws, and reaching all of these communities is a tough challenge on the state and local level. Now more than even, we need an active, high-profile Violence Against Women Office to help establish baseline standards for this increasingly complex work, and to provide consistent interpretations as to how the mandates of VAWA are to be met.

We need an Office staffed with program managers and policy analysts that have subject matter expertise, not just grant-making skills. Three examples of VAWA programs speak vividly to this need for the combined functions of grant-making and policy analysis within the same office. First, the Legal Assistance for Victims Program grantees might well call VAWO to ask for assistance in developing appropriate screening and conflicts protocol, or for help in developing policies to implement the new funding mandate that civil legal assistance be provided to sexual assault survivors. This new area of law requires guidance not simply on allowable expenses of a grant, but on what the civil legal needs are of such victims, and what challenges to expect in crafting these new programs. It takes a policy analyst familiar with these complicated issues to give the right answers or know how to find them. The lives of sexual assault survivors all across the country will be dramatically impacted by the answers to these questions.

Second, jurisdictions receiving Grants to Encourage Arrest funding needs to know how the VAWA 2000 amendments to the Full Faith and Credit mandate of VAWA 1994 will impact their program practices. For example, states must certify that its laws, policies and practices do not require victims to bear costs associated with prosecution, filing, registration or service of a protective order. This requires not just grant managers who know the paperwork needed to meet the certification requirements, but policy experts who know how to craft changes in state law and policies to come into compliance with this new requirement.

Grantees of the Grants to Encourage Arrest and Enforce Protection Orders Program must also certify that their jurisdictions do not allow the issuance of mutual protection orders. If there is no legislative opportunity to satisfy this funding condition, grantees will turn to VAWO for expert guidance on alternative ways to meet this funding condition. A policy analyst must be available to speak to the various ways this requirement can be met, whether through changes in court rules or administrative memorandums. What may seem a technical certification requirement is so much more than a check on a grant application. Requiring states to prohibit the issuance of mutual protective orders as a condition of funding is about fulfilling the intent of VAWA to make systemic changes in the way states respond to critical issues of victim safety. We need look no farther than the recent highly publicized protective order case in Kentucky to know the importance of such requirements.

Finally, the new immigration rights and procedures created by VAWA are numerous and complex; grantees of all the VAWA programs need technical assistance to help them understand when critical immigration issues arise and how grantees can best help immigrant victims of domestic violence, sexual assault, and staking. This work must be done very carefully. The lives of whole families are in danger—this really is a matter of life and death.

It is more important than ever that The Department of Justice provides leadership and guidance, inspiration, and policy support for the local and state work on domestic violence, sexual assault, and stalking. Now, more than ever, states need a strong Violence Against Women Office. It is only through this leadership that we one day we will know for certain that a week in the life of American women is no longer a week filled with violence.

Mr. Speaker, I am concerned about the recent actions on the part of the administration that clearly indicate that the Violence Against Women Office is not a high priority. The policy staff of the office is woefully understaffed. In addition, the pending reorganization of OJP threatens to dismantle the expertise the Violence Against Women Office provides to local grantees.

The language added by the other body that this motion asks the House to endorse would statutorily authorize an independent Violence Against Women Office within the Department of Justice. I believe this recognizes the importance of the office. I urge my colleagues to vote in favor of this motion to instruct.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New York (Mr. NADLER).

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

Mr. NADLER. Mr. Speaker, in 1994, Congress passed the Violence against Women Act, which has had great success in reducing violence against women and domestic violence generally. One of the things that act did was to create the Violence Against Women Office in the Justice Department. That office has been instrumental in directing the efforts against domestic violence. But the office has lost influence and is in danger of losing its role or much of its role in the pending reorganization within the Department of Justice.

With the strong bipartisan support, the House and the Senate have both passed provisions in the appropriations authorization bill to make the office permanent and statutory, but it is critical that the statutory creation of this office reflect the essential components of the office.

The office cannot serve as the leader in promoting the changes needed to effectively serve victims of domestic violence, sexual stalking and trafficking if it is merely a check-writing office, as it is often regarded today. The office needs the authority to create policy regarding violence against women and needs to have a presidentially-appointed, Senate-confirmed director in order to ensure that these issues continue to have a high profile at local, State, Federal and international events.

This motion to instruct will accomplish these purposes, and that is why I rise in support of the motion to instruct. I commend the gentlewoman for offering it.

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

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

Mr. Speaker, in conclusion, let me say that many years ago in the now receding past, I was privileged to be the sponsor in the Colorado legislature of one of the first omnibus domestic violence bills in the country, and in fact that bill was passed in 1995 in Colorado.

The thing we learned at that time was that one of the biggest barriers to preventing and stopping domestic violence is a lack of awareness by everybody around the country. This is a problem that is faced nationwide, which is why Congress passed the Violence against Women Act and why the Violence Against Women Office was set up in 1995.

However, if we are going to have a strong and effective Violence Against Women Office, it must be permanent, it must be independent, and it must be prepared to do much more than just simply administer grants. It needs to do outreach and education, and it needs to have the kind of stature within the Justice Department on a continuing basis that it did when it was once instituted. So, for those reasons, it is essential that we pass this motion to instruct and that we instruct the conferees both to adopt the Senate provisions that establish the office and also the House provisions that delineate the duties of the office.

Ms. PELOSI. Mr. Speaker, I commend Congresswoman DEGETTE for bringing this motion to the floor and I thank her, Congresswoman

SLAUGHTER, and Congresswoman BALDWIN for their leadership on this issue.

The Violence Against Women Office of the U.S. Department of Justice was created in 1995 to implement the Violence Against Women Act. The creation of this office greatly strengthened the efforts of states to fight domestic violence, because for the first time, they had strong leadership and funding support from the federal government.

Under President Clinton, the Violence Against Women Office was a powerful voice within the Administration. The Director had strong support from the White House, and was a recognized leader in the fight to end domestic violence. It was clear that the safety of women and children was a top priority for the federal government.

Under the leadership of President Bush and Attorney General Ashcroft, the Violence Against Women Office has been systematically weakened. Just within the last two months, the policy department of the Violence Against Women Office disappeared, and the Director of the office has no access to the Attorney General or the President and no seat at the table to affect the policies of this Administration with concern to violence against women.

This is one of a series of actions by this Administration to diminish the importance of women's issues.

In one of his first actions, in January 2001, President Bush closed down the White House Office on Women's Initiatives and Outreach. The purpose of this office was to advance policies such as the Family and Medical Leave Act and to serve as a liaison between the White House and advocates for women.

Next, President Bush tried to eliminate funding for the regional Women's Bureau offices in the Department of Labor. The Women's Bureau had a mission of promoting the welfare of working women, improving their working conditions, and advancing their opportunities for profitable employment. This was further evidence of the Administration moving backwards on progress for women.

Violence against women doesn't rate highly in the Bush budget either. The President's budget falls $111.3 million short of fully funding critical programs such as transitional housing for victims of domestic violence, shelter services, and rape education and prevention. Obviously, President Bush does not support full funding of the Violence Against Women Act.

Today we have the chance to send a clear message to the conferees, that ending violence against women is a top priority. To do that, we need to restore a strong, independent Violence Against Women Office with the authority to impact critical public policy decisions. This is not a time to backtrack on our commitment to ending domestic violence against women.

I urge my colleagues to vote ''yes'' on this motion.

Mr. HOLT. Mr. Speaker, I rise in very strong support of Representative DEGETTE's motion to agree to provisions in the DOJ Authorization bill that strengthen and elevate the Violence Against Women Office. This is an important motion that deserves our support.

Since 1995, the Violence Against Women Office at the Department of justice has handled policy issues regarding violence against women, provided national and international leadership on the subject and worked with other DOJ offices to implement the mandates of the Violence Against Women Act.

The Office is responsible for coordinating the training of judges, law enforcement personnel and prosecutors in responding to victims of domestic violence, stalking and assault. it works with states and localities to provide a coordinated community response to domestic violence and establishes public education initiatives to heighten awareness about domestic violence.

The office has awarded more than $1 billion in grant funds, making over 1,250 discretionary grants and 336 formula grants to states. These grant programs help train personnel, establish specialized domestic violence and sexual assault units, assist victims of violence, and hold perpetrators accountable.

In Mercer County, New Jersey, local social service groups have used grant funding from the Office to recruit and train pro bono attorneys and advocates to help provide legal assistance to battered women and their families.

Domestic violence is still shockingly pervasive in our society. The National Violence Against Women Survey found that domestic abuse rates remain disturbingly high. Clearly this violence is a national concern, and we need to do everything within our capabilities to make sure that it receives due attention.

The DeGette motion to instruct would go a long way toward strengthening and elevating this office and its mission. The Violence Against Women Office should be front and center in the Department of Justice. I urge my colleagues to support this measure.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of Congresswoman DEGETTE's Motion to Instruct Conferees on Department of Justice Authorization (H.R. 2215). This motion instructs conferees to agree to Senate provisions to strengthen the Violence Against Women Office and make it independent within the Justice Department.

The Violence Against Women Office (VAWO) of the U.S. Department of Justice was created in 1995 to implement the laws and programs created under the Violence Against Women Act of 1994. Through the creation of VAWO, a clear voice of leadership on addressing domestic violence, stalking, sexual assault and trafficking from the federal government. VAWO has been a powerful voice within the Administration, ensuring that the safety of women and children is a top priority to the federal government.

Because the Violence Against Women Office was never instituted under federal statute, the administration and management of the office has been at the discretion of leadership in the Department of Justice. Consequently, VAWO has been slowly stripped of much of its power and effectiveness. Presently, the Director of VAWO has very limited direct access to the Attorney General or the White House. At one point, VAWO helped advise every entity in the Justice Department charged with implementing and enforcing laws created by VAWO. VAWO has seen all the staff of that division, including its director, suddenly transferred to places in the Department where they can no longer work on policy issues regarding VAWO.

Violence against women continues to remain a critical issue in our society that requires special attention. In the U.S., nearly 25% of women surveyed reported that they had been physically and/or sexually assaulted by a current or former intimate partner at some point in their lifetime, and 1 in 6 women has experienced an attempted or completed rape in her lifetime. If VAWO will continue to be an integral part of developing and implementing the Administration policy on violence against women, it must have the authority to do so. The Senate version of H.R. 2215 creates an independent Office within the main area of Justice, giving it a high profile and guaranteeing the ability of the Office to make policy and assist other governmental agencies in their work on violence against women.

I support this measure and urge my colleagues to do the same. I would like to take this opportunity to recognize the Women's Resource Center, The Safety Zone, and The Women's Coalition in the Virgin Islands. These are organizations in my district that work on violence against women issues.

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

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Colorado (Ms. DEGETTE).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 3, not voting 15, as follows:

[Roll No. 121]

YEAS—416

Abercrombie	Bonilla	Collins
Ackerman	Bonior	Combest
Aderholt	Bono	Condit
Akin	Boozman	Conyers
Allen	Borski	Cooksey
Andrews	Boswell	Costello
Armey	Boucher	Cox
Baca	Boyd	Coyne
Bachus	Brady (PA)	Cramer
Baird	Brady (TX)	Crenshaw
Baker	Brown (FL)	Crowley
Baldacci	Brown (OH)	Cubin
Baldwin	Brown (SC)	Culberson
Ballenger	Bryant	Cummings
Barcia	Burr	Cunningham
Barr	Burton	Davis (CA)
Barrett	Buyer	Davis (FL)
Bartlett	Callahan	Davis (IL)
Barton	Calvert	Davis, Jo Ann
Bass	Camp	Deal
Becerra	Cantor	DeFazio
Bentsen	Capito	DeGette
Bereuter	Capps	DeLauro
Berkley	Capuano	DeLay
Berman	Cardin	DeMint
Berry	Carson (IN)	Deutsch
Biggert	Carson (OK)	Diaz-Balart
Bilirakis	Castle	Dicks
Bishop	Chabot	Dingell
Blagojevich	Chambliss	Doggett
Blumenauer	Clay	Dooley
Blunt	Clement	Doolittle
Boehlert	Clyburn	Doyle
Boehner	Coble	Dreier

Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
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Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Flake
Hostettler
Paul

NOT VOTING—15

Cannon
Clayton
Crane
Davis, Tom
Delahunt
Green (TX)
Lewis (GA)
Mascara
McCrery
Meek (FL)
Millender-McDonald
Murtha
Norwood
Traficant
Weller

□ 1454

Mrs. CUBIN and Messrs. SCOTT, PETERSON of Pennsylvania, and TANCREDO changed their vote from ''nay'' to ''yea.''

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2646, FARM SECURITY AND RURAL INVESTMENT ACT OF 2002

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–426) on the resolution (H. Res. 403) waiving points of order against the conference report to accompany the bill (H.R. 2646) to provide for the continuation of agricultural programs through fiscal year 2011, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–427) on the resolution (H. Res. 404) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER pro tempore (Mr. LAHOOD) laid before the House the following communication from the chairman of the Committee on Energy and Commerce:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, April 29, 2002.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule VIII of the Rules of the House that the Committee on Energy and Commerce has received a subpoena for documents issued by the United States District Court for the Southern District of Texas.

After consultation with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

W.J. ''BILLY'' TAUZIN,
Chairman.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HIGHER OIL PRICES DUE TO EXCESSIVE LAWS AND REGULATIONS DEMANDED BY BIG GOVERNMENT LIBERALS AND ENVIRONMENTAL EXTREMISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, the very people who have caused high gas prices in this country are now crying the loudest about the oil companies raising prices. Most experts say gas prices are going to go much higher.

What is causing this is not collusion among the oil companies as much as laws and rules and regulations demanded by big government liberals and environmental extremists. Approximately 36 oil refineries have closed in this country since 1980 due to costly environmental rules. This keeps gas prices high and will drive them even higher.

Environmental groups have demonstrated for years against drilling for oil anyplace in this country. ANWR is just the latest example. This has kept gas prices high, and they will go higher if we do not at some point get some common sense back into our rules and regulations in this regard, and if we keep not letting anybody produce any oil in this country. This keeps gas prices high and will help drive them even higher.

When I was a boy, a poor man could start a gas station. Now, because of all the environmental rules and regulations and red tape, it costs a fortune to open a gas station. This causes gas prices to be higher, and will drive them higher if we do not, as I said a moment ago, get a little common sense and balance back into these rules.

Oil companies have been forced to merge and get bigger to survive. Small companies have been forced out of business by excessive and overly costly and expensive regulations. This has caused gas prices to be higher, and probably are headed even higher.

Sometimes those who shout the loudest about being for the little guy are

actually the best friends that extremely big business has. In almost every area, in almost every industry, Mr. Speaker, big-government liberals and environmental extremists have driven small- and now even medium-sized companies out of business, thus removing much competition for the really big companies.

I was told that in 1978 there were 157 small coal companies in east Tennessee. Now there are none. I think this is why so many extremely big businesses fund these environmental groups. In fact, it would not surprise me at all if Arab oil interests were funding most of the fight against drilling for oil in Alaska and other places in this country.

But whatever it is, Mr. Speaker, whether it is small logging companies in communities in the Northwest or coal companies in Tennessee, it seems that groups are protesting anytime anybody wants to drill for any oil, dig for any coal, cut any trees, or produce any natural gas in this country.

We cannot, Mr. Speaker, shut the whole country down. They always base everything on tourism. Tourism is a minimum wage industry. I can tell the Members this: I have a lot of parents and grandparents who come to me with their college graduate kids and they cannot find jobs because we have forced so many companies to move jobs to other countries, and we have shut so many things down in this country.

Most of these environmentalists seem to come from wealthy or very upper-income families, and perhaps they do not realize how much they are hurting the poor and the lower-income and the working people in this country; but they are destroying jobs, they are driving up prices, and they will keep on doing this harm if we do not talk about this and discuss this a little further in this country today.

We need to do something about this, so that we can bring prices down. If we keep on letting environmental extremists dictate the agenda in this Congress, we are going to destroy jobs and drive up prices; and as I say, we are going to really hurt the lower-income and working people in this Nation.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

□ 1500

ASTHMA AWARENESS

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Texas (Mr. BARTON) is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, this week and today we are trying to focus attention on the problem of asthma in the United States. I am one of the original sponsors, and to this day, chief sponsors of Asthma Awareness Day. Senator KENNEDY in the other body and the gentleman from Rhode Island (Mr. KENNEDY) in this body, and a number of other House Members and Members of the other body are trying to focus attention on what we can do to help alleviate the causes of asthma and the symptoms of asthma and bring attention to the fact that millions and millions of Americans, both adult and young children, are afflicted by this.

The good news is that most asthmatics can lead normal, healthy lives without any really negatives consequences. I have a son, Brad Barton, who is 31. He has had asthma all his life, and yet he in high school was a star member of his tennis team and active in academics and athletics in his high school. He is now married and the father of two fine children my two grandsons, Blake and Brant. He has had inhalers and various medicines that he has taken in his entire life, but he leads a normal healthy life. So we are holding a number of events.

We had a reception last evening over at Union Station. We have another reception this afternoon, and we are just trying to bring attention to the fact that there is a lot that can be done on asthma. And there is a lot we can do to help those who have asthma to make their lives full and productive. One of the most famous asthmatics today is Jerome Bettis, the running back for the Pittsburg Steelers. He is one of the chief national spokesmen to bring attention to the affliction of asthma and how he can function as a member of the Pittsburg Steelers and be as effective and have the all-pro running back that he has had.

Mr. Speaker, I am just here to encourage all of my Members as we try to educate the American people about asthma and to continue the research and to find a way to prevent it and cure it and to help develop medicines that can make it easier for those of us who have it.

Asthma affects nearly five million children and causes more than 5,000 deaths each year. It is the leading cause of missed school days, yet many schools do not allow students to carry and use prescribed lifesaving asthma medication. When physicians prescribe inhalers, they instruct patients to carry them at all times. Asthma can happen any time, anywhere—in the classroom, on the playground, or in the lunchroom—so it's important for students to have immediate access to their inhalers. To date, the Allergy and Asthma Network—Mothers of Asthmatics (AANMA) has found only 17 states that have developed laws or policies which protect children's rights to carry inhalers in school. Schools that restrict or revoke this right, put themselves and students with asthma at risk. They also put other students at risk of witnessing a potentially life-threatening asthma attack. I strongly support children's rights to carry inhalers at school, and would urge States and local school districts to make this lifesaving decision for their students.

BLOATED FARM BILL NEEDS THE KNIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, tomorrow we will vote on the conference report of the farm bill. I think it is important to stand up and express opposition to this measure. I think it is probably the worst piece of legislation we will vote on this year. It has been called the largest expansion of the Federal Government on domestic terms aside from military policy in this great society.

If you look at it over the next 10 years we will be spending, the average American family will spend about $1,800 just in taxes to support the subsidy payments as part of this farm bill. Above and beyond all that, the average American family will spend about $2,500 in increased and inflated food prices because of the price supports inherent in this bill.

I grew up on a farm, I am one of 11 children in northern Arizona. And one of my more unusual chores growing up was what I called bloat watch. I would sit on the top of a hill and overlook the alfalfa field where cattle were grazing. And when a critter would assume the ''I'm bloated and I cannot get up position,'' I was to rush to the field with a knife in hand and stab the critter high on the left side behind the last rib. I am sure it was not very pleasant, but it would save the critter's life. And silage pent-up gas would spew and rain down all over. But it was the only thing that would save the critter.

It is much like this farm bill. I feel like reaching for my knife whenever we debate it. It is bloated bigger than ever, and we have got to take some drastic measures to rein it in.

I think that it is not only bad policy, I think that is accepted by just about everyone, but it is bad politics by Republicans. We have always stood for freedom as opposed to security. I think it is not ironic that the farm bill is replacing the Freedom to Farm Act with the Farm Security Act. I think we are going the wrong direction when we do this. We have to stand for freedom in all areas. Farmers ought to be free for all they want and gain a profit for what they sell, not to be told by government how much they can plant and when they can plant it.

We are moving far, too far away from the free market. I hope we will reconsider. I hope if we do not reconsider, that the President is waiting with veto pen in hand.

RETHINK WELFARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Illinois (Mr. DAVIS) is recognized for 60 minutes as the designee of the minority leader.

Mr. DAVIS of Illinois. Mr. Speaker, as we are moving rapidly towards reauthorization of TANF and as we continue to talk about welfare reform, and we continue to try and figure out what that really means, what is it that we are talking about? What is it that we are attempting to accomplish?

Well, it seems to me that one of the pieces that is often left out of the puzzle is there is conversation about movement but not necessarily conversation about movement away from what. It seems to me that any time we talk about that issue, that we really ought to be talking about the reduction and ultimate elimination of poverty. And so we talk about these as social issues, but in reality, they are really economic issues. And often we do not talk about the economic implications. We point out all of the difficulties of disadvantagement. We point out the numbers of people, two million of them in our criminal justice system, who are locked up in the Nation's prisons and jails, or we will talk about the 40 million-plus people who do not have health insurance, or we will talk about those folk who lack decent housing, or people who live in disadvantaged areas.

And when we get right down to the bottom of it, it all revolves around the issue of poverty. Who are those who have and who are those who have not. Who are those who have more than they need and others who have not enough.

And so the question becomes, how do we balance the equation? How do we mix up the goods, services and resources of our Nation so that all of our citizens can try and live out the American dream of a decent house, a place to live, the ability to send their children to a good school, to send their children to college, for children to grow up, have their own families, and continue to progress?

When I think about it, it is almost incongruous that the America of the 21st century is home to millions of family who have left welfare but are worse off economically, because many of the State governments are not spending the Federal funds that were intended to help these individuals transition into work or to take care of their children. To my mind, it is an America where child poverty that remains at a historic high, with nearly one out of every five children in the United States of America living today in poverty after a decade of boom in the national economy, where the average person living in poverty is poorer today than they were at the beginning of the decade. And that is a real contradiction that it is difficult to morally justify; and I must confess that I have some difficulty understanding it.

In my mind, a society which celebrates the reduction in welfare roles but ignores the realities that half of those who have left welfare jobs have been unable to pay the rent, buy food, afford medical care, or keep their telephone or electric service from being disconnected. That seems to me to be a serious contradiction.

It is amazing that here we are, a Nation where at most, 15 percent of eligible children have ever been enrolled in Head Start. That is an indication that we talk about Head Start, but oftentimes do not provide it. But that is a national figure. At most, 15 percent of eligible children are served by Head Start. Even worse than that, most Head Start programs do not meet the needs of working moms because of insufficient hours. Child care for low income families often exceed 35 percent of the family income. Yet, child care workers are among the lowest paid and most poorly trained workers in the Nation. And yet we talk consistently about leaving no child behind. We talk about the great education system. We talk about all of the resources that are being provided. But what we have here is a kind of triple whammy. The needs of working families are not met, young minds are left unchallenged, and the families of child care workers themselves are locked in poverty.

□ 1515

It is amazing that you will expect a person to devote their lives to working with children, providing child care at a day care center or a Head Start program and yet they themselves remain poverty stricken for so long as they continue to do that work.

My mind cannot rest when more than 20 percent of adolescents suffer from mental disorders, including anxiety, mood disruption, and substance abuse. Without new public resource, the problem of mental illness among children and youth will not be addressed. So we have all of these young children and adolescents growing up with mental and emotional problems that never get dealt with, who themselves are headed towards a welfare system, and so they will live their entire lives never experiencing the fulfillness of the American dream, what America is designed to be or yet to become.

The uninsured rate for children increased from 14.5 percent in 1994 to 15.6 percent in 1998. For families with incomes of less than 200 percent of poverty, the uninsured rate increased from 23.4 percent to 26.5 percent.

My mind recoils at our growing prison population, which has spawned a generation of parentless families and a new source of mass trauma. Our prison population is now in excess of 2 million people. More than any other developed nation on the face of the earth. More than any percent of prison inmates are parents, and so one would have to ask what happens to, with, and for these children?

The result is that 1.5 million children have a parent in prison. Yet we have few programs to support these families while the parents are incarcerated or in the transition of trying to come back into the normalcy of a society.

Mr. Speaker, as the old saying goes, ''You can run but you can't hide.'' No part of our society can escape the consequences of the great inequalities which plague us as a Nation. We talk about disparities, the difference between this group and another group.

A report was just released about a month ago talking about the tremendous disparities in health status of African Americans, of Latinos and other minorities in our country. It is in the national interest, in the best self-interest of every sector of our society to address these great inequalities and inequities and to address the consequences and inequities in a constructive, humane and just manner.

It follows logically that the problems facing urban America require that every sector of our society become a part of the solution, public and private, secular and faith-based. When I think about problem-solving, I often think of what used to be the slogan of the Black Panther Party, and I used to think of what they would say. They would say, ''You're either part of the solution or part of the problem,'' and it really means that every sector of American society must indeed be a part of the solution because injustice anywhere diminishes justice everywhere.

So I welcome all of those who rallied to the cause of the most vulnerable. My understanding of history suggests that the great movements in American history, our struggle for independence, our struggle to end the curse of slavery, our struggle for civil and human voting rights, our struggle for the equality of minors and women, our struggle for dignity in the workplace, have only succeeded when we called into action every resource, every heart and every hand of goodwill.

Mr. Speaker, welfare reform in the 1990s proved in a perverse kind of way that government does work and it works well. We just had the wrong public policy goals. We set a goal of reducing the number of persons on welfare and we succeeded. We succeeded spectacularly well. However, our failure was in setting the wrong goal.

We did not set the goal of reducing poverty. We did not set the goal of increasing the quality of life or improving health or education outcomes. I agree with those who hold that the record of welfare in America is a cycle of reducing benefits to force people to work, then increasing benefits when the activism of the poor begin to disrupt society. Then we cut benefits again to replenish the lower wage pool.

Let me just tell my colleagues that I am one who believes seriously in the concept of work. I believe very strongly in the work ethic, and I believe that we work not just to earn a living or to be able to live. I believe that we work because through work we demonstrate that we are a contributing member of

the society. We help to perpetuate that of which we are a part of. So we work not just to get paid, but we work as a kind of pay for the privilege of living in this society.

I maintain that not only is work a virtue, but it is difficult to be fulfilled if one does not feel that they are contributing to experience the wholeness of one's being, and so I maintain that it is time to break the cycle that we have become accustomed to by fundamentally changing the paradigm of our attack on the problem.

If we look at a problem one way, then we attack it one way. If we look at it another way, then perhaps we attack it differently. Let me walk through a few of the parameters which define for me where our children are today and what reform of our welfare system ought to really mean.

In 1994, 14 percent of all children were receiving welfare benefits. By 1999, only 7 percent of children received these benefits. The share of poor single mothers in the labor market grew from 39 percent to 57 percent, while the share of poor married mothers in the labor market remained constant at 39 percent.

There are those who would want to debate the merits and demerits of marriages and who want to spend a great deal of time talking about welfare reform couched in whether or not people should get married and whether or not they should not get married, whether there is coercion to get married, whether there are incentives for marriage, and I tell my colleagues, I do not believe that people ought to be coerced or skyjacked in any direction.

I also can tell my colleagues that I have no difficulty with the concept of marriage. As a matter of fact, marriage is a form of social organization, and I believe that where there is more organization, there is less chaos. So the first form of organization perhaps starts when two people form a union, and then of course the union might get larger, there might be other joiners, there might be other members of it, and then people expand it and we get something called a family.

Could my colleagues just imagine what our society would be like if there were no families, if everybody just kind of individually went their own way, without any of this social organization that comes as a result of the union and unification of people, oftentimes beginning with two?

Since the current recession began, and we are still arguing whether or not it is over, more than 2 million Americans have lost their jobs, and the old rule of last hired, first fired proved itself to be true once again, but, of course, that was not anything to not be expected or anything out of the ordinary.

For many form of welfare recipients, there is little or no security in the job market. Less than 60 percent of welfare leavers are currently working, though as many as 70 percent have had employment at some time or another, but only 40 percent have worked consistently. Those who do work are likely to earn wages which fail to bring the family above the poverty line.

One group of studies determined that the median earnings in the first quarter after leaving TANF for people was $2,526 and in the fourth quarter $2,821. About 40 percent of the leavers are not working at all. This group is more likely to have less education, less prior work history, and greater health problems. They are more likely to face problems of domestic violence, which is not necessarily in many instances an issue by itself. It is oftentimes an issue that is intertwined with other factors that cause people to exhibit this kind of behavior.

They are more likely to be dealing with mental illnesses. Families which have been sanctioned have a very high poverty rate, 89 percent, according to one study, and after leaving assistance, many families lose their food stamps and Medicaid, even though they are still poor, and fewer than one-third receive child care subsidies.

In other words, the support system for low income families is riddled with holes. Thirty-three percent of leavers report not enough food, 39 percent report inability to pay the rent, and 7 percent report having to move in with others because of inability to afford housing.

We know that today 82 percent of new mothers return to the workforce in less than 1 year, but only 42 percent are able to work full time. Most Head Start programs do not meet the needs of working mothers because of insufficient hours. Child care for low income families often exceeds 35 percent of their total income.

So when we talk about our ability to move, the fact of the matter is that many of the individuals are in a Catch 22 position, and that remains the case.

□ 1530

In a majority of the States, and in my State, the great State of Illinois, the land of Lincoln, the recession has decimated the State budget. Illinois now has unpaid bills totaling over $1.2 billion and is facing a $1 billion deficit over the coming year. Every program in the State budget is vulnerable, including education.

In the area of education, we have faced for a long time tremendous disparities. While average spending nationally is about $6,000, in Illinois, and in some other States, spending ranges from less than $4,000 to more than $15,000. That is to say, in some school districts they are spending $4,000 per pupil; in other school districts they are spending as much as $15,000 per pupil. Now, I am not a mathematician, and I am not sure I always know exactly what equality means, but I guess any way that you cut it, there is something uneven and unequal about that equation.

Since most school funding comes from property taxes, rich communities have well-financed schools and poor communities, those most in need of supportive programs, have less-than-well-financed schools. Instead of focusing on the needs of students with smaller class sizes and repairing substandard buildings and providing remedial and before- and after-school programs, we are being swept away by the rhetoric of testing.

I spent a little bit of time teaching and serving as a counselor, and I can attest to the fact that testing can help teachers, students, and parents to understand what materials remain to be mastered, or it can be used as an arbitrary and irrelevant standard, in which case the curriculum is narrowed to whatever the test is on, and instructional time is allocated to whatever is on the test. The result is higher test scores but less real learning and a failure to develop the real potential of our children.

As you know, after the great debate, we passed a major reform of Federal assistance to education with bipartisan support. What many Americans do not know is the refusal of this House, and if we are very honest, a very partisan refusal, to pass a budget which provides funding for many of the new programs and initiatives. So we have programs and initiatives on the books, but it is like saying there is still no water in the well; or, in many instances, it would be the same as having a brand-new shiny automobile but no gasoline.

The surgeon general's recent report, ''Mental Health,'' has highlighted the critical need for expansion of mental health services for children and youth. Many of these children are the very same children who need assistance from TANF. They are the children of needy families. More than 20 percent of adolescents suffer from mental disorders. The report details some of the inherent limits of the for-profit health system in addressing our mental health needs. Without new public resources, the problem of mental illness among children and youth cannot and will not be seriously addressed.

The share of children without health insurance increased from 14.5 percent in 1994 to 15.6 percent in 1998. For families with incomes of less than 200 percent of poverty, the uninsured rate increased from 23.4 percent to 26.5 percent.

The CHIP program, Children's Health Insurance Program, is struggling because it is not an entitlement program, like Medicaid or Medicare. States can cut back on CHIP when budgets face crisis, as we are experiencing in my State of Illinois. Medicare and Medicaid have been enormously successful in providing health care to their target populations; 98.7 percent of seniors have health insurance. We need a similar entitlement for children.

I believe that when it comes to health care, we have to set our sights on universal health care and coverage for everybody without regard to their ability to pay. There is a new movement afoot to develop a consensus

around a set of family support principles and to find ways to operationalize them with regard to public policy. So let me offer just as suggestions a few thoughts; and, hopefully, some of these will be found in the TANF reauthorization bill once we are finished with it.

The goal of TANF should be to reduce poverty, to improve the quality of life and to enhance the independence of families. The health, education, and well-being of every child in America must be protected. People in need should receive assistance whenever and wherever they need it, and in many forms, not just in face-to-face visits.

People in need of assistance need to have necessary information and the ability to exercise the degree of control they choose over decisions which affect them and their lives. Each member of the community needs to be unfettered and have access to personal information to the status of their community and to the latest advances in social and scientific practice.

Individuals and families should be protected from injury caused by the system. The community needs to play a key role in anticipating the needs of the Nation and being involved in that. There has to be cooperation among programs and professionals. There should be no reason to have a maze of programs that people cannot find their way through when we have stated and indicated that all of these programs were in fact for the benefit of the people.

So as we reauthorize TANF, we must be serious with ourselves and say to ourselves that we know that education is the key, and so there ought not to be these restrictions on training for people. Because we already know that unless they get serious education and training, there will be no jobs in the workplace for them. How do they move from welfare to work unless they have the ability to do what somebody else needs to have done?

Lyndon Baines Johnson was supposed to have said one time that we have to speak truth to the American people. We have to let them know that there is no gain without some pain. So as a Nation we have to adopt that same principle, and we have to know that if we are going to successfully move people from welfare to work, they must be able to convey to others that they are in a position to do for them what they need to have done.

Nobody gives a person a job just because they need to work. I mean, there is no such thing as a job in a capitalistic society just because somebody needs to work. People are able to acquire jobs because they can go into the marketplace with a demonstrable skill, and they can say to that marketplace that I can do for you whatever it is that you are willing to pay for, and I can do for you what you need to have done.

A good example: lots of people go to the barber shop, and some of them will go there and just sit and engage in conversation and talk and have fun. Here the barber is wanting to cut hair because he wants to make money. But if people do not need a haircut, they do not just get in the chair and say cut my hair because you need to make money. No, they get in when they need a haircut or when they need a shave.

So we have to give people the opportunity to develop the skills that they need to go to school, to get educated, to learn technology, develop computer skills, to be able to go in the marketplace.

And then we have to be serious about this whole business of the minimum wage. I do not know how you get off welfare and out of poverty with a job that pays $6.25 an hour or $6.50 an hour. You certainly cannot do it in Chicago. I do not believe that you can do it in New York, I do not believe you can do it in Los Angeles, you cannot do it in St. Louis, you cannot do it in Philadelphia, and you cannot do it in Jackson, Mississippi. The real deal is you cannot do it anywhere in this country.

So we need to seriously, seriously, seriously look at raising the minimum wage so that there can be a greater level of sharing of the great resources of this Nation.

Yes, people go looking for something. But when they do, I am reminded of the song that Billie Holiday used to sing: ''Them that's got shall get and them that's not shall lose. So the Bible say, and that still is the rule. Mama may have, Papa may have, but God bless the child that's got his own.'' And what we have to provide for the individuals in need of assistance is their own computer skills, their own education, their own carpentry training, their own sheet metal training, their own mechanical training, their own ability to go into the workplace and provide for someone that which is needed.

They ought to be able to get an associate in arts degree in college, at the very least. We all talk about how education has been the great equalizer, and yet we will restrict how much education and training that we are willing to provide for the individuals on TANF.

We also need to understand where jobs are and what is going on. Seventy-five percent of all new jobs in this country are being created in what is called suburban America.

□ 1545

So many of the people who are unemployed live in inner city or rural or semi-rural communities. If there are no jobs in those locations for them, and we cannot create the jobs for them, then we have to make sure that they can get to where the jobs are, which means that we need strong transportation access. So in the TANF reauthorization, there has to be enough money to get people on welfare, to get the participants from where there are no jobs to where there are some jobs.

I live in a community where we have lost more than 130,000 well-paying, good manufacturing jobs over the last 30 years. I can go by places and point to them and say there used to be 10,000 people working here, there used to be 10,000 working here. There used to be 2,000 people working here. All of those companies are gone. Many of them have moved not only out of the areas where they were, but they have actually moved out of the country. They have moved to Taiwan, to Mexico, to other places in South and Central America. They have gone where the labor costs are not the same. And yet the ability to explore it continues to exist.

So when some of the Members of this body talk about trying to make sure that there are labor protections and standards so that people who work earn enough money to live and so that they have decent places in which to work, they are trying to maintain a quality of life to which we have become accustomed, and we are saying that other countries ought to be able to move in this direction as opposed to allowing businesses and corporations and companies to move out in other directions and not only diminish the quality of life for those in our own country, but also the quality of life for others in places where they would go.

And so welfare reform is more than just a notion. Welfare reform has to provide the necessary support services so that as individuals are trying to make this transition, there are people available to help them.

What does that really mean? It means every time we develop a self-sufficient person, that person can take care of him or herself and their family and does not have to look to public resources, does not have to go to the public warehouse or public storehouse or do what some people call ''feed from the public trough.''

I believe that America, my country 'tis of thee, that America is big enough, strong enough, understands enough, recognizes the need enough, that we can provide for all of our citizens, even those who have fallen behind, even those who have maybe gotten off track, even those who are maybe incarcerated and coming back home this year, like the 630,000 people who are slated to be released from prisons and jails but do not necessarily have warm, inviting communities to come back to that will help them readjust, help them to have a solid place to live, the opportunity to get training, develop a skill, get a job, work their way back.

That is why I introduced in February something called the Public Safety Ex-Offenders Self-Sufficiency Act of 2002, which is not a difficult program to understand. Build 100,000 units of SRO-type housing over a period of 5 years so that as ex-offenders come back home, they will have structured living environments in which to live and receive help. And the good thing about it, it does not ask for any Federal grants because we model the program after the

low income housing tax credits, but rather than using the population of a State, we use the ex-offender population of the State to determine the number of credits that a State would be allocated or would be eligible for.

We think that there are innovative and creative ways of meeting the needs of those who are disadvantaged in our society, and we think that there are innovative and creative ways of helping structure reform of our public welfare system so that it does not recycle people on and off, but so that it develops people into solid, self-sustaining, self-developing citizens who themselves can reach the point where they can take care of themselves.

Mr. Speaker, I appreciate the opportunity to engage in this discussion, for the opportunity to express a position and a point of view that we have a great opportunity with TANF reauthorization. We have an opportunity to help demonstrate that America can become the America that it has never been, but yet the America that it can and must be, that we can lift even those boats at the bottom.

I have been told that a rising tide would lift all boats. If we can lift people out of poverty, get them off welfare, we also reduce the number of individuals in prison. We reduce the number of children who are walking and wandering the streets, we reduce the number of those who have not been able to experience all of the greatness and the goodness of what this United States of America, my country 'tis of thee, has the potential for being, has the potential to become. I believe, Mr. Speaker, that we will do that. It may take a little longer than we hope, but I think we are moving in that direction.

PROBLEMS WITH THE FARM SECURITY ACT

The SPEAKER pro tempore (Mr. BOOZMAN). Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, I am going to spend some minutes talking about something that I think is very important to this country, certainly important to farmers. That is the new farm bill.

In 1996, we passed farm legislation that was called Freedom to Farm. It was actually a program that phased out government farm program payments, and the challenge that we are facing in this country, almost everybody wants some of those open spaces, almost everybody in America would like the opportunity to have fresh products. In America, we appreciate the fact that we have the most healthy, the most low-cost food in terms of a percentage of our take-home dollar of any country in the world.

The Freedom to Farm Act passed in 1996 gave farmers a farm payment in 1996. The total payout amounted to about $6 billion. It phased down the payment for each of the next 7 years, in a sense, telling farmers in the United States that they are going to have to start producing for the market, not for government programs. They are going to have to make their best guess on how much of what crop to plant based on the information they have for the marketplaces. That is the way that the system in America has always worked.

That is why we have surged ahead economically. We had a system when our Founders wrote the Constitution, that the people that work hard and try and are most efficient and learn, and put that learning to use end up better off than those that do not, and that has been part of the motivation in our economy. And it has also been part of the reason our farm industry has become probably more efficient than any other country, and we are competitive in almost every commodity. If there was an open playing field, we probably could compete effectively with most countries.

We are now making a dramatic change to make farmers dependent on government farm payments, and we do this in a couple of ways. We encourage more production which brings down the price of the commodity that they sell, and we say to the very huge mega-farms and large landowners with 20,000 acres of farmland or 80,000 or 120,000 acres of farmlands, the giants, the corporation-type farms, that we will give them a government price support check for every bushel of grain that they produce and every pound of cotton that they produce.

What reaction does that have in the marketplace? It is going to mean that there is going to be more production, and the challenges are that more production is going to result in lower prices. We now find ourselves in the midst in a battle for democracy. Even as the President works against the undemocratic axis of evil, he may want to take a few moments to counter some undemocratic currents in our own Congress.

At the conclusion of the conference on the farm bill reauthorization that was just completed, H.R. 2646, the conference report was filed earlier this morning and it is on the floor tomorrow, I think it is clear that the conferees have defied the will of both Houses of Congress by perpetuating these unlimited farmer subsidies which will allow farms to draw millions of dollars in price support payments. By giving these very large farms this kind of unlimited guarantee of a government price support, they can farm the program rather than farm the products of their soil in relation to the marketplace.

The purpose of subsidies since farm programs began back in 1933 has been to protect family farmers. It was a mistake to get into the business of subsidizing every single acre and subsidizing every single bushel and every single pound of production, regardless of the producer's size and income.

□ 1600 By providing unlimited payments, we encourage farm operations to get bigger and bigger. About 82 percent, Mr. Speaker, 82 percent of all farm production subsidies now go to the largest 17 percent of farms.

I would like to take a moment, Mr. Speaker, to invite any of my colleagues, both who support unlimited payments and those that do not support unlimited payments, to come to the floor to talk about this issue, because tomorrow we are going to have a recommit vote of the agriculture bill. We are going to talk about the agriculture bill, and then there is going to be a motion to recommit with instructions that some of the provisions of limitation apply to that particular farm bill. So it is important that we talk about this today, because under the rules of the House, there will not be any debate or discussion tomorrow on that motion to recommit.

Mr. Speaker, this policy of giving most of the farm government payment subsidies to the largest farms also puts upward pressure on land prices and rents, and, as we mentioned, it contributes to overproduction because the largest farm operations can get a guaranteed government price on unlimited acres. The result is lower commodity prices, driving more family farmers off the farm.

I see the gentleman from Oregon (Mr. BLUMENAUER) has arrived in the Chamber. I want to yield to the gentleman. I was disappointed that the gentleman did not have a chance to present his motion to instruct because they very quickly brought to the floor their filing of the agriculture bill, which preempted your opportunity to give more suggestions to the conferees.

But, on the other hand, when 265 Members of this Chamber, almost two-thirds of this Chamber, voted the other week to instruct conferees to have some kind of real payment limitations, they disregarded it. It approaches arrogance when they say we do not care how most of the Members of this Chamber vote or, how many, it was 64 to 31 in the Senate, that said let us have real payment limitations. Maybe the gentleman's amendment would not have accomplished what we hoped it would.

Mr. Speaker, I yield to the gentleman from Oregon.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy and I appreciate his leadership in focusing America's attention on the tremendous lost opportunity that is represented by the agriculture bill that has been put before us for a vote tomorrow.

The gentleman is right, there are issues large and small that illustrate the problems with the mindset that we have been greeted with the Committee

on Agriculture in the House in terms of its treatment of the desires of these Members.

I had one little tiny provision that I thought would not be particularly controversial that dealt with animal fighting, cockfighting, really a sort of barbaric practice, where people watch chickens that have been trained to maim each other, to fight to the death, where you just have a little pile of feathers and blood at the end.

It is cruel and inhumane to the animals, but it is also part of, in many States, illegal gambling operations. It leads to illegal activities and violence. That is why we had all sorts of law enforcement authorities that wanted it to move forward. It is illegal in 47 States. Identical provisions passed in the House and Senate to make it illegal to at least transport these creatures across State lines, and maybe help law enforcement.

Mr. SMITH of Michigan. Mr. Speaker, reclaiming my time, would the gentleman help me remember and understand. I thought we had provision in the farm bill at one time?

Mr. BLUMENAUER. We did. It passed on the floor to put felony provisions for people who would transport these fighting birds, and also to export fighting dogs.

What happened in the agriculture conference committee is that the penalty provisions that would have closed the loophole were gutted. It went back to a misdemeanor, so it would not be enforced, even though identical provisions passed both the House and Senate. Even these watered-down provisions are not going to go into effect for another year.

Now I use this just as one example, a little tiny example, that shows where the will of the House and the Senate, identical provisions, and something, frankly, that the American public would have even greater penalty provisions in, it would go farther, they read it in. They cut it back. They gutted it.

It is nothing in terms of the damage that would be done as far as the American taxpayer is concerned. The gentleman is absolutely correct, and I appreciate it and was pleased to join with the gentleman on the floor in his efforts to put a cap on those payments here in the House. The gentleman is right, 265 Members voted to instruct, to have the Senate's $275,000 payment limit.

Lo and behold, we get a bill back, it is the new $360,000 limit, and all sorts of problems and additional aspects to this that actually make that illusory.

We see example after example where this agriculture bill is a missed opportunity. We missed an opportunity, and, if time permits, I would like to talk in a few minutes about some of the environmental provisions. It is a missed opportunity for the American taxpayer to rein in costs. It is a missed opportunity in States like mine where there are huge problems with specialty crops, where there are people that would exercise better conservation practices if they had a little help.

Mr. SMITH of Michigan. Mr. Speaker, I would like to talk about that. The fact is if we had real limits that would include what is called the generic certificate, which is the end run, the huge megacorporation type farms used to have the million dollar payments, then there is no question that we would have a lot more money. The estimate is between 2 and 4 billion additional dollars to do some of those things.

I yield to the gentleman from Arizona, Mr. FLAKE, for he has had some concern about the tremendous expansion of government programs.

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding. I appreciate the gentleman from Michigan's leadership on this issue and the others that have spoken.

This, it has been said, is the largest expansion of the Federal Government domestic program since the 1960s, aside from military issues. It is a huge expansion of the Federal Government and little is being said about it.

We are expanding the commodity programs to include for the first time apples, peanuts, onions, with little discussion about it at all. It simply increases dependency out there among our farmers and it goes simply the wrong direction, away from the free market.

I find it ironic that this bill, at a time that we are supposedly embracing free markets around the world, this replaces the Freedom to Farm Act, it repudiates it, it sets it aside and replaces it with the Farm Security Act. We are trading freedom for so-called security that is often illusive.

We need to know who is receiving these subsidies. That is why I appreciate the gentleman from Michigan's leadership on this issue, to know that most of the subsidies are actually going to well-off farmers, or some who are not farmers at all.

We know, for example, that Scottie Pippen, that well-known farmer from Arkansas, when he is not posting up for the Portland Trailblazers, apparently he is digging post holes around his farm in Arkansas. He received thousands of dollars in subsidies for either growing or agreeing not to grow certain crops. Sam Donaldson, Ted Turner, that pauper David Rockefeller is also getting subsidies. We know this because people are posting on their web sites, getting through Freedom of Information those who are receiving subsidies. Now, we had to fight back an attempt this year to actually keep that information public. It is so embarrassing that a lot of people want it private again so nobody can point out how absurd it is that individuals like this are getting subsidies from government.

We have to recognize that the average American family over the next 10 years will spend about $1,800 in higher taxes simply to pay for the subsidy programs in this bill. Worse than that, that same family will pay another $2,500 just in the case of increased food prices because of the price supports in this system. That is a total of over $4,000 that the average American family will spend because of this bill. That simply is wrong and we should not go forward with it.

I appreciate the opportunity to be here and speak on it.

Mr. SMITH of Michigan. Mr. Speaker, I hope the gentleman from Arizona (Mr. FLAKE) can stay a little longer so we can talk about some of these things.

I just have a chart here following up on the gentleman's mention. Farm subsidies to 12 Fortune 500 companies rose by 82 percent, and here are farm payments from these big companies that probably bought some extra land, and then they sign up this land to get government farm payments. Farm policy should be designed to give these to family farmers, not John Hancock Mutual Life Insurance, Westvaco Corporation, Caterpillar, Chevron, Georgia Pacific, the Mead Corporation, International Paper, Archer Daniels Midland, Boise Cascade, Kimberly Clark, Eli Lilly, Navistar. These are the kind of companies that are making millions of dollars in their venture as a corporation, but still in effect robbing some of the money that otherwise could go to some more substantial programs, whether it be environmental and conservation, whether it be more money for agriculture research, whether it be more money for the small farmers that really need help.

The gentleman from Wisconsin (Mr. KIND) has been a leader in trying to have a farm bill that better protects the environment, the conservation effort. I would ask the gentleman from Wisconsin (Mr. KIND) to give us the latest word on whether he is going to have a motion to recommit tomorrow.

Mr. KIND. First of all, I thank my friend from Michigan for yielding to me and securing time the night before one of the most important pieces of legislation affecting rural America and our farmers, the agriculture sector, will be coming before us.

I want to commend my other colleagues here, too, the gentleman from Arizona (Mr. FLAKE) and the gentleman from Oregon (Mr. BLUMENAUER) for the leadership they have shown on the issue and the particular insight they have brought to this debate.

In the past, farm bills have been a tricky proposition to put together. First of all, half of the Members of Congress, when you think about it, do not have a farm in their entire congressional district. So it is hard to engage individual Members of Congress on what constitutes the farm bill and the impact it is going to have on budgetary, fiscal policy and also rural programs, and, ultimately, support for our family farmers across the country.

We have had a conference now that has been meeting for a period of time, and they are reporting out a bill. I, as a member of the Committee on Agriculture, and the gentleman from

Michigan (Mr. SMITH) is a member of the Committee on Agriculture as well, understand how terribly difficult the process is in a place like Congress to formulate a coalition to develop a farm bill given the competing interests, the different perspectives from different regions of the country, each with their own experiences, each with their own interests and insight on what should constitute a farm bill.

But as someone who has been involved in the process now since all of last year, the markup in the committee and watching the conference committee do their work, I am a little disenchanted in the way the process has ultimately worked. Yes, we are in a political season, an election year. That has affected the outcome of the decisions being made on that.

But when you look at the details that are just now emerging, the actual letter of the law being proposed, and even a lot of that is still unclear, and I think USDA should be very concerned that a lot of the provisions have not been clearly defined to enable them to implement what is in this conference bill, let alone whether it makes good policy, but you are talking about a bill that is going to have a huge impact on fiscal policy for this Nation for at least the next 10 years. We are talking about an additional $73 billion of new money on top of the roughly $100 billion that has been spent on farm bill programs under the old bill. Yet with these $73 billion of new money, roughly 75 percent of that is going to get sucked up in just a few commodity crop programs that will only benefit less than, less than, 30 percent of our American farmers in this country.

Yet it is being hailed as this great safety net for our family farmers across the country. But any bill that comes forward that only affects roughly 30 percent and excludes, for all practical purposes, 70 percent of the American producers in this country hardly constitutes a safety net, in my book.

But there are also very troubling implications, too, with the payment limitation caps that are alleged under this bill. Those of us on the floor here today brought forward a motion to instruct just a week ago, setting a payment limitation cap of $275,000 in a given year for an individual entity receiving these type of payments. Unfortunately, even though it passed with over 260 votes in the House and it received majority support in the Senate, the conferees basically ignored the wishes of the majority of Members of Congress in regards to the payment caps that we passed on a motion to instruct.

Not only did they ignore it by increasing that to $360,000, but they carved out exceptions that would basically blow the lid off of any practical cap or limitation. These are mandatory spending programs that we are talking about here that are going to explode in the out years and have a devastating impact on fiscal policy in this Nation, not to mention distorting the marketplace, because we are paying producers not based on market conditions, but based on acreage and what they produce, which creates an incentive for them to produce more and more and more, which leads to oversupply and then a plummeting of these very same commodity prices and us getting in this vicious cycle of these mandatory payment programs going out, or, even worse, of having to deal with multibillion dollar farm relief bills because of an incentive program being created encouraging overproduction.

□ 1615

So the motion to instruct that we passed with 260 votes would place a real payment cap of $275,000, which is still pretty generous in regards to these subsidy payments, but also using some of the money that would be freed up to go into these voluntary and incentive-based conservation programs, a little bit more into the agriculture research programs.

So we are talking about some value added in creating wealth in the farm bill, rather than just direct subsidy payments.

Mr. SMITH of Michigan. Mr. Speaker, let me just briefly review, or sort of give the skinny on what I see happening in the farm bill.

Senator BYRON DORGAN, a Democrat of North Dakota and CHARLES GRASSLEY, a Republican of Iowa, were the leaders over in the Senate that said, look, for the long run, long-term good of farmers and farm programs, let us put a cap on these multimillion dollar payments that are going out to some of these huge mega-farm and landowners. They said that there is enough votes in the Senate to recommit with instructions that we go back to the original Senate language on payment limitations. However, the rules are that if the House passes a farm bill prior to the Senate having the opportunity to recommit, then the Senate no longer has that opportunity to make a motion to recommit if the House passes the bill.

I suspect that that is some of the reason that our leaders in the Conference Committee on Agriculture, our chairman, our ranking member, decided to bring this up even before CBO has completed their cost estimates to file the bill, to bring the bill to a vote tomorrow.

In the process of recommitting this bill back with specific instructions, that first option goes to the Democrats. Normally, the ranking member of that particular committee has a lot of decision-making ability as to how that works.

The gentleman from Wisconsin (Mr. KIND) has his motion to reconstruct that puts payment limitations on. Can the gentleman give us the latest? Will we find out later tonight whether or not the gentleman's motion is going to be offered?

Mr. KIND. Mr. Speaker, if the gentleman will yield, I do have some additional information. In fact, I was just recently informed by our leadership on this side that we will be offering the motion to recommit based on the payment limitation caps. So we will have another chance tomorrow to effectuate the end product of this debate, so to speak. So I think this is going to be a very important motion.

Mr. SMITH of Michigan. Mr. Speaker, did the gentleman say that he will not?

Mr. KIND. Mr. Speaker, we will be offering the motion to recommit, based on, by and large, the motion to instruct, again that passed by 260 votes just a little over a week ago.

Because what we have now is a product that is greased to go. It was just filed a couple of hours ago. We are trying to pour through the details. We all know the devil is in the details in a lot of legislation. It is really in the wording, and what exceptions are thrown into these bills that can have a tremendous effect on policy. So we are trying to pour through that as quickly as possible.

But given the fact that the Members of the House and now the Senate are on record of supporting a 275 payment cap that has already passed, I think we have an opportunity with this motion to recommit to send it back to the conferees with these instructions again that this is really the will of the majority of Members of Congress, and that they need to treat it seriously this time, rather than brushing it off as merely an advisory type of motion. So we are going to have to get the word out between tonight and tomorrow.

PARLIAMENTARY INQUIRY

Mr. SMITH of Michigan. Mr. Speaker, I wonder if it is appropriate, during a Special Order, to have a parliamentary inquiry. Is there even reproductions of the farm bill that are available for the Members to read?

The SPEAKER pro tempore (Mr. BOOZMAN). There is not a printed copy at the desk currently; the conference report is being printed by GPO.

Mr. SMITH of Michigan. I thank the Speaker.

So here again is a real problem of asking us to vote on something that we are not even going to be able to read. If they give it to us at the last minute tomorrow morning, it is my guess that we are looking at a bill that is 3 or 4 inches thick, almost impossible, even with a group of staff, to try to wade through to find really what was stuck into this bill at the last minute for whatever reason.

Mr. KIND. Mr. Speaker, if the gentleman would yield for one final point. I want to be perfectly clear on this point. I represent over 10,600 family farmers in my congressional district alone. What we are proposing here should not be perceived for a second to be antifarmer. It is rather how can we help effectuate good farm policy for basically the next 10 years.

There is one crucial aspect in regards to these subsidy payments that I think

a lot of our colleagues have ignored or just overlooked, and that is the trade implications. I mean historically, a round of trade discussions have usually dealt their fatal blows over disputes over farm policy. Now we are starting to hear the rest of the world in a single chorus cry out against the tremendous amount of subsidies that we are piling on in this next farm bill and encouraging retaliation on their part, but even more than that, encouraging bad faith negotiation in the next round of trade discussions which are important to our family farmers, but also important for economic growth in this country.

So if we do not get this aspect of the farm bill right in regards to our WTO obligations and setting up the next round of trade discussions for success rather than failure, this is something that is going to come back and haunt us for a very long time, not just on agricultural exports, but on a whole range of products that we need market access to, and it is going to be very hard to accomplish if this is the message that we are sending to the rest of the world, that we are going to pile on the subsidies here, virtually unlimited, and yet we expect them to open up their markets to our products.

I thank the gentleman again for this time.

Mr. SMITH of Michigan. I thank the gentleman. Of course, with the rush on this bill, there is a lot of work to do in informing our Members of what the gentleman's amendment is, and I think most of us in this room are cosponsoring it.

Mr. Speaker, I yield to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding. Just to the point of the conferees ignoring the will of the House, there was another issue that was brought up. There was a vote on a motion to instruct which would instruct the House conferees to accept the Senate version with regard to private financing of agriculture exports to Cuba. One can argue about the policy there, but the House overwhelmingly, 2 years ago, said that food and medicine sales to Cuba were fine. All this would say is that private banks here in the U.S., if they want to take the risk, then they can lend. Right now it has to be done on a cash basis. We had a vote, 272 Members supported it, yet the conferees ignored that, and they ignored the Senate as well, and that provision is out.

So I appreciate what the Members here have done, and I just wanted to point out that that was another issue where the conferees simply ignored what the House felt as a whole.

Mr. SMITH of Michigan. Mr. Speaker, maybe sometimes too much control and ability to have it their own way instead of having it the people's way. So hopefully in the future it will change. Earlier I used the word ''arrogant'' in describing the disregard of conferees to seriously consider and look at and, at least in part, put in the will of the delegation. I saw in one of our leading newspapers a quote about two brothers producing sugar benefit in excess of $400 million, I think that was a year, from the production program that we have for sugar. Here again, we want our sugar beet farmers to survive and our sugarcane farmers to survive, but when it goes to $400 million to a set of brothers probably does not help our average farmer very much.

The gentleman from Florida (Mr. MILLER) has been a leader in trying to get some equity in trying to keep some industry that is related to sugar in the United States, and I yield to the gentleman.

Mr. DAN MILLER of Florida. Mr. Speaker, it is a pleasure to be here with my colleagues today, and I commend the gentleman from Michigan, someone who is a real farmer here in Congress, and on the Committee on Agriculture, to be able to stand up and say, this is a bad bill. Each of us come from different districts, whether it is from Wisconsin, where there is a lot of small family farmers, and in my area, we have a lot of tomato farms, and citrus is a big area. But even though we do not know too much about this bill because it is basically a secret bill that we will find out about tomorrow, basically it just helps a limited number of people in a limited number of States.

The problem is that this bill is a total reversal of a philosophy that those of us that came together, the gentleman from Michigan (Mr. SMITH), when we came together with a conservative philosophy to say, we need to reduce the size and scope and government, and actually in the 1996 Freedom to Farm bill, we started to do that. It was a glidepath to reduce the role of government and to open up the agriculture market. I voted for that bill, but this is a total reversal. Not a total reversal in the amounts of money and the programs, but the targeting of other specialized programs.

We got rid of the wool, mohair and honey programs back in 1996. They are back. Why are we subsidizing wool, mohair and honey? The peanut program is going to cost us billions of dollars. Now, I like peanuts, but the problem is we do not need to spend billions of dollars on peanuts. I do not grow peanuts in my district and I do not think my colleagues here on the floor grow peanuts. But if you grow peanuts, you will support this bill. So there is bipartisan support, but there is also bipartisan opposition.

We do not really know the full cost of it. I have been trying to find that out, and some are saying it is $171 billion, but we really do not know. When we passed Freedom to Farm in 1996, it was projected to cost $47 billion. It turns out to be costing $123 billion.

Now, this bill is supposed to be $171 billion to start with, so it is a huge increase over what we passed in 1996, and what happened in 1996 is any indication, we are into a $350 billion bill and program; $350 billion. Here we are up here getting ready to go through the appropriation process figuring out how to get enough money for Pell grants, for prescription drugs, how to have enough money for homeland security and taking care of the war on terrorism, and here we are going to spend $350 billion on these farm programs over the next year.

Now, the gentleman mentioned the sugar program. The gentleman is correct. This program is getting worse. It was a bad program to start with and they made it even worse. It is so bad that last year, the Federal Government had to buy $500 million worth of sugar and then had to store it. Now we are paying to store the sugar, and we are creating a program that is going to have an incentive to produce even more sugar and the Federal Government is going to buy more sugar. I do not know how we are going to store all of this sugar that is going to be bought by the Federal Government over the next years.

Under trade regulations, Mexico is going to be allowed to sell more sugar than the United States. So we are going to be flooded with sugar. This bill encourages overproduction, and sugar is just one of the programs that they claim does not really cost very much money. They claim it was not going to cost anything until last year when they had to buy the $500 million worth of sugar. Because what it does is it costs jobs. The sugar program, what it does is, it sets an artificially high price for sugar in the United States, and what it does is, it drives jobs out of this country. The gentleman from Michigan, for example, talked about the Lifesaver plant in, I think, Holland, Michigan.

Mr. SMITH of Michigan. Mr. Speaker, the Lifesaver plant over in Holland, Michigan, producing pretty much all of the Lifesavers produced in the world, has now made the decision, because of the price of sugar, that they are going to go to Canada.

Mr. DAN MILLER of Florida. Mr. Speaker, so they are going to Canada for jobs. Sugar is a third of the price in Canada than it is in the United States.

So if someone is, especially in the hard candy area and uses a lot of sugar, why not move your production over into Canada, and that is exactly what is happening.

Mr. SMITH of Michigan. Mr. Speaker, that might hit our family farmers that are producing sugar even more aggressively than the tariff rate quotas that we tried to develop to protect them.

Mr. DAN MILLER of Florida. Mr. Speaker, the gentleman is right. The cane growers are some very, very large corporations like the brothers the gentleman mentioned. The beet farmers are smaller farmers up in the Midwest and the Dakotas and such, and they really are more family farmers, but the big farms, these plantations in Florida, they also control, for example, most of

the sugar in the Dominican Republic. But the Dominican Republic, and this is how crazy the program is, they sell sugar around the world for maybe 6 cents a pound, but they sell it to the United States for the United States price, which is about 20 cents a pound. Absolutely crazy, and it is still controlled by the same family that grows it in Florida.

So, you know, in 1996, one of the classic, most important bills we passed was welfare reform, and I think it has been a success. We are going through the process of reauthorizing it this year. But what we are creating is a welfare program for farmers, and that is unfortunate. We want to support the small farm; we want to have the life of the farmer to continue as we have known in previous generations, but it is becoming big business, and what this bill does is just making it harder for the family farmers to survive.

Mr. SMITH of Michigan. Mr. Speaker, the statistic I think, at least for last year, is 40 percent of the net income of farmers came in government checks. If farmers do not like it, our goal has to be to increase production.

□ 1630

Mr. Speaker, I yield to the gentleman from Oregon (Mr. BLUMENAUER) for an ''out West'' opinion.

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman for yielding to me.

One of the things that I wanted to spend a moment on deals with the environmental aspects. The gentleman has been speaking earlier, and I think very forcefully, and focusing on how bad a deal this is for the taxpayers, the costs that are associated with this. We are going to hear in the course of this discussion that this 10-year bill represents a quantum increase in conservation.

Well, we are going to find that virtually all the major environmental groups are going to come out opposed to this legislation. Yes, it is true that there will be a dollar increase over the next 10 years, and it will be a significant increase over the next 10 years.

But this, put in the context of how great the need is and how much money we are going to be throwing at all aspects of the agricultural program, this actually represents a retreat. We are going to find that as a result of this bill, it will represent a lower percentage of the total Federal commitment to agriculture than the farm bill of 1996.

It has been stated, I think very well, by the Defenders of Wildlife: ''All the talk of the importance of conservation work has, in the end, amounted to a hollow shell of the conservation budget that came out of the Senate. The conference report will shrink conservation spending as a percent of total farm spending.''

I would like to talk for a moment, if I could, about some of the specifics. We have the Environmental Quality Incentives Program. This is very important. It is a way to help deal with the real environmental problems that are faced by agricultural producers.

Under current law, the Environmental Quality Incentives Program, the EQIP, is limited to small- and medium-sized producers and restricts payments to $50,000 over multiple years. When the House and Senate opened this to corporate livestock producers, they argued that, well, these payment limits would restrict the large factory farms from receiving large payments to clean up their waste and from draining money out of the program.

Well, it was not just the overall caps that the negotiators turned their backs on. They turned their backs on the small and medium producers when they multiplied the current limit nine times over to $450,000 for multiple years.

The current program has a backlog of almost 200,000 applications for small and medium producers. The average payment last year was $9,000. Now we are opening the door to large factory farms. We are waving large checks in front of Smithfield and Tyson Foods, and we are going to have the small producers squeezed to the back of the line. It is going to put more and more pressure on them to have to either sell out or consolidate. It is an important step backwards.

Mr. SMITH of Michigan. Mr. Speaker, that is sort of a cue to allow me to talk a little bit about how we are putting pressure on the small, traditional crop farmer in the United States.

We passed my amendment to put real limits on and get rid of the loophole on a vote of 265 to 158, and we did that on April 18. At the time the House motion passed, the chairman of the Committee on Agriculture was quoted as saying, ''It will have no bearing on the conference,'' and true to his word, with the apparent consent of the Senate agriculture committee chairman, the conference report that came out yesterday keeps that loophole and bows to the interests of mammoth farms and giant grain and cotton dealers who want unlimited price supports and the resulting increased production.

If we asked a grain trader such as Cargill, Archer Daniels, any of them, they tend to make their money based on the amount of product going through their system, so the more product they have, the more money they have.

So these conferees were under tremendous pressure not only from the huge farmers in the megafarms, but also from the grain traders and cotton traders that have an advantage with having unlimited payments and unlimited price support.

Now, let me tell Members briefly how the loophole works. Nonrecourse marketing assistance loans allow a farmer the choice of repaying commodity loans at low local market prices. As an alternative, a farmer can forgo loans entirely and simply take the difference between the loan rates and the low market prices as a direct cash payment. That is called a loan deficiency payment, an LDP.

Both marketing loan and the LDP benefits are capped in current law. They are capped in this bill. Many in the agricultural community, I will use the word ''hoodwink,'' hoodwink many in this Chamber and many Americans by saying, look, we have a cap on payments. But the fact is that there is a loophole. That loophole lets the farmer get around the limits through the use of commodity certificates.

Here is how it works: the generic commodity certificate was initially an innovation aimed at preventing a buildup of forfeited commodities in government warehouses, so with a nonrecourse loan, a farmer can give title of that commodity to the government. The government will give a loan to that farmer, and the loan will represent the price support that is offered through the LDP, or a marketing loan program, so there are the same benefits in terms of the money that farmer now has.

Where we can limit the amount of cash that can be given to the farmer with the marketing loan or the loan deficiency payment, we do not limit; and the law allows USDA, the U.S. Department of Agriculture, to give that farmer a generic certificate to buy other commodities that will result in the same price support benefits as if they got a loan deficiency payment. So it is a loophole.

That is why we have so many of these farm operations receiving millions of dollars in payments every year at the same time that some brag that there are payment limits and payment caps in the proposal.

The conferees said, well, we will put in language where we will study it. Here is what the study is supposed to analyze.

Number one, what kind of effect will it have on the grain trade and the cotton trade? Well, the effect is going to be if we do not encourage more production, there is probably going to be less production. That means the grain trade is going to have a few less bushels and pounds going through their system, so it is probably going to have a little negative effect on their trade.

But what happens to the price farmers get? With lower production, the price farmers get goes up, and we can help many of those family farms around the United States and that green and open space, as we talk about the environment. We can preserve that land and keep it in agriculture, instead of paving it over for development and housing projects.

Our goal and our policy in this country should be to help family farms, the traditional family farms. It should not be to give a disadvantage to those family farms.

That is what we are doing. We are saying to this huge farmer that has a lower cost of production, we will guarantee you a payment that more than covers your variable costs. So that

farmer says, well, look, I have this protection, so I am going to farm the farm program as much as I farm the market and the soil, so they end up overproducing.

That overproduction is getting us into real problems because that is part, with our current ability to distribute that food around the world, that is part of our problem in bringing prices down to the farmers. That is why we are working in the bankruptcy bill to make it a little easier for farmers to try to re-form their farmland and have the provisions of section 12 in the bankruptcy code.

Mr. Speaker, I yield to the gentleman from Florida (Mr. DAN MILLER).

Mr. DAN MILLER of Florida. Mr. Speaker, as the gentleman was talking about the fact that we are really helping the big farmers, there are some interesting numbers that came out of the Heritage Foundation, I see today. It says, the top 10 percent of the recipients now get 73 percent of the money. That has increased from 67 percent of the money that goes under the agriculture program.

The bottom 80 percent, and this is where all our family farmers are, now instead of getting 16 percent are going to get 12 percent. The money overwhelmingly goes to this top 10 percent, which are the very large farms, the ones that make the most money. We want to encourage the family farm and support that family farm, but all this is going to do is make it more difficult for the family farm to compete with the big giants, the agriculture giants in this country.

Mr. SMITH of Michigan. Mr. Speaker, I see also that this is a problem of the survival of the future of farm programs. With all of this publicity that is going out, and it does not matter what paper we pick up, they now realize that there is a loophole; and the Environmental Working Group has passed out the information that a lot of these big corporate-type farms are getting a lot of the money.

I think that is going to come back to hurt the average family farm in terms of the kind of programs that we can offer here in Washington, D.C., because it is bad publicity, so a lot of people start thinking, well, farmers are already rich. They are getting these million-dollar payments.

The fact is exactly as the gentleman suggests, that in our efforts to appease these large, influential farms, these large landowners, the large grain and cotton dealers, we have come up with a program that allows those big farmers the incentive to have unlimited production, overproduction, really, if you will. That means that the prices are going to go down for everybody else, with more pressure on those farmers.

When push comes to shove in the next 10 or 15 years, when we are looking at the survival of Social Security and the survival of Medicare, and we say, well, are we going to have to cut off some of the farm programs because a lot of people in America say we are giving too much money to these rich farmers anyway, what do Members think is going to happen?

What is going to happen is we are going to cut down on farm programs. At that time, probably we will cut down on the big, large million-dollar payments to the big farmers, too. But probably it is going to jeopardize the effectiveness of the farm programs for the survival of the agriculture industry in the United States. That is one of my main concerns.

Mr. BLUMENAUER. If the gentleman will continue to yield, Mr. Speaker, I could not agree more. As someone who comes from an agriculture State and somebody who is concerned about the relationship of prime agricultural land to our cities, this interface, the urban-rural interface, is critical to be able to maintain some of the most productive farmland in America.

Right now, we do not have the tools to help preserve it; and sadly, what we have been given from the conference committee makes this situation worse. It cuts critical conservation programs by almost $3 billion from the Senate bill and left out national conservation priorities. Even though the number of farmland acres lost to sprawl doubled, doubled over the last 6 years, the negotiators, in their wisdom, cut $1.25 billion out of the only Federal program to help farmers curb sprawl.

The tension between landowners and Federal agency and conservation interests over the endangered species issues have split communities all over the country. Yet the Wildlife Habitat Incentives Program was cut in half, from the Senate level of almost $1.5 billion to $700 million.

They dropped key language to address national environmental priorities, like reducing runoff to the Chesapeake Bay, and, in my region of the Pacific Northwest, missed an opportunity to reduce the water use in the Klamath Basin, which has been brought to national attention.

These farmers were promised more by the Federal Government over the last century than nature can produce. This was an opportunity to help solve the problem and protect the farmers. They turned their back. It tilted the new grasslands easement program towards short-term contracts instead of permanent easements, even though the overwhelming demand for producers is for permanent easements.

They also failed to adopt Senate language that would have ensured conservation programs work in every State and do not discriminate against farmers and ranchers in areas with high land values. I just find it tragic that our conferees turned their backs on a good product that came from the Senate that would have helped farmers in all of our communities.

I would just conclude my portion, Mr. Speaker, to commend the gentleman from Michigan (Mr. SMITH) and the gentleman from Florida (Mr. DAN MILLER), with whom I look forward again to working on the sugar issue.

But this legislation that we are going to have before us tomorrow represents a sad missed opportunity. It was a lost opportunity for the environment, as I have outlined. It was a lost opportunity in areas like animal welfare, the fighting birds that I mentioned, or being able to take downed animals out of the food chain. It is a food safety, as well as a humane, issue.

This is a lost opportunity for those of us who practice agriculture in the West. This is not a good bill for Oregon, Washington, and California. It hurts, it hurts the majority of farmers who, as the gentleman pointed out, need our help.

I am hopeful, I am hopeful that this House tomorrow will support that motion to recommit to reinstate those limits, to redirect the priorities so that we can make a little progress on this important bill for the future, not just of American agriculture, but for communities from coast to coast, border to border.

□ 1645

Mr. SMITH of Michigan. Well, I would just call to all our colleagues and all staff that might be watching. There is not going to be any debate allowed on this motion to recommit that sets real limits that this House and the Senate has voted for. That motion will come up tomorrow. The failure to include real payments limits in the farming bill, I think, is an example of entrenched special interests frustrating the will of the majority. The conferees, generally the most senior Members of the House and Senate Committee on Agriculture have chosen to ignore public sentiment and congressional sentiment in both the popular vote in both the House and the Senate in favor of serving the largest corporate farms and major grain traders.

They have also slighted I think our President, President Bush, who last August noted the plight of medium-sized farms, and he promised, and I quote again the President, ''One of the things that we are going to make sure of as we restructure the farm program next year is that the money goes to the people it is meant to help.''

Limiting subsidies for any single farmer is an idea whose time has come. If we continue with unlimited government payments under the farm bill for another 6 years, we will see increasing concern among the American people as farmers with huge land holdings with a lower marginal cost of production, pocket an ever-increasing share while more small and medium-size farms go out of business.

The decision for extra production by the very large farmers should be based on the market, not on a guaranteed government price. The public expects farm policy to focus on helping average traditional size family farms. Congress should respect that.

Mr. Speaker, I understand, the gentleman from Florida (Mr. MILLER) is

considering leaving Congress after this next term. He has been a strong voice in an area that usually has not had a voice, and so he certainly has the appreciation of me and many Members of this Congress in his willingness to speak out on some of these tough issues.

Mr. DAN MILLER of Florida. Mr. Speaker, let me repeat some numbers I said just to confirm what you said about not helping small farmers, 88 percent of the money will flow to the top 20 percent. The bottom 80 percent of the recipients that receive subsidies will only get 12 percent of the money. It is overwhelmingly going to the large farmers. And really, basically, 90 percent of the money goes to wheat, corn, cotton, rice and soy beans.

So it is very targeted. Obviously, to get votes they throw in the peanut program. A few billion here, a few billion for sugar. They also have added in small chick peas. I do not know what they do with big chick peas, but small chick peas they will now be subsidized, lentils and dry peas. Well, I am really excited. We do not do a lot of small chick peas business. We get them in cans in my district. Lentils, lentils makes good soup. But why is the Federal Government getting into the subsidy business? It makes no sense to keep expanding the size and scope of the federal government.

The Heritage Foundation estimates that this bill will cost entire taxes to households $1,805, $1,805 per household is the cost to every tax-paying household in this country.

Mr. SMITH of Michigan. Really, that is essentially through taxes, but an increase in the cost of their food. If you add to that maybe some production that the market is paying more than it otherwise would, than there is even additional costs.

Mr. DAN MILLER of Florida. It is targeted. And I admire these States for having the gumption to go out and fight for it, the Dakotas and such.

Florida does not benefit. But I am not saying we should get it because I am a fiscal conservative.

The tomato people do not get it. The cucumber people, the bell pepper people in my district, the orange and grapefruit people, they do not get any subsidy check. This is an entitlement they are creating for the click pea people and the honey people. It is an entitlement. It is not even the discretionary appropriations process.

Now there are some good things in this bill. I support agricultural research. When we look at pests that are brought into this country, that we need to find ways to solve those problems and we have that challenge in our citrus industry. But the problem we have in this bill is it is targeted to big rich farmers and to certain crops in Texas where they get cotton and rice, and Mississippi benefits from it. So for those few States that is their sugar daddy, but it is wrong for the American taxpayer.

Mr. Speaker, I commend the gentleman from Michigan (Mr. SMITH) for taking a leadership role in trying to let the American people know that this is bad for Congress. This is bad as a Republican and it is just bad for the taxpayers of this country.

Mr. Speaker, I insert in the RECORD the following article entitled ''Harrowing U.S. Taxpayers with Ill-Designed Farm Bill.''

HARROWING U.S. TAXPAYERS WITH ILL-DESIGNED FARM BILL

Committees of Congress last week reached an agreement on a farm bill that could cost as much as $100 billion in the next six years and would increase farm subsidies to $191 billion in the next decade.

The reconciled farm legislation, which still must pass the full House and Senate, is an abandonment of the policy established in the Freedom to Farm bill passed six years ago, designed largely to end farmers' dependence on subsidies and allow free markets to determine what and how much they planted.

But every year since 1996 as the economy slowed and prices fell, Congress passed special ''emergency'' measures to keep farmers afloat. Subsidy payments swelled last year to $20 billion.

What's most insulting to taxpayers about the new legislation is that the vast majority of the money the government will pay out does not go to save the fabled family farm, but to increase the profits of big agricultural companies, owners of huge tracts of land that will then use the subsidy payments to buy up the little farms next door.

In December, President Bush told Congress he wanted to see legislation that provides farmers with a safety net based on savings accounts. He wanted fiscally responsible legislation based on free market principles that would expand international trade. The new legislation fails on all counts.

The subsidy payments contemplated for commodity crops like wheat, corn and cotton will be based on production—the more you grow, the more money you receive. So of course the farms with the largest number of acres under cultivation will benefit most, receiving money to buy the small farms the law is supposed to protect.

Think of it. The legislation represents an agreement to subsidize farmers' income at a time when grain and cotton prices are at record lows and production is at an all-time high. Not surprisingly, these crops are grown primarily in 10 Midwestern and Southern states that are considered key to the midterm elections as well as the presidential race in 2004. The plan amounts to a renewal of corporate welfare to achieve a quick bump in farm state politicians' fortunes.

Although the Congressional Budget Office estimates the cost of the measure at $171 billion over 10 years, we don't really know the total cost because it depends greatly on the performance of the farm sector. As the Heritage Foundation's Brian Riedl points out, ''If historical patterns hold and actual agriculture spending ends up double the forecasted level, the farm bill's final cost would increase to $342 billion.''

Consider 1996. As Congress contemplated scaling back the subsidies, lawmakers estimated it would cost some $47 billion between 1996 and 2002. But when commodity prices plunged between 1998 and 2000, Congress instead added $27 billion in emergency payments to farmers. The 1996 law ultimately cost $123 billion.

Despite these scary numbers, consumers are unlikely to feel the cost, spread out as it is among millions of taxpayers. Nevertheless, it is disgusting to contemplate paying out billions to rich farms owned by agricultural companies. It is reckless to contemplate subsidizing already thriving industries.

ENCOURAGING YET MORE PRODUCTION

The farm bill is based on the premise that a surplus of crops caused prices to drop so low that farmers need subsidies to recover lost income. Yet under the legislation the amount of money handed to a farmer depends on how much he grows—thus encouraging yet more production. Inevitably, that will lead to increased subsidy payments.

Although the conference bill contains a $360,000 limit, there are so many exceptions that the number is little more than symbolic.

To be sure, there are some worthy aspects of this legislation. Of importance to Florida is a provision that within two years would require a country-of-origin label to mark meats, fish and fruits and vegetables raised or grown in America. And environmental groups should be pleased with the $17 billion earmarked for conservation.

But those provisions don't justify a bill that perpetuates misguided and outdated policies. If the reconciled measure reaches the president's desk, he should veto it.

Mr. SMITH of Michigan. Mr. Speaker, and that is bad for farmers. The question is how big is a family farm and Members can get into that argument. But the average-size farm in the United States is 460 acres. The average size commercial farm that does not have other outside income has been reported to be 960 acres.

How big would it be if we reached the limits that we are calling for in this motion that we are passing tomorrow? Using average prices for the 2002–01 crop year, it would take 27,392 acres of corn to reach the payment cap without the loophole. It would take 11,195 acres of cotton, 2,683 acres of rice, 5,261 acres of soybeans to run up against the limit in the House and Senate bills. Wheat and sorghum farmers could harvest an unlimited amount of acreage without reaching the limit because average harvest prices exceeded the loan price last year.

The Congressional Research Service, CRS, also calculated the acreage needed to branch the proposed cap based on the lower harvest period prices. What farmers do is they try to farm the program. So they get the largest government benefit when that daily reported price is the lowest. So when the market is the lowest, that is when they want to go to their USDA office and say this is the day that I want the difference between today's local price and the price that you are guaranteeing me for this product.

So that is going to increase the amount that they get from government. And then, of course, they try to sell their commodity either on contract or a forward pricing arrangement where they try to maximize the market price that they get for that product. So most every farmer in the United States ends up receiving more per bushel or per pound of that commodity than is called for in the loan price, the price support subsidy that is given for commodities.

Limits on payments are popular with both the public, with this House. We

need to move ahead and pass this motion to recommit tomorrow. I hope my colleagues will study this issue. Call any of us on the House floor. Call any of the 265 members that voted for an identical provision in our motion to instruct on April 18.

Mr. Speaker, I thank my colleagues for participating.

Mr. Speaker, I also submit for the RECORD at this time some additional details and language of the price limitation provisions.

REPUBLICAN STUDY COMMITTEE,
May 1, 2002.

QUICK FACTS ON THE FARM SECURITY ACT CONFERENCE REPORT

1. Cost: Condenses the approximately $75 billion, 10-year cost of the House bill into 6 years.

2. Future Deficits: The high loan rates will stimulate overproduction, lead to lower prices and force excessive government outlays. This bill will quickly surpass budget estimates and lead to dramatic deficits.

3. Farm Income: Government payments already represent more than 40 percent of net farm income.

4. Food Stamps for Legal Immigrants: Reinstates benefits (which many states are already providing) for legal immigrants who have lived in the U.S. for at least five years. Also restores benefits for legal immigrant children and disabled individuals without minimum residency requirements.

5. TANF: Provides five months of transitional benefits for households leaving Temporary Assistance to Needy Families (TANF).

6. Across-the-Board Increases in Subsidies: Direct subsidy support payment rates are raised (relative to current law) for all crops and soybeans, and minor oilseeds are established as new contract crops eligible for direct payments.

7. Milk: Makes permanent the Milk Price Support Program currently set to expire at the end of May 2002.

8. Dairy: Creates a new 3½-year National Dairy Program to provide monthly and certain annual payments to all U.S. dairy producers. Not one producer has requested this federal manipulation of the private market.

9. Country-of-Origin Labeling: Implements a costly, mandatory, country-of-origin labeling program for meat, fruits, vegetables, fish, and peanuts.

10. Wool and Mohair: Permanently re-institutes the marketing loans and LDPs eliminated in 1996 and only partially and temporarily implemented since then.

11. Honey: Permanently re-institutes the marketing loans and LDPs eliminated in 1996.

12. Peanuts: Establishes new fixed payments and counter-cyclical payments for peanuts (in the same fashion as such payments for grains, cotton, and oilseeds). There is no such provisions for peanuts in current law. ''Buys out'' peanut farmers at 55 cents-per-pound over five years in exchange for the elimination of peanut quotas.

13. Apples: Creates a new commodity program.

14. Onions: Creates a new commodity program.

15. Sugar: Eliminates the loan forfeiture penalty in current law and the House bill.

16. McGovern-Dole: Authorizes $100 million to the George McGovern-Robert Dole International Food for Education and Child Nutrition Program, which would permit the President to direct a selected federal agency to provide U.S. agricultural commodities and financial and technical assistance for foreign preschool and school feeding programs to reduce hunger and improve literacy (particularly among girls), and nutrition programs for pregnant and nursing women and young children.

17. Violations of trade agreements: U.S. trade agreements limit domestic farm supports most likely to distort production and trade to no more than $19.1 billion per year. There is little doubt that under this bill we will exceed these limits: 96 percent of the world's consumers live outside of the United States; agricultural trade is vital for our farmers, and this bill will surely spur our partners to retaliate. For proof, just look at how some of our trading partners are reacting to the new steel tariffs.

18. Grasslands Reserve Program: Creates a new program to enroll up to two million acres of virgin and improved pastureland at a cost of $254 million over six years.

19. Farmland Protection Program: Implements a 20-fold increase in the funding for this program committed since the last farm bill.

20. Wildlife Habitat Incentives Program: Implements a 10-fold increase in the funding for this program committed since the last farm bill.

21. Conservation Security Program: Creates a new national incentive payment program for maintaining and increasing farm and ranch stewardship practices at a whooping cost of $2 billion over six years. If you wanted to walk one mile for every dollar committed to this untested program, you could walk between Washington, DC and Los Angeles almost 667,000 times!

22. Market Access Program: More than doubles (to $200 million annually) the funding for this program.

23. Target prices: Re-institutes ''target prices'' eliminated in 1996. [Target prices are the prices per bushel or other appropriate unit of a covered commodity used to determine counter-cyclinal payment rates.]

24. Loan Deficiency Payments: Expands authority for loan deficiency payments (LDPs) to grazed wheat, oats, barley, triticale, small chickpeas, lentils, and dry peas. [Currently, LDPs can only apply to grains, upland cotton, and oilseeds.]

25. Nutrition Programs: Increases funding for several nutrition programs, including the Emergency Food Assistance Program and the WIC Farmers' Market Nutrition Program.

26. Free Food: Implements a pilot program through which fresh fruits and vegetables will be provided for free in schools.

27. Rural Development Programs: Creates and increases funds for rural development programs, including programs that fund high-speed Internet access and the training of local emergency personnel.

28. Initiative for Future Agriculture and Food Systems: Gives a 67% increase in funding for this research program. Reauthorizes and establishes new agriculture research programs.

29. Forest Management: Creates a new $100-million program to assist private, non-industrial forest landowners in adopting sustainable forest management practices.

30. Bioenergy Programs: Creates 126 million-dollars-worth of new bioenergy programs, including a program to educate government and private fuel consumers about the benefits of biodiesel fuel use.

31. Opposed by Conferees: Vice Chairman of the House Agriculture Committee, Rep. John Boehner (R-OH), and Rep. Cal Dooley (D-CA)—both conferees on this farm bill—have released statements opposing the conference report.

THE HERITAGE FOUNDATION,
Washington, DC, April 30, 2002.

[From Backgrounder, No. 1542]

STILL AT THE FEDERAL TROUGH: FARM SUBSIDIES FOR THE RICH AND FAMOUS SHATTERED RECORDS IN 2001

(By Brian M. Riedl)

Members of Congress who are poised to spend at least $171 billion on direct farm subsidies over the next decade would be wise to examine newly released statistics detailing who actually receives these subsidies. In 2001, fortune 500 companies and large agribusinesses shattered previous farm subsidy records, while small family farmers saw their share of the subsidy pie shrink.

These subsidy programs tax working Americans toward millions to millionaires and provide profitable corporate farms with money that has been used to buy out family farms. The current farm bills would provide even greater subsidies for large farmers, costing the average household $4,400 over the next 10 years, while facilitating increased consolidation and buyouts in the agricultural industry.

HOW FARM SUBSIDIES TARGET LARGE FARMS

Legislators promoting subsidies take advantage of the popular misconception that farm subsidies exist to stabilize the incomes of poor family farmers who are at the mercy of unpredictable weather and crop prices. If that were the case, the federal government could bring the income of every full-time farmer in America up to 185 percent of the federal poverty level ($32,652 for a family of four in 2001) for just $4 billion per year. In reality, however, the government spends nearly $20 billion annually on programs that target large farms and agribusinesses.

Eligiblity for farm subsidies is determined not by income or poverty standards but by the crop that is grown. Growers of corn, wheat, cotton, soybeans, and rice receive more than 90 percent of all farm subsidies, while growers of most of the 400 other domestic crops are completely shut out of farm subsidy programs. Further skewing these awards, the amount of subsidies increase as a farmer plans more crops.

Thus, large farms and agribusinesses—which not only have the most acres of land, but also, because of their economies of scale, happen to be the nation's most profitable farms—receive the largest subsidies. Meanwhile, family farmers with fewer acres receive little or nothing in subsidies. In other words, far from serving as a safety net for poor family farmers, farm subsidies comprise America's largest corporate welfare program.

With agricultural programs designed to target large and profitable farms rather than family farmers, it should come as no surprise that farm subsidies in 2001 were distributed overwhelmingly to large growers and agribusiness, including a number of Fortune 500 companies. The top 10 percent of recipients—most of whom earn over $250,000 annually—received 73 percent of all farm subsidies in 2001.

The main losers in 2001 were the bottom 80 percent of farm subsidy recipients, including most family farmers, who saw their collective share of the subsidy pie shrink from 16 percent throughout the previous five years to 12 percent in 2001. This represents a decline of 25 percent in the share of subsidies received by these farmers.

At the same time, the number of farms receiving over $1 million in farm subsidies in one year increased by 28 percent to a record 69 farms in 2001. Topping the list was Arkansas' Tyler Farms, whose $8.1 million bounty was 90,000 times more than the median farm subsidy of $899—and nearly equal to the total

of farm subsidies distributed to all farmers in Massachusetts and Rhode Island combined.

WHY FARM SUBSIDIES WILL CONTINUE TO TARGET LARGE FARMS

Although farm subsidies have been of greater help to large farms for decades, the evolution of farm subsidies into a corporate Welfare program has accelerated in recent years for 3 reasons: Congress has siphoned record amounts of money into farm subsidies since 1998; and Farm subsidies have helped large corporate farms buy out small farms and further consolidate the industry.

The big grain and cotton traders benefit from programs that encourage more production.

Despite an attempt to phase out farm programs in 1996, Congress reacted to slight crop price decreases in 1998 by initiating the first of four annual ''emergency'' payments to farmers. Subsidies increased from $6 billion in 1996 to nearly $30 billion a year in the new farm bill. Predictably, as subsidies increased, the amounts of subsidies for large farms and agribusinesses also increased.

Although increased subsidies help explain why large farms are receiving more money, however, they do not explain why they are receiving a larger portion of the overall farm subsidy pie. Since 1991, subsidies for large farms have nearly tripled, but there have been no increases in subsidies for small farms. Large farms are grabbing all of the new subsidy dollars from small farms because the federal government is helping them buy out small farms.

Specifically, large farms are using their massive federal subsidies to purchase small farms and consolidate the agriculture industry. As they buy up smaller farms, not only are these large farms able to capitalize further on economies of scale and become more profitable, but they also become eligible for even more federal subsidies—which they can use to buy even more small farms.

The result is a ''plantation effect'' that has already affected America's rice farms, three-quarters of which have been bought out and converted into tenant farms. Other farms growing wheat, corn, cotton, and soybeans are tending in the same direction. Consolidation is the main reason that the number of farms has decreased from 7 million to 2 million (just 400,000 of which are full-time farms) since 1935, while the average farm size has increased from 150 acres to more than 500 acres over the same period.

This farm industry consolidation is not necessarily harmful. Many larger farms and agribusinesses are more efficient, have better technology, and can produce crops at a lower cost than traditional farms; and not all family farmers who sell their property to corporate farms do so reluctantly.

The issue of concern is not consolidation per se, but whether the federal government should continue to subsidize these purchases through farm subsidies and whether multi-million-dollars agricultural corporations should continue to receive welfare payments. When President Franklin Roosevelt first crafted farm subsidies to aid family farmers struggling through the Great Depression, he clearly did not envision a situation in which these subsidies would be shifted to large Fortune 500 companies operating with 21st century technology in a booming economy.

MILLIONS FOR MILLIONAIRES

A glance at some of the recipients of farm subsidies in 2001 shows that many of those receiving these subsidies clearly do not need them. Table 1 shows that 12 Fortune 500 companies received farm subsidies in 2001. Subsidies to the four largest of these recipients—Westvaco, Chevron, John Hancock Mutual Life Insurance, and Caterpillar—shattered their previous record highs.

Table 2 lists other rich and famous ''farmers'' who received massive farm subsidies in 2001. David Rockefeller, the former chairman of Chase Manhattan and grandson of oil tycoon John D. Rockefeller, for example, received a personal record high of $134,556. Portland Trailblazers basketball star Scottie Pippen received his annual $26,315 payment not to farm land he owns in Arkansas. Ted Turner, the 25th wealthiest man in America, received $12,925. Even ousted Enron CEO and multi-millionaire Kenneth Lay received $6,019 for not farming his land. Chart 4 shows how these amounts tower over the amount received by the median farm subsidy recipient, who has received just $899 per year since 1996.

The Heritage Foundation concludes: The farm bills currently being considered by a House-Senate conference committee would further accelerate the transformation of farm subsidies into corporate welfare programs. Most of their enormous $171 billion cost would subsidize highly profitable Fortune 500 companies, agribusinesses, and celebrity ''hobby farmers'' and help fund their purchases of small family farms, and the average American family would be left paying $4,400 in taxes and inflated food prices to benefit millionaires—unless Congress or President George W. Bush finally puts and end to this counterproductive waste of taxpayer dollars.

EDUCATION TAX CREDITS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 60 minutes.

Mr. SCHAFFER. Mr. Speaker, I am attempting during this next hour to discuss an important issue, the issue of education, and to discuss it within the context of education tax credits which is a new kind of exciting idea that is being considered here in Congress.

It is, of course, something that many States know a lot about, but in Washington, it has just been under discussion on pretty serious terms, specifically by our President who has committed his support and pledged his assistance in helping us get a tax credits proposal through the House of Representatives and through the Senate, and ultimately on his own desk.

I want to start off by issuing an invitation to our colleagues who may be monitoring these proceedings that if they are, at any point in time, compelled to come down here on the floor and join in this discussion, I want to leave that invitation open and encourage our colleagues to join us on this important matter.

I know there are many, many people who care with improving education throughout the country. And that is a sentiment that extends to both sides of the aisle. I just returned last night from a trip overseas. I spent the weekend in Ukraine. I was invited by an organization called the East West Institute. In fact, they were the ones that paid for the trip. I was a speaker at a meeting an international conference on Saturday dealing with diplomacy and issues in the Ukraine.

I do not to talk about that as much as something I did on the two extra days that followed this international conference on regional politics and some diplomatic matters. Those next two days, Sunday and Monday, I went out to some of the most remote and rural areas of Ukraine and I visited a few orphanages. And I want to talk about those just for a second, because there is a comparison to be drawn between the way these orphanages work in Ukraine and the way our public school system here in the United States operates.

And the similarities come down to a matter of funding. But first for those children who are in some of these State-owned orphanages in Ukraine, if anybody has any concern or compassion for that part of the world, I would urge you to take a knee at some point in time and say a few prayers for those kids that I saw and others like them that did not have a chance to meet.

These kids have nothing. Of course, they have lost their parents and are in orphanages for a variety of reasons, but even hope is a difficult thing to muster for some of them. I saw kids whose feet were sticking out of their shoes, who were wearing clothes that maybe they walked out of those old pictures that we are used to seeing of those old Nazi concentration camps. The clothing looked exactly like that.

I saw a kid with, oh, he must have been 10 or 11 years old, he had a football shirt on that said 1977 Superbowl on it. It obviously was a piece of clothing that made its way through some kind of humanitarian assistance program. This kid must have been wearing that shirt for quite a long time, and probably other children before him. It had holes in it and so on and he was wearing it anyway.

Just to give you an idea of the conditions. These children were stacked up in their dormitories. These beds are side by side, just lined up just fairly deep into the room. Just narrow beds, narrow walkways between them. These kids had hardly anything of their own in the way of possessions. It is a tough existence.

So we went and met with them and they were asking us to take them home, and they were tugging on my coat and wanting to know if I needed a son. I remember one little boy saying in Ukrainian, I will be no trouble. I am good. I will work and so on.

The reason I went to see these orphanages is because there is a bit of struggle in Ukraine between state-run orphanages and the new emerging orphanages in the country. And those new orphanages are run by churches and charities through the contributions and donations from caring people throughout the world.

These orphanages tend to be smaller. There tends to be a little more contact between the care providers which are often nuns or people involved in various religious organizations and holy orders, and they are good orphanages. The kids are clean. They have lots of things to do. They have a learning opportunity and so on.

It is a shame though that these private Christian orphanages are having a difficult time receiving children, getting these children into the orphanages. There is a struggle between the state-run institutions and the private-run institutions.

When I explored the reason for this and it comes down to funding, which is a real shame because in one orphanage on the outskirts of town, the city was Kuznetsorsk in Ukraine, a little west of Kiev, the nation's capital, we would see the state-run orphanage with hundreds of kids in it, clearly overcrowded; and yet a few miles away would be a private orphanage with empty beds in it. And while the children in the state-run orphanages were suffering and had no clothes, or least clothes that were just deplorable and very pathetic, the children just nearby were doing quite well and thriving. And so what is the difference between the two? It was a real shame to see this.

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Here is the answer. In State-run orphanages, each child represents a certain dollar amount to the people who run that orphanage, and they do not want to give up those kids because if a child leaves and goes to a private orphanage run by a church or a charity, if a child were to leave the State-run orphanage, the funding would be reduced somewhat at that institution, and eventually if enough kids left, some of the people who have jobs at these orphanages feel that those jobs would be threatened, and they would lose their opportunity for employment.

So the kids suffer so that the institution and the people who work there can benefit and the institution can exist. Meanwhile, opportunities for children to thrive just across town are not being utilized because of this funding issue.

It seems such a shame, especially when we realize the loss of opportunity for so many young children in Ukraine, until we realize that this is the same model we use in America to fund our children's school systems. It really works the same way, and the motivations are quite similar when it comes right down to it.

We have schools throughout the country that are run by private organizations, sometimes religious organizations, that have a remarkable track record. They have empty desks because they can accommodate more children, rescue more children from inner cities, provide education and academic opportunity for them, yet they are involved with the struggle between the private institutions and the State-owned or the government-owned institutions, just a few miles away in many cases.

So while children languish in America, typically in inner city schools, and sometimes in rural schools, it could be anywhere, I suppose, the solution is clearly there, but the kids are not relinquished to the better opportunity because the people who run the failing inner city government-owned schools believe that if someone has a choice, they have some level of competitiveness, that their jobs would somehow be threatened.

It does not have to be that way, and it is my hope that we could find a better solution, a better model than that that we have seen in the former Soviet Union and maybe come up with a solution that more closely approximates our American traditions, the tradition of honest, hard work, of free market competition, of marketplace choices that give parents real power, customers real authority to determine the terms of quality, to drive down costs and to ensure a certain level of professionalism that is designed to achieve the expectations of the customers themselves.

We have that to some degree today. There are many private schools around the country that do fairly well, that manage to attract children, but usually it is predicated upon the wealth of the child's parents. They have the cash to pay the tuition and the income to forego the taxes they have already paid to buy the child's spot in the government-owned school. Then they might send their child to one of these private schools, and if enough do it, there may be a savings according to scale that allows the institution to reach out to some children in poverty. We see that in Jewish schools, Catholic schools, Christian schools of a variety of sorts, a handful of private schools that are not associated with any denomination or religious faith and are just targeted toward low income kids.

We have also seen the emergence of scholarship organizations where people contribute their money, even people who do not have children necessarily who contribute their hard-earned cash to these scholarship organizations to provide some assistance to poor children so that they might be able to have a choice and attend the school that they and their parents believe is in the best interests of their child.

Those are exciting trends, and it is that trend that has inspired Congress to consider tax credits, and we are not the first to arrive on the scene, by any means, and I want to give credit where that is due. That credit is due to the States. There are several States, about 10 of them, that have moved forward pretty aggressively on establishing choice elements in their laws, sometimes in their tax law, sometimes through the granting of State vouchers, a voucher that would allow a child to attend a private school, but tonight I want to focus on those examples of States that have created tax incentives to encourage and facilitate and ease the desires of taxpayers within their jurisdictions to contribute voluntarily to scholarship organizations that allow the most needy children in their States to attend the best schools.

According to those who actually make the decisions to choose that, it is an important distinction because we are not talking about schools that are determined to be high quality or in the best interests of a child based on some judgment of government and government workers, bureaucrats, but rather quality as determined by the marketplace, by the customers, by those who presumably have the greatest level of interest for the child, and those tend to be people who actually know the names of these children. More specifically, we are talking about parents and guardians.

We are just a few weeks away, maybe not even that long, of introducing an exciting tax credit bill that is modeled after some of the success stories in a handful of States, and the bill will simply reduce the obligation of a taxpayer to send their tax dollars here to Washington if they will instead send a certain amount of their tax obligation directly to one of these scholarship organizations or to a private or a public school. It would be their choice.

What it does is it gets away from this notion that we have today of taxpayers working hard, shovelling mountains of cash to Washington, D.C., so that the politicians here can distribute it according to government-driven formulas, and some day those dollars actually get back to children in classrooms. By the time it does, there is just a fraction of those dollars left, and that is unfortunate.

What we want to do is through manipulation of the Tax Code, tax law, encourage a direct contribution from taxpayer to child.

I have got a chart here, Mr. Speaker, of where our tax dollars go now. I know this is a very difficult chart to see, but I will describe what I am pointing out if my colleagues cannot see it.

Up here at the top is a figure of a guy working. He is sawing a piece of wood. So here is our worker in America who is earning a wage, and based on those wages, paying taxes. He pays his taxes to the Treasury Department. This is where the IRS would be found.

From the Treasury Department those dollars go to politicians who we would find right here in this area. Those are people like me here in Congress and others like us. We divvy up these dollars, the dollars that people work hard to earn. We divvy up the tax dollars. In fact, I should write that in here. Politicians should be right here. There is one more step in this filter of tax dollar process.

So we redistribute the wealth of the country. We spend a portion of it on the U.S. Department of Education who we would find in this column here. The Department of Education redistributes these dollars through a variety of Federal programs to the States.

At the State level, the State legislators get ahold of these funds, more politicians, and redistribute that wealth further within their own States, distributing those dollars through the State departments of education down to school districts, which is where we find more politicians, school board members, who redistribute the wealth

down to schools in their communities, and ultimately and finally, those dollars will trickle down to the child way down here at the bottom.

That is a long list of steps for a dollar to get from the taxpayer to the tax recipient and, again, I mention some of the shortcomings of my chart here. I apologize for that. There are a few of the things that are missing along the way as well, so there are actually more steps in this chart than this chart actually represents.

As we can see, every one of these agencies along the way takes their cut. So by the time our dollars really get down to a child, first of all, the government has decided which school buildings are going to get the money. They have decided which children are going to be the winners or the losers, and they have decided that there are other things important in life like paying for all this bureaucracy that is, in fact, a higher priority to many here in Washington and at the State levels and even at the school district levels than the poor child down here at the bottom. So we have a different idea of getting dollars to children.

For those who are here in Washington, and there are plenty of them, who think this is a really great idea, this model of all these different steps of getting money to children, it is not here by accident. It is here because politicians built it this way. They like this. Some of their friends work in these agencies and departments. Some of their friends get some of the cash that goes to these different levels of government. Some of their teachers' unions get these dollars instead of these children.

So there are lots of people who win in this model here, and many have proposed getting rid of all of this nonsense, and that may be a good idea, but that is not what we are here to propose today because it is just too difficult. The politics supporting this whole structure and this system is pretty impressive. It is gigantic, as a matter of fact.

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

Mr. SCHAFFER. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will let me have the chart for a minute, I think the interesting thing about this chart is as soon as the step takes place from the individual working, the taxpayer, putting the money into the Treasury Department by paying their taxes on April 15 or through Mr. FICA, which they pay on a weekly basis, this all of a sudden so many people no longer refer to as the taxpayer's money but as soon as that goes into here, this becomes a government dollar. So people will talk about government dollars and they will forget that really this should not be the top, this should be the foundation of the chart. The foundation of the chart is 280 million Americans paying taxes in to Washington, D.C. with private dollars, and then all of the sudden somewhere in between the taxpayer and the Department of Treasury, this becomes a government dollar.

Let me tell my colleagues why I brought that up. There is a great story this week in USA Today talking about churches heed a calling to educate poor children. We all recognize that perhaps some of our lowest performing schools or lowest performing areas are in the inner city urban areas, but in their first paragraph, ''for an expected flood of neighborhood children who may soon have government dollars.'' So in the first paragraph they are talking about government dollars.

These are not government dollars, and the article spends a lot of time talking about vouchers. That is not what my colleague and I are talking about. What we are talking about is allowing individuals with their private dollars to make investments in schools and education and make it in every type of school, a learning opportunity that is available today in America, so that if somebody wants to make a donation to their local public school for a specific program or a specific endeavor that they have at their local public school, they can do that.

If they want to make a donation to a private school or parochial school or to an education investment fund that offers assistance to low income students to receive the kind of education that they might want, and really what it does is, as Secretary Rod Paige says, he says, here it is kind of interesting for our parents today. A quote, Parents pick out everything from book bags and haircuts to clothes but then their children march off to a school that some bureaucracy has chosen for them, not to a school that the parents have said this is my child, I know this kid pretty well and this is the kind of environment that they are going to learn best in.

It goes on to talk about Mr. Sullivan, who is the mayor of Indianapolis or, excuse me, he is an Indianapolis pastor and a former teacher, established his own Northstar Christian Academy because, ''I saw the need for spiritual, moral values being taught as a foundation on which to build the academics I felt that was the key to a lack of motivation for learning.''

Now, is that the appropriate model for every child in America? Probably not. Is that the appropriate model for the individuals that Pastor Sullivan knows? It may be exactly what that community and what his parishioners may need.

He goes on, and talking about, ''Churches are probably one of the most stable black-owned institutions in this Nation, and black churches have stayed in the community,'' Sullivan says. ''Anything short of operating our own schools and having access to these children is going to show minimal results because the schools have them for seven hours a day, the church has them for a couple of hours a week. It is not realistic to think we can turn a student around in a couple of hours.''

Some would argue that it is hard to determine whether the churches are the answer, but what is happening around the country today is that some parents are saying it is worth the gamble.

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For example, the story goes on to talk about security guard Trinidad Casas of San Antonio. He began selling blood four times a month to make up the difference left from the privately financed scholarship. That is exactly what my colleague and I are talking about is that individuals would have the opportunity to receive privately financed scholarships, to make up the difference his son gets to attend the Christian Academy of San Antonio. He also tries to work as much overtime as possible to earn tuition money.

It is just incredible, says Yolanda Molina, principal of the 2-year-old academy, which has doubled in size in 1 year and has a waiting list of 85. That is just one story of many.

And, again, think about this. We are not only expanding the dollars in education, we are growing the education investment in America's schools, again for public schools, for private schools, for parochial schools, and for tutoring. So we are growing the education pie. We are not talking about saying, hey, this money right now goes to public schools and we are going to take some of that and give it so kids can go somewhere else. We are saying to the public school folks that have a great tradition in America and do a great job that we are going to allow them to raise more money and we are going to allow others to raise more money for their things.

And what we will see then is we will increase the education investment in America, and we also will increase educational opportunities and choices in America; so that the school that Pastor Sullivan wants to start in his community in Indianapolis, he can do it. We will get more people involved in education; we will get more folks focused on kids, and that is what this is all about. It is all about the kids.

Mr. SCHAFFER. I appreciate the gentleman speaking in those terms, about the fact that we are trying to find a way to inject more cash in the education system.

We mentioned this very inefficient process we have today of getting education dollars to a child going through this whole filter of government. And we are not really talking about disrupting this at all or even funding it less. This system is going to continue to get more because it has a lot of advocates here. But we want to introduce a new tax manipulation that will allow more dollars, a massive cash infusion into America's education system.

Mr. HOEKSTRA. If the gentleman will yield, it would be very similar to

the significant cash infusion that we did today for child care in the welfare reform bill.

Mr. SCHAFFER. Right.

Mr. Speaker, I yield to the gentleman from Florida, who has got almost a very similar chart.

Mr. WELDON of Florida. I have a chart very similar to the gentleman; and, Mr. Speaker, I first want to commend both the gentleman from Colorado (Mr. SCHAFFER) and the gentleman from Michigan (Mr. HOEKSTRA) for their leadership in support of real meaningful education reform for our kids.

Our children are the most important heritage we have. We devote so much of what we do in this country to raising up the next generation of children in the hope that they will be able to become responsible citizens and become the leaders of tomorrow. We have a great heritage in the United States. Millions of great Americans have gone before us walking in all kinds of fields of knowledge and expertise, from the sciences to politics, to poetry, to education, the arts; and what we do and how we go about raising up the next generation is, in many ways, the most important thing that we do.

In my opinion, we do have in many ways an inefficient system of helping educate our kids. We take a dollar out of a taxpayer's pocket and then what do we do with it? This chart to my left, I think, lays it out very, very clearly. It goes from the taxpayer's back pocket to the Department of the Treasury, then it goes to the Department of Education, then it goes to the State, and then from the State it typically goes to the State Department of Education, after it gets politically manipulated, and then it goes ultimately down to the local school district.

In the State of Florida, which I represent, it goes to the county. We have a county system of school districts. So the county I happen to live in, Brevard County, Florida, 500,000 people, they have a very large school district, over a billion dollar budget. They get these Federal dollars that comes through the Department of Education and through the State, through the State Department of Education, finally to the local school district; and ultimately, it ends up at the school level.

But here, way down here on my left, here is poor Johnny. And what we are really talking about here is that dollar that came out of the taxpayer's pocket is not a dollar when it arrives down here. I do not know what the figure is, maybe one of these gentlemen here can help me. Is it 50 cents, 60 cents?

Mr. HOEKSTRA. If the gentleman will yield.

Mr. WELDON of Florida. I would be happy to yield; however, I think the gentleman from Colorado controls the time.

Mr. SCHAFFER. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Well, basically, in the work my colleague and I have done in the Committee on Education and the Workforce, we have found that when a dollar goes into the Federal Treasury and then goes through the Department of Education and goes through all those steps, we think that through that process we lose somewhere in the neighborhood of 25 to 35 cents. So that only about 65 cents ever makes it down to your local school to Johnny's classroom.

I do not know if the gentleman has a dry marker with him or not, but what we are talking about here, if we go to an education tax credit—

Mr. WELDON of Florida. I have it right here in this chart.

Mr. HOEKSTRA. That is it. That is what we are taking about, a $500 tax credit per individual, $1,000 for joint filers. That thousand dollars does not go through that bureaucracy any more; it goes directly from the taxpayer directly to Johnny's school. They get full benefit of that thousand dollars.

Mr. WELDON of Florida. Mr. Speaker, if the gentleman will continue to yield to me, that is why I am here. That is why I am speaking in support of this initiative.

This man right here is a taxpayer. We are taking a dollar out of his pocket to send 70 cents to this young man here, who may be his son, may be a kid in his neighborhood, may be his grandson or his granddaughter. What we have here is an alternative proposal to help education in the United States, where we take a dollar out of his pocket, through the form of a tax credit, and it goes right to the kids. That is what this is all about.

One of the other things I wanted to say, and I think the gentleman from Michigan was alluding to this earlier, if we want to get parental involvement, if we want to get parents more engaged in the education process, this is a great way to do it, where they can actually see an impact, where it is not going through a big bureaucracy in Washington, a big bureaucracy in the State capital. It is going right from the parents to the children.

I think it is a great way to reinvigorate parental involvement in our education. Every educator I have ever spoken to in all my years in the political arena, they all tell me that is the most important thing in the success of a child's education, after good quality teachers, it is parental involvement. It is number one.

So this is a great proposal. I think everybody in the Congress should support it, and I yield back to the gentleman.

Mr. SCHAFFER. Mr. Speaker, first, I would just like to ask a couple of questions about Florida's law. Florida is one of the States that has really been out in front in trying to provide relief valves, or safety valves, for children who have languished in failing schools for any length of time, and it has made a real difference in the State of Florida.

I would just like to commend the gentleman's State and ask him to comment on the difference that school choice has made for his constituents and his friends and neighbors.

Mr. WELDON of Florida. Well, I thank the gentleman for bringing this issue up, because I just had a conversation with our Governor, Jed Bush, about this very issue.

The A-Plus plan is a very simple plan. If the school is scored low, parents can take their child and the money that was going to their child and go to a private school. The education bureaucracy, teachers unions, liberals on the left went absolutely berserk. They said it would be the total demise of public education in the State of Florida. It was the end of the world, and the sky was falling.

There was only one or two schools that scored really low, and a few kids went off into the private system. But what really happened was that every single school in the State made a tremendous effort, particularly the failing schools, the poorly performing schools, to improve their act. Because no school, no teacher wanted to be at a school that was scored low, no principal wanted to be the principal of that school. What happened is the entire academic performance of the whole State has gone up.

The Governor of our State told me that piece of legislation was the single most important piece of legislation to improve the quality of education in the State of Florida in probably 20, 30, or 40 years. It motivated teachers, principals, administrators to work very, very hard because they knew they were being held accountable.

In my opinion, I would say this to Governors and school administrators all over the United States: You want to improve education? Establish a program like we did in Florida. Because that is what happened. We were doing annual studies on all these schools, how many kids are failing, and the grades came up. Average grades came up, and schools started performing better. It was absolutely miraculous. I do not know what else to say.

We need that. Part of the problem in education in America is there are a lot of systems where there is no accountability. They can turn out kids that just are not learning year after year and nothing happens to anybody. They keep their jobs, they keep their positions. Under the threat of actually being held accountable, it has been absolutely tremendous.

Talk to our lieutenant governor, Frank Brogan, who previously was the education commissioner in the State of Florida; and he has been following this issue very, very closely, as well as our current education commissioner. And they will tell you hands down the A-Plus program was a fabulous, fantastic success.

Frankly, I was disappointed we were not able to include that in the President's education reform package. I was very disappointed that it was opposed by many people in this body as well as

the other body; and ultimately, in the end, we were not successful in including it in the package. I believe we need to fight for that in the years ahead because it makes a difference in the lives of kids.

I am glad the gentleman brought it up. I am happy to speak about it anywhere because it is the truth. The A-Plus plan helped kids, and that is really what it is all about.

Mr. SCHAFFER. We had something like the Florida plan in the draft of the President's bill as it was introduced last year, and it got stripped out right at the first committee hearing. It did not last very long.

That is, frankly, why we are here now, because since the choice elements were stripped out of the President's bill, something the President wanted, we have been working with the White House and have spoken directly with the President; and he has committed to making sure that a choice element, a tax credit provision, becomes law and becomes a high priority in this Congress.

But I would like to ask the gentleman from Michigan to comment, if he would, on just this notion of choice. The gentleman from Florida indicated very clearly the experience we have seen in several other States through the research of the Committee on Education and the Workforce is that public schools, government-owned schools are really not threatened by choice.

That is where we find the greatest resistance up front, because there are people who think if we allow this system to have some kind of alternative funding structure, that all the people who are employed at any of these levels are somehow going to lose their jobs, if we can, instead, adopt the model on that chart, of direct contributions to education and more of a market approach. But what we found is very different. These people do not lose their jobs; they just get better at it.

Mr. HOEKSTRA. I thank my colleague for yielding. Let me give an example in Michigan.

In Michigan, we passed a proposal called Proposal A. What Proposal A did is it led towards equalized funding so that if you are a student in Highland, Michigan, or Detroit, or whatever, you are going to get relatively the same amount of money per student enrolled. That has been very, very positive because we had great discrepancies between one school district versus another. So we have narrowed that gap.

One of the sides effects of that has been that the public school administrators have now kind of, I like to call it, become Beggars de Lansing. If they get some special needs in their community or whatever, they no longer have that direct connection to the taxpayer and to the parents in their community that says, hey, we have a special need and we need some extra money for the next 3 to 5 years for an English as a second language program, or we really want to keep this school open. They cannot do it anymore. They have to go to the State legislature. And the State legislature does not really understand that community.

What tax credits will now do, the money that will be there with the taxpayer, that is new money going in to education, money not being invested in education today; and that will help our public schools as well to be able to go into their community and say we have this special need; we want to do this, and the folks at the State capital do not have the latitude or the flexibility to give us this money. Will you give us that money? And if they have built up a credible relationship and they are well respected in their community, they can expect an infusion of additional money to meet some of the needs that they may have.

□ 1730

I think the gentleman is absolutely right that the case in Florida is that this raises all of education. It raises public education and provides them an important link back into their community. It can raise private and parochial education, and that is what we are trying to do here. I talked to kids from Hudsonville, Michigan, and I have three children, and I am very selfish. When those kids come out of college and high school, I want them to have the best education of any kids in the world. I want that to be available to every kid in America. I do not care if the kids in Japan match our kids' education. I hope they do. We want good educational opportunities for all of our kids around the world, but the one thing that I will not accept is that our kids will come out of our educational system with a second-rate education, that they will be second, third, fourth or fifth to kids somewhere else in the world because that means that the jobs that they will have, the life-style that they will have, and the opportunities that they will have will become diminished.

We need to make sure that every single one of our kids gets the best education in the world. This is one other step, and combining it with accountability and with more money going into education and then raising every type of education, private, parochial and public, to raise education.

Mr. SCHAFFER. I would like to talk about why this is a superior method to funding children in schools as opposed to the system we have today. We cannot reduce the tax burden of Americans to the extent that many of us would want, certainly the amount that I would like. I would be in favor of rather large tax cuts for Americans.

Assume a constant with respect to a taxpayer's obligation to the Federal Government, just for purposes of this discussion. Under a tax credit provision, a taxpayer would really have a choice. They can continue to send their cash to Washington, just as we have been doing for years through this chart here, a taxpayer sending his money to the IRS, the Treasury Department, it goes through all of these stages of political decision making, and bureaucratic redirecting before it gets to a child. If somebody likes this, they can continue to send their money to children this way. Many Americans probably will initially, or they would have a choice.

Mr. HOEKSTRA. If the gentleman would yield, they are not going to have a choice. That is going to stay there.

Mr. SCHAFFER. And the tax credit will not be the equivalent amount that we are proposing, all of the dollars that the taxpayer is forced, they are still going to send money.

Mr. HOEKSTRA. And money is still going to go through this system.

Mr. SCHAFFER. We are offering a choice to take a portion of these dollars and contribute them directly to an education organization, a student tuition organization or an education investment organization that would exist as they do in many States today. That would look a little more like this.

So the choice we are offering is made possible through a manipulation of the Tax Code through tax credits. Every dollar that somebody would contribute within limits in this fashion, would reduce the amount of cash that a taxpayer is forced today by our Tax Code to send through the government, and that is essentially what we are talking about.

As I mentioned, we are not inventing the idea here. The States have proceeded on this long before us. Arizona probably has one of the best models which has been studied in great detail. There is an analysis just a few months old produced by Carrie Lipps and Jennifer Jacobi which details how successful Arizona has been in injecting massive amounts of cash into the education system of Arizona, again, based on this voluntary basis and manipulation of the Arizona Tax Code, and not only that, but they have been able to provide dollars in a way where 80 percent of scholarship recipients in that State were selected on the basis of financial need.

So they are really reaching out in Arizona to the children with the greatest need in the State. They are injecting cash through a massive infusion into the program, they are creating school choice in a way that is not only providing assistance to the private organizations which participate in these tax credits and these scholarships, but also the public schools in Arizona which have improved as a result of being a more exciting and vibrant marketplace.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague, and when we introduce the concept of a tax credit at the Federal level, that is new money going into education. The typical local school district will only receive 7 percent of their money from Washington. When we introduce the concept of a Federal tax credit, this is new money going into the local schools, directly

from the community, this is not a redirection. This is growing the pie, and allowing the pie to grow for our public schools and allowing the pie to grow for all of our kids.

That is a little different. And Americans have some concerns about tax credits at a State level because they think we are just redirecting it. We are not just redirecting it. We will have the history soon from Arizona, Pennsylvania and Minnesota to see whether it grew the educational pie or whether it redirected it.

Clearly, when we talk about Federal education tax credits, we are talking about significant amounts of new money being directed into education, and it is being directed by the community, the parents and the individual at the local level. They are making the choice as to whether they want to invest more money into their local public schools, which is a wonderful opportunity.

Mr. SCHAFFER. In Arizona, the tax credit has been studied. From 1998 to 2000, the Arizona credit generated $32 million in new funds. It did not take a dime away from the Arizona public education school funding structure, and it provided almost 19,000 scholarships through 30 different organizations. That is 19,000 scholarships which provided new freedom for children in Arizona. This is a great example, a great accomplishment for the State, and we hope we can do something similar on a nationwide basis. In States like Arizona, which already have the credit, this will add greater emphasis and power.

The gentleman from Colorado (Mr. TANCREDO) is here, and is very familiar with tax credit initiatives, one is pending right now in Colorado, as well as some voucher efforts that the gentleman has pushed in the past. I yield to the gentleman.

Mr. TANCREDO. Mr. Speaker, I wanted to come to the floor for a couple of reasons. First of all, to express my gratitude to the gentleman from Colorado (Mr. SCHAFFER) who has spent as much time on this issue as he has. It is important for everyone to understand that an issue like this does not get this far without at least one person devoting himself almost entirely to its advancement. It is because of the dynamic involvement of the gentleman from Colorado (Mr. SCHAFFER) that we are actually on the cusp of doing something here with it in the House of Representatives.

I thank the gentleman. We would not be talking about it, and it would not be formulated in a legislative package if not for the gentleman.

It is a long history that this movement has had, the idea of school choice. For years we were confronted, those of us who were pushing concepts like vouchers, in the past, were confronted by an educational establishment that reverted back to the time-tested responses like this will take money away from public schools. This is a creaming scheme, a reason to get other kids, the good kids out of public schools and into private schools. It is not a level playing field. All of the rest of the stuff that we have heard for years.

The beauty of this plan, this idea, is that it takes away all of the arguments that the other side has used for years to try to stop it. It does not take money away from public schools. As the gentleman was saying, it is, in fact, adding money for the most part to the educational pile that is out there.

The wonderful thing about this plan, a tax credit for scholarships to be given out by agencies at the State level, the wonderful thing about it is that we can concentrate on one thing, the children. All the rest of the stuff, all of the spooky stuff that the enemies of educational reform keep throwing out, and have for years and years about the destruction, this will destroy public schools, all of those things are swept off of the table here. We are talking about one thing and one thing only, and that is the child. What is in the best interest of a child seeking an education in this Nation?

This makes us focus on that, and it takes away all of the stuff that surrounds the argument otherwise about the system. What we are saying here is that if individuals, especially those individuals who are economically disadvantaged, quite frankly they are probably going to be the people who benefit the most as a result of this, most of the State scholarship organizations will probably focus on low-income kids, and what we are saying is we are going to give a child an opportunity to obtain an education, and the Federal Government is not going to participate by writing rules or regulations or trying to strangle the private school. What we are talking about is freedom.

The one thing we know now, empirical evidence, we have thought for a long time that educational freedom would, in fact, enhance educational quality. But it was a theory. Now we know something. We have evidence of it. We have cities around the country, Milwaukee with a very long experience, Cleveland, which is just getting into this, but we have now tons of empirical evidence that shows us that educational freedom does, in fact, translate into educational quality.

That is all we care, and that is the beauty of this concept. It has nothing to do with systems or trying to construct a special kind of educational system. What we are saying here is look, we are not the school board members in the sky. The Federal Government is not going to take on a role as the school board member for every kid. What we are simply saying is parents, parents will be able to make a choice. They will be economically empowered for the first time in their lives to make a choice, and that has got to accrue for the benefit of the child. That is what makes this so good.

I compliment the gentleman from Colorado (Mr. SCHAFFER) for his devotion to this concept.

Mr. SCHAFFER. Mr. Speaker, I appreciate the gentleman focusing on the superior quality of a tax credit proposal because it does focus on children rather than institutions.

The gentleman is correct. Again, if we go through the chart here of how a taxpayer dollar today makes its way through this long, elaborate process of bureaucracies to finally get down to a child down here, each one of these agencies has their own political constituency that is a part of it.

If we focus down here at the last stage and that is at the school level, and maybe even back up one to the school district level, in Colorado there are 163 school districts in my State. That is just one State. If we look at other States and add them up, there are thousands of these organizations. They are political entities, political institutions. They are institutions that exist on paper and in law books and exist as corporations of sorts. These institutions today is really how we measure fairness, by comparing these institutions.

□ 1745

We are comparing how school buildings are treated as compared to other school buildings; comparing how one facility is treated as compared to another facility; how the budget that goes into the management of school A is compared to the management of school B.

For years, many of us have come down here on this House floor and have advocated a different model where the institutions matter less and the children start to matter more, so that we begin to measure fairness by evaluating the relationship between children.

What we have today is a situation where children who have no option other than this model here tend to languish in some of the worst schools in America, and they have no freedom. If they happen to be stuck in a bad school that does not serve their needs, they have no place to go. They cannot afford it, and we want to give them a way to afford it, a way to be involved in an education in the marketplace, to choose the academic goals that are in their long-term best interests, and begin to build an education system where the children are the centerpiece of an education strategy for the country, not the tail-end of the education strategy for the country, which is where we are right now. That is what education tax credits allow us to accomplish.

I want to point out for a moment now the distinction between education tax credits and other choice models. The word ''vouchers'' has come up even in this debate. Vouchers make a lot of sense when compared to this process of getting dollars to children. Again, this is just a little more visual, because you

can see the funding filter that takes place between taxpayer and tax recipient.

A voucher removes a lot of these steps, but it still involves, when it comes right down to it, your cash being confiscated as taxes, going to the government, and the government giving those dollars back in the form of a voucher to a child with certain strings and conditions attached. Again, that is better than what we have today in American education, but it still has its weaknesses in that politicians and governments define the use of these dollars, define the terms of quality, define the terms of cost and so on, as opposed to a marketplace.

But education tax credits really cut government out altogether and begin to regard the education professionals as legitimate professionals. Today they are really not treated that way in a government-run system. They are all paid the same. You can go to almost any school, government-owned school district in America, and the worst teacher is paid typically the same as the best teacher in the district, and it is just a function of how long they have been there and how many degrees they were able to add to their resume. If they manage to not hurt anyone or not be too terribly incompetent, they will stay there and continue to get pay raises, regardless of whether they leave when the bell rings at 3 o'clock or whether they stay until 6 o 'clock doing additional work. This reality is the leading cause of burnout among teachers in America. They last, the average time period, this has been studied with respect to burnout, somewhere between 3 and 4 years.

But creating an academic marketplace begins to regard teachers as real professionals and education managers as professionals as well, because, rather than being, as the gentleman from Michigan said, beggars of government in the State of Michigan, he called that ''beggars to Lansing,'' they become reconnected with the community instead.

I want to elaborate on that for a moment, because it is really true. When funding only flows through this process, each of these agencies develop their own internal language between them. The grants that school districts apply for, that our States apply for back up this chain, are stated in terms that are written by other bureaucrats at these other levels of government. So you have got all kinds of acronyms and all kinds of programs and departments and a whole language that only people in that system understand.

I have been at lots of meetings about this. Every Member of Congress has sat through meetings where people come from their districts back home, and maybe a principal of a school district will come to our offices here in Washington and talk about a specific grant they are applying for at the Federal level, and they have the State coordinator who is cooperating in this and the Federal person they need to reach.

It is like alphabet soup. We need you to apply for an ABC grant that goes to the DEF agency that is going to be evaluated by the XYZ person in agency whatever. You get the picture. It becomes a whole internal language that these people understand, and they become kind of comfortable with it. And, if they do a good job at it, I suppose they become pretty comfortable in achieving these objectives.

But this is not the language of the neighborhood. This is not the language of a community. When we allow our school board members and superintendents to only be proficient beggars of government, because that is the only place the money comes from, then we cause them to speak in a language that is just not understood by the parents, who are only interested in one thing, and that is their children. An education tax credit really allows us to break out of that old bureaucratic model because it gives parents choices and corporations choices, I might add, in the proposal we are piecing together right now.

Imagine a school board member, if you would, or a superintendent, who creates an innovative program for a school, for maybe a specific target cohort of children, and instead of coming to Washington to try to describe why this would help children, they would instead go to the Rotary Club in their hometown, or maybe to a charitable foundation in their community. Maybe at this point they will start using the names of the kids, maybe showing them pictures, and the people sitting at the other end of the table might actually recognize them as children they go to church with or see at the baseball field or maybe even recognize from their own child's school.

The conversation becomes very different. Rather than ABC program, DEF agency, XYZ administrator, we start talking about the children. If you just invest your dollars in my program at my school, we are going to reach out to Johnny. He has a name. And after you invest, I would invite you to come into the school so you can see the computers that you have purchased. And after you have seen the computers that you have purchased, maybe we can show you the evaluations of the program and show you how it actually helped Johnny.

It really does not happen today to a great extent, and providing a change in the Tax Code to ease the ability, to make it easier for individuals to contribute to schools of this nature, we will see these kinds of funds, these enrichment funds, these opportunity funds crop up all across the country.

They already exist in all 50 States today, specifically targeted for low income and underserved children. But if we just look at the examples of States that have established State tax credits, we realize that we are going to see lots of them, tens of thousands of them, I believe.

Mr. Speaker, the State of Arizona, upon creating its tax credit, saw these student tuition organizations just emerge in great quantity, about 70 or 80 of them almost immediately. I think they have more than that today. But it is an exciting proposal, and it is one that I want to underscore with the greatest emphasis here in Congress.

I am especially inspired and encouraged by the commitment of the President to see a tax credit plan pass this year and by the commitment of our Speaker and our leaders here in the House to bring this tax credit proposal about which we speak tonight to this floor during this session, and I am hopeful that the people of America who care about their own children, and care about others as well, will find a way to rally around this exciting tax credit proposal that will create a massive tax infusion in America's education system and help create an academic marketplace where children matter more than institutions.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GREEN of Texas (at the request of Mr. GEPHARDT) for today on account of attending a funeral in the district.

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. CRANE (at the request of Mr. ARMEY) for today and May 2 on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. GIBBONS, for 5 minutes, May 7.

Mr. DUNCAN, for 5 minutes, today.

Mr. FLAKE, for 5 minutes, today.

ADJOURNMENT

Mr. SCHAFFER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Thursday, May 2, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6525. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's

final rule—Viruses, Serums, and Toxins and Analogous Products; Autogenous Biologics [Docket No. 95–066–2] received April 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6526. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Change in Disease Status of the Czech Republic Because of BSE [Docket No. 01–062–2] received April 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6527. A letter from the Under Secretary, Department of Defense, transmitting the Department's report entitled, ''V–22 Program Status'' required by Section 124 of the National Defense Authorization Act for Fiscal Year 2002; to the Committee on Armed Services.

6528. A letter from the Legislative and Regulatory Activities Division, Department of the Treasury, transmitting the Department's final rule—Risk-Based Capital Standards: Claims on Securities Firms [No. 2002–5] (RIN: 1550–AB11) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6529. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Amendment of Regulations Regarding Certain Label Statements on Prescription Drugs [Docket No. 00N–0086] received April 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6530. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Records and Reports Concerning Experience With Approved New Animal Drugs [Docket No. 88N–0038] (RIN: 0910–AA02) received April 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6531. A letter from the Acting General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands [Docket No. RM02–2–000] received April 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6532. A letter from the Secretary of the Commission, Bureau of Consumer Protection, Enforcement Division, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')—received April 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6533. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Medical Use of Byproduct Material (RIN: 3150–AF74) received April 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6534. A letter from the Chief Executive Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6535. A letter from the Senior Attorney, Financial Management Service, Department of the Treasury, transmitting the Department's final rule—Federal Government Participation in the Automated Clearing House (RIN: 1510–AA84) received April 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6536. A letter from the Secretary, Department of State, transmitting an Annual Program Performance Report for FY 2001; to the Committee on Government Reform.

6537. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Cost-of-Living Allowances (Nonforeign Areas); Allowance Rate Adjustments (RIN: 3206–AJ26 and 3206–AJ15) received April 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6538. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—West Virginia Regulatory Program [WV–088–FOR] received April 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6539. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole/Flathead Sole/ ''Other Flatfish'' by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area [Docket No. 011218304–1304–01; I.D. 022102A] received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6540. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 011218304–1304–01; I.D. 012402B] received April 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6541. A letter from the Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Announcement of Funding Opportunity to Submit Proposals for the Monitoring and Event Response for Harmful Algal Blooms (MERHAB) Program [Docket No. 020213030–2030–01; I.D. No. 012202C] received April 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6542. A letter from the Deputy Assistant Administrator for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Financial Assistance for Research and Development Projects in Chesapeake Bay to Strengthen, Develop and/or Improve the Stock Conditions of the Chesapeake Bay Fisheries [Docket No. 020314060–2060–01; I.D. 022502B] (RIN: 0648–ZB15) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6543. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 011218304–1304–01; I.D. 031802A] received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6544. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Averaging of Farm Income (RIN: 1545–AW05) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6545. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Disclosure of Returns and Return Information by Other Agencies [REG–105344–01] (RIN: 1545–AY77) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6546. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and in methods of accounting (Rev. Proc. 2002–17) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6547. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Dollar-Value LIFO Regulations; Inventory Price Index Computation Method (RIN: 1545–AX20) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6548. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Time for Eligible Air Carriers to File the Third Calendar Quarter 2001 Form 720 (RIN: 1545–BA42) received April 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6549. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—IRS Announces New Position With Regard To Consolidated Return Loss Disallowance Rule (Notice 2002–11) received April 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6550. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Dollar-Value LIFO Earliest Acquisition Method—received April 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6551. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2002–20) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6552. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2002–18) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6553. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in method of accounting (Announcement 2002–37) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6554. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment of Certain Amounts Paid to Section 170(c) Organizations under Employer Leave-Based Donation Programs (Notice 2001–64) received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6555. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Disallowance of Deductions and Credits for Failure to File Timely Return (RIN: 1545–BA40) received April 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6556. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous [Notice 2002–7] received April 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6557. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Proposed Revenue Procedure Regarding the Cash Method (Notice 2001–76) received April 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6558. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous (Rev. Proc. 2001–59) received April 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6559. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Requirements Relating to Certain Exchanges Involving a Foreign Corporation—received April 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6560. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Time for performing certain acts postponed by reason of service in a combat zone or a Presidentially declared disaster (Rev. Proc. 2001–53) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6561. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Questions and Answers Regarding Dividend Elections Under Section 404(k) and ESOP's Holding Corporation Stock—received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6562. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—New Markets Tax Credit (RIN: 1545–BA49) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6563. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Collection Functions (Rev. Proc. 2001–58) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6564. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment of Loans with Below-Market Interest Rates (Rev. Rul. 2001–64) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6565. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous (Rev. Proc. 2001–60) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6566. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Safe Harbor Explanation—Certain Qualified Plan Distributions (Notice 2002–3) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6567. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Extension of Time to File Form(s) 1042–S—received April 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6568. A letter from the General Counsel, Department of Defense, transmitting the Department's proposed legislation relating to civilian personnel, home-to-work transportation of employees, small business matters, reporting requirements in the Office of Federal Procurement Policy Act, and contractor claims; jointly to the Committees on Small Business and Government Reform.

6569. A letter from the General Counsel, Department of Defense, transmitting the Department's proposed legislation entitled the ''National Defense Authorization Act for Fiscal Year 2003''; jointly to the Committees on Armed Services, Resources, Transportation and Infrastructure, Energy and Commerce, Government Reform, Veterans' Affairs, and the Budget.

6570. A letter from the General Counsel, Department of Defense, transmitting the Department's proposed legislation relating to the housing of civilian teachers at Guantanamo Bay, and expansion of our dependent summer school program, and clarification of authority relating to United Nations' efforts to inspect and monitor Iraqi weapons systems; jointly to the Committees on Education and the Workforce, International Relations, Ways and Means, Veterans' Affairs, Transportation and Infrastructure, the Judiciary, Energy and Commerce, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COMBEST: Committee of Conference. Conference report on H.R. 2646. A bill to provide for the continuation of agricultural programs through fiscal year 2011 (Rept. 107–424). Ordered to be printed.

Mr. TAUZIN: Committee on Energy and Commerce. House Joint Resolution 87. Resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982 (Rept. 107–425). Referred to the Committee of the Whole House on the state of the Union.

Mr. LINDER: Committee on Rules. House Resolution 403. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2646) to provide for the continuation of agricultural programs through fiscal year 2011 (Rept. 107–426). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 404. Resolution providing for consideration of motions to suspend the rules (Rept. 207–427). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HOUGHTON (for himself and Mr. WELLER):

H.R. 4626. A bill to amend the Internal Revenue Code of 1986 to accelerate the marriage penalty relief in the standard deduction and to modify the work opportunity credit and the welfare-to-work credit; to the Committee on Ways and Means.

By Mr. BARRETT (for himself, Mr. RUSH, and Ms. SCHAKOWSKY):

H.R. 4627. A bill to amend the Real Estate Settlement Procedures Act of 1974 to prohibit certain unearned fees in connection with settlement services involved in residential mortgage loan transactions; to the Committee on Financial Services.

By Mr. GOSS:

H.R. 4628. A bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. TOM DAVIS of Virginia:

H.R. 4629. A bill to amend the Office of Federal Procurement Policy Act to establish a program to encourage and support carrying out innovative proposals to enhance homeland security, and for other purposes; to the Committee on Government Reform.

By Mr. GEPHARDT (for himself, Mr. HOEFFEL, Mr. RANGEL, Mr. FROST, Mr. MARKEY, Mrs. CLAYTON, Mr. LAMPSON, Mr. LANGEVIN, Mr. TIERNEY, Mr. MEEKS of New York, Mr. SHERMAN, Mr. FILNER, Ms. SLAUGHTER, Mr. FRANK, Mr. BONIOR, Ms. MCKINNEY, Mr. BLUMENAUER, Mr. STRICKLAND, Mr. UDALL of Colorado, Mr. BERMAN, Mr. SCOTT, and Ms. DELAURO):

H.R. 4630. A bill to review, reform, and terminate unnecessary and inequitable Federal subsidies; to the Committee on Government Reform, and in addition to the Committees on Ways and Means, Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FALEOMAVAEGA:

H.R. 4631. A bill to amend titles XI and XIX of the Social Security Act to provide American Samoa with treatment under the Medicaid Program similar to that provided to States; to the Committee on Energy and Commerce.

By Mrs. MINK of Hawaii:

H.R. 4632. A bill to amend the Internal Revenue Code of 1986 to direct the Secretary of the Treasury to notify certain taxpayers of the eligibility requirements for the earned income credit; to the Committee on Ways and Means.

By Mr. MORAN of Virginia (for himself and Mr. TOM DAVIS of Virginia):

H.R. 4633. A bill to amend title 23, United States Code, to establish standards for State programs for the issuance of drivers' licenses and identification cards, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA (for herself, Mr. DUNCAN, and Mr. WOLF):

H.R. 4634. A bill to establish certain legal waivers for physicians who provide assistance in the National Capital Area during any period in which a public health emergency is in effect in such Area; to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska (for himself and Mr. MICA):

H.R. 4635. A bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NORWOOD (for himself, Mr. DELAY, Mr. BALLENGER, Mr. SAM JOHNSON of Texas, Mr. GRAHAM, Mr. DEMINT, Mr. CULBERSON, and Mr. TANCREDO):

H.R. 4636. A bill to amend certain labor laws to ensure fairness; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETRI (for himself and Mr. KIND):

H.R. 4637. A bill to amend section 402A of the Higher Education Act of 1965 to define the terms different campus and different population; to the Committee on Education and the Workforce.

By Mr. THUNE:

H.R. 4638. A bill to reauthorize the Mni Wiconi Rural Water Supply Project; to the Committee on Resources.

By Mr. WU:

H.R. 4639. A bill to eliminate the termination date on authority for schools with

low default rates to make single disbursements of student loans; to the Committee on Education and the Workforce.

By Mrs. CLAYTON (for herself, Mr. CASTLE, Ms. PRYCE of Ohio, Mr. TOWNS, Mr. SHAYS, and Mr. CAMP):

H. Con. Res. 393. Concurrent resolution expressing the sense of Congress that the Nation should take additional steps to ensure the prevention of teen pregnancy by engaging in measures to educate teenagers as to why they should stop and think about the negative consequences before engaging in premature sexual activity; to the Committee on Energy and Commerce.

By Mr. ROYCE (for himself and Mr. BECERRA):

H. Con. Res. 394. Concurrent resolution expressing the sense of the Congress concerning the 2002 World Cup and co-hosts Republic of Korea and Japan; to the Committee on International Relations.

By Mr. OBEY:

H. Res. 405. A resolution expressing the moral requirement to end violence and terrorism in the Middle East; to the Committee on International Relations.

By Mr. HEFLEY (for himself, Mr. RAMSTAD, Mr. STUPAK, Mr. CONYERS, and Mr. SENSENBRENNER):

H. Res. 406. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women killed or disabled while serving as peace officers; to the Committee on Government Reform.

By Mr. LOBIONDO:

H. Res. 407. A resolution honoring and recognizing the contributions of older Americans; to the Committee on Education and the Workforce.

By Mr. WU (for himself, Ms. PELOSI, Mr. FALEOMAVAEGA, Mr. LARSON of Connecticut, Mr. HINCHEY, Mr. SANDLIN, Mr. HONDA, Mr. ABERCROMBIE, Mr. UNDERWOOD, Mr. CUMMINGS, Mr. MATSUI, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON, Mr. BECERRA, Ms. LEE, Ms. SOLIS, Ms. BALDWIN, Ms. MILLENDER-MCDONALD, Mrs. MINK of Hawaii, and Mr. SCHIFF):

H. Res. 408. A resolution recognizing the contributions of Asian Pacific Americans to our Nation; to the Committee on Government Reform.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 122: Mr. BILIRAKIS, Mrs. MYRICK, and Mr. DIAZ-BALART.

H.R. 303: Mr. CULBERSON.

H.R. 394: Mr. PASTOR, Mr. HAYES, and Mrs. JOHNSON of Connecticut.

H.R. 482: Mr. SCHROCK and Mr. WILSON of South Carolina.

H.R. 488: Mr. MEEKS of New York, Mr. FATTAH, and Mr. OWENS.

H.R. 537: Mr. MCGOVERN.

H.R. 786: Mr. RUSH.

H.R. 848: Mr. ACEVEDO-VILA, Mr. SHERMAN, Mr. ENGLISH, and Mr. ACKERMAN.

H.R. 853: Mr. GOODE.

H.R. 975: Mr. BACHUS, Mr. FATTAH, Mr. WELLER, Mr. MURTHA, and Mr. REHBERG.

H.R. 984: Mr. RADANOVICH.

H.R. 993: Mr. UDALL of Colorado.

H.R. 1090: Mr. BRADY of Texas, Mr. HALL of Ohio, Mr. PLATTS, Mr. PENCE, Mr. CONYERS, Mr. BISHOP, Mr. CARSON of Oklahoma, and Mr. WEXLER.

H.R. 1097: Mr. MASCARA, Mr. BROWN of Ohio, and Mr. PHELPS.

H.R. 1194: Mr. SOUDER.

H.R. 1262: Ms. SOLIS.

H.R. 1265: Mr. SNYDER.

H.R. 1434: Mr. OLVER.

H.R. 1522: Mr. HALL of Ohio, Mr. MORAN of Virginia, and Mr. OLVER.

H.R. 1556: Mr. COBLE, Mrs. MYRICK, Mr. SHERMAN, Mr. JACKSON of Illinois, and Mr. BARRETT.

H.R. 1581: Mr. BRADY of Texas, Mr. HAYWORTH, and Mr. NORWOOD.

H.R. 1864: Mr. SWEENEY.

H.R. 1904: Ms. BALDWIN.

H.R. 2074: Mr. WATT of North Carolina.

H.R. 2125: Mr. SIMMONS, Mr. HILLEARY, Mr. SUNUNU, and Mr. ACKERMAN.

H.R. 2148: Ms. NORTON, Mr. ETHERIDGE, and Mrs. MEEK of Florida.

H.R. 2163: Mr. TIERNEY.

H.R. 2219: Mr. SCHIFF and Mr. COSTELLO.

H.R. 2253: Mr. KIND.

H.R. 2258: Mr. RODRIGUEZ.

H.R. 2419: Mr. KINGSTON and Mr. MCDERMOTT.

H.R. 2466: Mr. EDWARDS.

H.R. 2570: Mr. BOEHLERT.

H.R. 2573: Mr. DAVIS of Illinois.

H.R. 2623: Mr. LIPINSKI.

H.R. 2649: Mr. GRAHAM, Mr. PETERSON of Pennsylvania, Mr. MEEKS of New York, Mr. WELDON of Pennsylvania, and Mrs. CAPITO.

H.R. 2663: Mr. BARRETT and Mr. LATOURETTE.

H.R. 2683: Mr. PUTNAM and Mr. CULBERSON.

H.R. 2706: Mr. SANDERS and Mr. STUPAK.

H.R. 2723: Mr. SHAYS.

H.R. 2820: Mr. BONIOR.

H.R. 2874: Mr. MCHUGH, Mr. DOOLEY of California, Mr. KING, and Mr. PASTOR.

H.R. 2931: Mr. SAM JOHNSON of Texas.

H.R. 3037: Mr. FRANK.

H.R. 3278: Mr. BOUCHER, Mr. HOLT, and Mr. MCGOVERN.

H.R. 3320: Mr. RAMSTAD and Mr. HOEFFEL.

H.R. 3374: Mr. BACA.

H.R. 3424: Mr. BALDACCI and Mr. BARRETT.

H.R. 3430: Mr. TERRY.

H.R. 3443: Mr. UDALL of Colorado and Mr. PAUL.

H.R. 3482: Mr. RODRIGUEZ and Mr. NORWOOD.

H.R. 3580: Mrs. ROUKEMA and Mr. PITTS.

H.R. 3584: Mr. MCINNIS.

H.R. 3585: Mr. GEORGE MILLER of California.

H.R. 3612: Mr. LEWIS of Georgia, Ms. DEGETTE, Mr. COSTELLO, Mr. MURTHA, Mr. MOORE, and Mr. MCNULTY.

H.R. 3624: Mr. PALLONE and Mr. GUTIERREZ.

H.R. 3670: Mr. LAMPSON and Mr. SANDLIN.

H.R. 3681: Mr. KIND and Mr. GONZALEZ.

H.R. 3686: Mr. ISSA.

H.R. 3710: Mr. LATHAM.

H.R. 3814: Mrs. DAVIS of California, Mr. MCNULTY, Ms. CARSON of Indiana, Mrs. TAUSCHER, and Ms. NORTON.

H.R. 3831: Mr. RODRIQUEZ, Mr. YOUNG of Alaska, and Mr. JONES of North Carolina.

H.R. 3833: Ms. CARSON of Indiana and Mr. ISSA.

H.R. 3911: Mr. INSLEE.

H.R. 3940: Mr. GRAHAM.

H.R. 3951: Mr. WAMP.

H.R. 4018: Mr. EDWARDS.

H.R. 4030: Mr. THORNBERRY and Mr. SOUDER.

H.R. 4034: Mr. BLUMENAUER and Mr. WAXMAN.

H.R. 4037: Mr. KILDEE and Ms. ROS-LEHTINEN.

H.R. 4039: Mr. EVANS and Mr. HALL of Ohio.

H.R. 4046: Mr. FRANK.

H.R. 4066: Ms. MILLENDER-MCDONALD, Ms. ROYBAL-ALLARD, Ms. VELAZQUEZ, Mr. STUPAK, Mr. BECERRA, and Mr. DAVIS of Illinois.

H.R. 4071: Mr. MICA.

H.R. 4119: Mr. PENCE.

H.R. 4152: Mr. BAKER and Ms. ROS-LEHTINEN.

H.R. 4187: Mr. SANDERS, Mr. NADLER, Ms. HOOLEY of Oregon, and Mr. SNYDER.

H.R. 4236: Mr. RANGEL, Ms. KILPATRICK, and Mr. TOWNS.

H.R. 4260: Mr. CALLAHAN.

H.R. 4446: Mr. ISAKSON, Mr. BARR of Georgia, Mr. LEWIS of Kentucky, Mr. MICA, and Mr. OWENS.

H.R. 4483: Mr. CLEMENT, Mrs. KELLY, Mr. KING, Mr. ENGLISH, and Mr. MCNULTY.

H.R. 4488: Mr. HERGER.

H.R. 4551: Mr. CLEMENT, Mr. FROST, Mr. PALLONE, Ms. SLAUGHTER, Mr. WAXMAN, Mr. PASCRELL, Ms. WOOLSEY, Mr. MATSUI, Mr. GEORGE MILLER of California, Mr. FATTAH, Mr. BALDACCI, and Mr. UDALL of Colorado.

H.R. 4614: Ms. DELAURO, Mr. HINCHEY, Mr. KUCINICH, Mr. DEFAZIO, and Mr. NADLER.

H.J. Res. 15: Mr. FRELINGHUYSEN.

H. Con. Res. 99: Ms. DELAURO, Mrs. MALONEY of New York, and Mr. LANTOS.

H. Con. Res. 315: Mr. KINGSTON and Mr. LINDER.

H. Con. Res. 318: Mr. MOORE.

H. Con. Res. 320: Mr. CLAY.

H. Con. Res. 355: Mr. SHERMAN, Mr. WAXMAN, Mr. MCGOVERN, Mr. DEUTSCH, Mr. FILNER, Mr. ISRAEL, Mr. NADLER, Mrs. MORELLA, and Mr. Engle.

H. Con. Res. 359: Mr. RODRIGUEZ.

H. Res. 355: Mr. REYES.

H. Res. 361: Mr. ENGLISH.

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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.''

[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.

[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.
>
> 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.
>
> 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.''

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.

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.

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.

Sec. 1. Short title.
Sec. 2. Table of contents.

DIVISION A—RELIABLE AND DIVERSE POWER GENERATION AND TRANSMISSION

TITLE I—REGIONAL COORDINATION

Sec. 101. Policy on regional coordination.
Sec. 102. Federal support for regional coordination.

TITLE II—ELECTRICITY

Subtitle A—Amendments to the Federal Power Act

Sec. 201. Definitions.
Sec. 202. Electric utility mergers.

Sec. 203. Market-based rates.
Sec. 204. Refund effective date.
Sec. 205. Open access transmission by certain utilities.
Sec. 206. Electric reliability standards.
Sec. 207. Market transparency rules.
Sec. 208. Access to transmission by intermittent generators.
Sec. 209. Enforcement.
Sec. 210. Electric power transmission systems.

Subtitle B—Amendments to the Public Utility Holding Company Act

Sec. 221. Short title.
Sec. 222. Definitions.
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.
Sec. 226. Exemption authority.
Sec. 227. Affiliate transactions.
Sec. 228. Applicability.
Sec. 229. Effect on other regulations.
Sec. 230. Enforcement.
Sec. 231. Savings provisions.
Sec. 232. Implementation.
Sec. 233. Transfer of resources.
Sec. 234. Inter-agency review of competition in the wholesale and retail markets for electric energy.
Sec. 235. GAO study on implementation.
Sec. 236. Effective date.
Sec. 237. Authorization of appropriations.
Sec. 238. Conforming amendments to the Federal Power Act.

Subtitle C—Amendments to the Public Utility Regulatory Policies Act of 1978

Sec. 241. Real-time pricing and time-of-use metering standards.
Sec. 242. Adoption of additional standards.
Sec. 243. Technical assistance.
Sec. 244. Cogeneration and small power production purchase and sale requirements.
Sec. 245. Net metering.

Subtitle D—Consumer Protections

Sec. 251. Information disclosure.
Sec. 252. Consumer privacy.
Sec. 253. Office of Consumer Advocacy.
Sec. 254. Unfair trade practices.
Sec. 255. Applicable procedures.
Sec. 256. Federal Trade Commission enforcement.
Sec. 257. State authority.
Sec. 258. Application of subtitle.
Sec. 259. Definitions.

Subtitle E—Renewable Energy and Rural Construction Grants

Sec. 261. Renewable energy production incentive.
Sec. 262. Assessment of renewable energy resources.
Sec. 263. Federal purchase requirement.
Sec. 264. Renewable portfolio standard.
Sec. 265. Renewable energy on Federal land.

Subtitle F—General Provisions

Sec. 271. Change 3 cents to 1.5 cents.
Sec. 272. Bonneville Power Administration bonds.

TITLE III—HYDROELECTRIC RELICENSING

Sec. 301. Alternative conditions and fishways.

TITLE IV—INDIAN ENERGY

Sec. 401. Comprehensive Indian energy program.
Sec. 402. Office of Indian Energy Policy and Programs.
Sec. 403. Conforming amendments.
Sec. 404. Siting energy facilities on tribal lands.
Sec. 405. Indian Mineral Development Act review.
Sec. 406. Renewable energy study.
Sec. 407. Federal Power Marketing Administrations.
Sec. 408. Feasibility study of combined wind and hydropower demonstration project.

TITLE V—NUCLEAR POWER

Subtitle A—Price-Anderson Act Reauthorization

Sec. 501. Short title.
Sec. 502. Extension of indemnification authority.
Sec. 503. Department of Energy liability limit.
Sec. 504. Incidents outside the United States.
Sec. 505. Reports.
Sec. 506. Inflation adjustment.
Sec. 507. Civil penalties.
Sec. 508. Treatment of modular reactors.
Sec. 509. Effective date.

Subtitle B—Miscellaneous Provisions

Sec. 511. Uranium sales.
Sec. 512. Reauthorization of thorium reimbursement.
Sec. 513. Fast Flux Test Facility.
Sec. 514. Nuclear Power 2010.
Sec. 515. Office of Spent Nuclear Fuel Research.
Sec. 516. Decommissioning pilot program.

Subtitle C—Growth of Nuclear Energy

Sec. 521. Combined license periods.

Subtitle D—NRC Regulatory Reform

Sec. 531. Antitrust review.
Sec. 532. Decommissioning.

Subtitle E—NRC Personnel Crisis

Sec. 541. Elimination of pension offset.
Sec. 542. NRC training program.

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.
Sec. 602. Federal onshore leasing programs for oil and gas.
Sec. 603. Oil and gas lease acreage limitations.
Sec. 604. Orphaned and abandoned wells on Federal land.
Sec. 605. Orphaned and abandoned oil and gas well program.
Sec. 606. Offshore development.
Sec. 607. Coalbed methane study.
Sec. 608. Fiscal policies to maximize recovery of domestic oil and gas resources.
Sec. 609. Strategic Petroleum Reserve.
Sec. 610. Hydraulic fracturing.
Sec. 611. Authorization of appropriations.
Sec. 612. Preservation of oil and gas resource data.
Sec. 613. Resolution of Federal resource development conflicts in the Powder River Basin.

TITLE VII—NATURAL GAS PIPELINES

Subtitle A—Alaska Natural Gas Pipeline

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Purposes.
Sec. 704. Issuance of certificate of public convenience and necessity.
Sec. 705. Environmental reviews.
Sec. 706. Pipeline expansion.
Sec. 707. Federal Coordinator.
Sec. 708. Judicial review.
Sec. 709. State jurisdiction over in-State delivery of natural gas.
Sec. 710. Loan guarantee.
Sec. 711. Study of alternative means of construction.
Sec. 712. Clarification of ANGTA status and authorities.
Sec. 713. Definitions.
Sec. 714. Sense of the Senate.
Sec. 715. Alaskan pipeline construction training program.

Subtitle B—Operating Pipelines

Sec. 721. Environmental review and permitting of natural gas pipeline projects.

Subtitle C—Pipeline Safety

PART I—SHORT TITLE; AMENDMENT OF TITLE 49

Sec. 741. Short title; amendment of title 49, United States Code.

PART II—PIPELINE SAFETY IMPROVEMENT ACT OF 2002

Sec. 761. Implementation of Inspector General recommendations.
Sec. 762. NTSB safety recommendations.
Sec. 763. Qualifications of pipeline personnel.
Sec. 764. Pipeline integrity inspection program.
Sec. 765. Enforcement.
Sec. 766. Public education, emergency preparedness, and community right-to-know.
Sec. 767. Penalties.
Sec. 768. State oversight role.
Sec. 769. Improved data and data availability.
Sec. 770. Research and development.
Sec. 771. Pipeline integrity technical advisory committee.
Sec. 772. Authorization of appropriations.
Sec. 773. Operator assistance in investigations.
Sec. 774. Protection of employees providing pipeline safety information.
Sec. 775. State pipeline safety advisory committees.
Sec. 776. Fines and penalties.
Sec. 777. Study of rights-of-way.
Sec. 778. Study of natural gas reserve.
Sec. 779. Study and report on natural gas pipeline and storage facilities in New England.

PART III—PIPELINE SECURITY SENSITIVE INFORMATION

Sec. 781. Meeting community right-to-know without security risks.
Sec. 782. Technical assistance for security of pipeline facilities.
Sec. 783. Criminal penalties for damaging or destroying a facility.

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.
Sec. 802. Expedited procedures for congressional increase in fuel economy standards.
Sec. 803. Revised considerations for decisions on maximum feasible average fuel economy.
Sec. 804. Extension of maximum fuel economy increase for alternative fueled vehicles.
Sec. 805. Procurement of alternative fueled and hybrid light duty trucks.
Sec. 806. Use of alternative fuels.
Sec. 807. Hybrid electric and fuel cell vehicles.
Sec. 808. Diesel fueled vehicles.
Sec. 809. Fuel cell demonstration.
Sec. 810. Bus replacement.
Sec. 811. Average fuel economy standards for pickup trucks.
Sec. 812. Exception to HOV passenger requirements for alternative fuel vehicles.
Sec. 813. Data collection.
Sec. 814. Green school bus pilot program.
Sec. 815. Fuel cell bus development and demonstration program.
Sec. 816. Authorization of appropriations.
Sec. 817. Temporary biodiesel credit expansion.
Sec. 818. Neighborhood electric vehicles.
Sec. 819. Credit for hybrid vehicles, dedicated alternative fuel vehicles, and infrastructure.
Sec. 820. Renewable content of motor vehicle fuel.
Sec. 820A. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.
Sec. 820B. Commercial byproducts from municipal solid waste loan guarantee program.

Subtitle B—Additional Fuel Efficiency Measures

Sec. 821. Fuel efficiency of the Federal fleet of automobiles.
Sec. 822. Idling reduction systems in heavy duty vehicles.
Sec. 823. Conserve By Bicycling program.
Sec. 824. Fuel cell vehicle program.

Subtitle C—Federal Reformulated Fuels

Sec. 831. Short title.

Sec. 832. Leaking underground storage tanks.
Sec. 833. Authority for water quality protection from fuels.
Sec. 834. Elimination of oxygen content requirement for reformulated gasoline.
Sec. 835. Public health and environmental impacts of fuels and fuel additives.
Sec. 836. Analyses of motor vehicle fuel changes.
Sec. 837. Additional opt-in areas under reformulated gasoline program.
Sec. 838. Federal enforcement of State fuels requirements.
Sec. 839. Fuel system requirements harmonization study.
Sec. 840. Review of Federal procurement initiatives relating to use of recycled products and 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.
Sec. 902. State energy programs.
Sec. 903. Energy efficient schools.
Sec. 904. Low income community energy efficiency pilot program.
Sec. 905. Energy efficient appliance rebate programs.

Subtitle B—Federal Energy Efficiency

Sec. 911. Energy management requirements.
Sec. 912. Energy use measurement and accountability.
Sec. 913. Federal building performance standards.
Sec. 914. Procurement of energy efficient products.
Sec. 915. Repeal of energy savings performance contract sunset.
Sec. 916. Energy savings performance contract definitions.
Sec. 917. Review of energy savings performance contract program.
Sec. 918. Federal Energy Bank.
Sec. 919. Energy and water saving measures in congressional buildings.
Sec. 920. Increased use of recovered material in federally funded projects involving procurement of cement or concrete.

Subtitle C—Industrial Efficiency and Consumer Products

Sec. 921. Voluntary commitments to reduce industrial energy intensity.
Sec. 922. Authority to set standards for commercial products.
Sec. 923. Additional definitions.
Sec. 924. Additional test procedures.
Sec. 925. Energy labeling.
Sec. 926. Energy Star Program.
Sec. 927. Energy conservation standards for central air-conditioners and heat pumps.
Sec. 928. Energy conservation standards for additional consumer and commercial products.
Sec. 929. Consumer education on energy efficiency benefits of air-conditioning, heating, and ventilation maintenance.
Sec. 930. Study of energy efficiency standards.

Subtitle D—Housing Efficiency

Sec. 931. Capacity building for energy efficient, affordable housing.
Sec. 932. Increase of CDBG public services cap for energy conservation and efficiency activities.
Sec. 933. FHA mortgage insurance incentives for energy efficient housing.
Sec. 934. Public housing capital fund.
Sec. 935. Grants for energy-conserving improvements for assisted housing.
Sec. 936. North American Development Bank.
Sec. 937. Capital fund.
Sec. 938. Energy-efficient appliances.
Sec. 939. Energy efficiency standards.
Sec. 940. Energy strategy for HUD.

Subtitle E—Rural and Remote Communities

Sec. 941. Short title.
Sec. 942. Findings and purpose.
Sec. 943. Definitions.
Sec. 944. Authorization of appropriations.
Sec. 945. Statement of activities and review.
Sec. 946. Eligible activities.
Sec. 947. Allocation and distribution of funds.
Sec. 948. Rural and remote community electrification grants.
Sec. 949. Additional authorization of appropriations.
Sec. 950. Rural recovery community development block grants.

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.

Subtitle B—Climate Change Strategy

Sec. 1011. Short title.
Sec. 1012. Definitions.
Sec. 1013. National climate change strategy.
Sec. 1014. Office of National Climate Change Policy.
Sec. 1015. Office of Climate Change Technology.
Sec. 1016. Additional offices and activities.

Subtitle C—Science and Technology Policy

Sec. 1021. Global climate change in the Office of Science and Technology Policy.
Sec. 1022. Director of Office of Science and Technology Policy Functions.

Subtitle D—Miscellaneous Provisions

Sec. 1031. Additional information for regulatory review.
Sec. 1032. Greenhouse gas emissions from Federal facilities.

TITLE XI—NATIONAL GREENHOUSE GAS DATABASE

Sec. 1101. Purpose.
Sec. 1102. Definitions.
Sec. 1103. Establishment of memorandum of agreement.
Sec. 1104. National Greenhouse Gas Database.
Sec. 1105. Greenhouse gas reduction reporting.
Sec. 1106. Measurement and verification.
Sec. 1107. Independent reviews.
Sec. 1108. Review of participation.
Sec. 1109. Enforcement.
Sec. 1110. Report on statutory changes and harmonization.
Sec. 1111. Authorization of appropriations.

DIVISION E—ENHANCING RESEARCH, DEVELOPMENT, AND TRAINING

TITLE XII—ENERGY RESEARCH AND DEVELOPMENT PROGRAMS

Sec. 1201. Short title.
Sec. 1202. Findings.
Sec. 1203. Definitions.
Sec. 1204. Construction with other laws.

Subtitle A—Energy Efficiency

Sec. 1211. Enhanced energy efficiency research and development.
Sec. 1212. Energy efficiency science initiative.
Sec. 1213. Next generation lighting initiative.
Sec. 1214. Railroad efficiency.
Sec. 1215. High power density industry program.
Sec. 1216. Research regarding precious metal catalysis.

Subtitle B—Renewable Energy

Sec. 1221. Enhanced renewable energy research and development.
Sec. 1222. Bioenergy programs.
Sec. 1223. Hydrogen research and development.

Subtitle C—Fossil Energy

Sec. 1231. Enhanced fossil energy research and development.
Sec. 1232. Power plant improvement initiative.
Sec. 1233. Research and development for advanced safe and efficient coal mining technologies.
Sec. 1234. Ultra-deepwater and unconventional resource exploration and production technologies.
Sec. 1235. Research and development for new natural gas transportation technologies.
Sec. 1236. Authorization of appropriations for Office of Arctic Energy.
Sec. 1237. Clean coal technology loan.

Subtitle D—Nuclear Energy

Sec. 1241. Enhanced nuclear energy research and development.
Sec. 1242. University nuclear science and engineering support.
Sec. 1243. Nuclear energy research initiative.
Sec. 1244. Nuclear energy plant optimization program.
Sec. 1245. Nuclear energy technology development program.

Subtitle E—Fundamental Energy Science

Sec. 1251. Enhanced programs in fundamental energy science.
Sec. 1252. Nanoscale science and engineering research.
Sec. 1253. Advanced scientific computing for energy missions.
Sec. 1254. Fusion energy sciences program and planning.

Subtitle F—Energy, Safety, and Environmental Protection

Sec. 1261. Critical energy infrastructure protection research and development.
Sec. 1262. Research and demonstration for remediation of groundwater from energy activities.

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

Sec. 1301. Department of Energy global change research.
Sec. 1302. Amendments to the Federal Nonnuclear Research and Development Act of 1974.

Subtitle B—Department of Agriculture Programs

Sec. 1311. Carbon sequestration basic and applied research.
Sec. 1312. Carbon sequestration demonstration projects and outreach.
Sec. 1313. Carbon storage and sequestration accounting research.

Subtitle C—International Energy Technology Transfer

Sec. 1321. Clean energy technology exports program.
Sec. 1322. International energy technology deployment program.

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.
Sec. 1332. Changes in definitions.
Sec. 1333. Change in committee name and structure.
Sec. 1334. Change in national global change research plan.
Sec. 1335. Integrated Program Office.
Sec. 1336. Research grants.
Sec. 1337. Evaluation of information.

PART II—NATIONAL CLIMATE SERVICES AND MONITORING

Sec. 1341. Amendment of National Climate Program Act.
Sec. 1342. Changes in findings.
Sec. 1343. Tools for regional planning.

Sec. 1344. Authorization of appropriations.
Sec. 1345. National Climate Service Plan.
Sec. 1346. International Pacific research and cooperation.
Sec. 1347. Reporting on trends.
Sec. 1348. Arctic research and policy.
Sec. 1349. Abrupt climate change research.

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

Sec. 1351. Ocean and coastal observing system.
Sec. 1352. Authorization of appropriations.

Subtitle E—Climate Change Technology

Sec. 1361. NIST greenhouse gas functions.
Sec. 1362. Development of new measurement technologies.
Sec. 1363. Enhanced environmental measurements and standards.
Sec. 1364. Technology development and diffusion.
Sec. 1365. Authorization of appropriations.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

Sec. 1371. Regional climate assessment and adaptation program.
Sec. 1372. Coastal vulnerability and adaptation.
Sec. 1373. Arctic research center.

PART II—FORECASTING AND PLANNING PILOT PROGRAMS

Sec. 1381. Remote sensing pilot projects.
Sec. 1382. Database establishment.
Sec. 1383. Air quality research, forecasts and warnings.
Sec. 1384. Definitions.
Sec. 1385. Authorization of appropriations.

TITLE XIV—MANAGEMENT OF DOE SCIENCE AND TECHNOLOGY PROGRAMS

Sec. 1401. Definitions.
Sec. 1402. Availability of funds.
Sec. 1403. Cost sharing.
Sec. 1404. Merit review of proposals.
Sec. 1405. External technical review of departmental programs.
Sec. 1406. Improved coordination and management of civilian science and technology programs.
Sec. 1407. Improved coordination of technology transfer activities.
Sec. 1408. Technology infrastructure program.
Sec. 1409. Small business advocacy and assistance.
Sec. 1410. Other transactions.
Sec. 1411. Mobility of scientific and technical personnel.
Sec. 1412. National Academy of Sciences report.
Sec. 1413. Report on technology readiness and barriers to technology transfer.
Sec. 1414. United States-Mexico energy technology cooperation.

TITLE XV—PERSONNEL AND TRAINING

Sec. 1501. Workforce trends and traineeship grants.
Sec. 1502. Postdoctoral and senior research fellowships in energy research.
Sec. 1503. Training guidelines for electric energy industry personnel.
Sec. 1504. National Center on Energy Management and Building Technologies.
Sec. 1505. Improved access to energy-related scientific and technical careers.
Sec. 1506. National power plant operations technology and education center.
Sec. 1507. Federal mine inspectors.

DIVISION F—TECHNOLOGY ASSESSMENT AND STUDIES

TITLE XVI—TECHNOLOGY ASSESSMENT

Sec. 1601. National Science and Technology Assessment Service.

TITLE XVII—STUDIES

Sec. 1701. Regulatory reviews.
Sec. 1702. Assessment of dependence of State of Hawaii on oil.
Sec. 1703. Study of siting an electric transmission system on Amtrak right-of-way.
Sec. 1704. Updating of insular area renewable energy and energy efficiency plans.
Sec. 1705. Consumer Energy Commission.
Sec. 1706. Study of natural gas and other energy transmission infrastructure across the great lakes.
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.
Sec. 1708. Report on energy savings and water use.
Sec. 1709. Report on research on hydrogen production and use.

DIVISION G—ENERGY INFRASTRUCTURE SECURITY

TITLE XVIII—CRITICAL ENERGY INFRASTRUCTURE

Subtitle A—Department of Energy Programs

Sec. 1801. Definitions.
Sec. 1802. Role of the Department of Energy.
Sec. 1803. Critical energy infrastructure programs.
Sec. 1804. Advisory Committee on Energy Infrastructure Security.
Sec. 1805. Best practices and standards for energy infrastructure security.

Subtitle B—Department of the Interior Programs

Sec. 1811. Outer Continental Shelf energy infrastructure security.

DIVISION H—ENERGY TAX INCENTIVES

Sec. 1900. Short title; etc.

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.
Sec. 1902. Credit for electricity produced from biomass.
Sec. 1903. Credit for electricity produced from swine and bovine waste nutrients, geothermal energy, and solar energy.
Sec. 1904. Treatment of persons not able to use entire credit.
Sec. 1905. Credit for electricity produced from small irrigation power.
Sec. 1906. Credit for electricity produced from municipal biosolids and recycled sludge.

TITLE XX—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Sec. 2001. Alternative motor vehicle credit.
Sec. 2002. Modification of credit for qualified electric vehicles.
Sec. 2003. Credit for installation of alternative fueling stations.
Sec. 2004. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 2005. Small ethanol producer credit.
Sec. 2006. All alcohol fuels taxes transferred to Highway Trust Fund.
Sec. 2007. Increased flexibility in alcohol fuels tax credit.
Sec. 2008. Incentives for biodiesel.
Sec. 2009. Credit for taxpayers owning commercial power takeoff vehicles.
Sec. 2010. Modifications to the incentives for alternative vehicles and fuels.

TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 2101. Credit for construction of new energy efficient home.
Sec. 2102. Credit for energy efficient appliances.
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.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 2211. Credit for investment in qualifying advanced clean coal technology.
Sec. 2212. Credit for production from a qualifying advanced clean coal technology unit.

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.
Sec. 2303. Expensing of capital costs incurred in complying with environmental protection agency sulfur regulations.
Sec. 2304. Environmental tax credit.
Sec. 2305. Determination of small refiner exception to oil depletion deduction.
Sec. 2306. Marginal production income limit extension.
Sec. 2307. Amortization of geological and geophysical expenditures.
Sec. 2308. Amortization of delay rental payments.
Sec. 2309. Study of coal bed methane.
Sec. 2310. Extension and modification of credit for producing fuel from a nonconventional source.
Sec. 2311. Natural gas distribution lines treated as 15-year property.

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.
Sec. 2405. Application of temporary regulations to certain output contracts.
Sec. 2406. Treatment of certain development income of cooperatives.

TITLE XXV—ADDITIONAL PROVISIONS

Sec. 2501. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 2502. Study of effectiveness of certain provisions by GAO.
Sec. 2503. Credit for production of Alaska natural gas.
Sec. 2504. Sale of gasoline and diesel fuel at duty-free sales enterprises.

Sec. 2505. Treatment of dairy property.
Sec. 2506. Clarification of excise tax exemptions for agricultural aerial applicators.
Sec. 2507. Modification of rural airport definition.
Sec. 2508. Exemption from ticket taxes for transportation provided by seaplanes.

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.
Sec. 2604. Humanitarian interests.
Sec. 2605. Definitions.
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.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 2, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 7

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the role of the Board of Directors in the collapse of the Enron Corporation.
SH–216

Commerce, Science, and Transportation
To hold hearings to examine and review the Merger Investigation Agreement between the Federal Trade Commission and the Department of Justice.
SR–253

Energy and Natural Resources
To hold hearings to examine this year's wildlife fire season, as well as to assess the Federal land management agencies' state of readiness and preparedness for the wildland fire season.
SD–366

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine certain provisions of the Hatch-Waxman Act, assuring greater access to affordable pharmaceuticals.
SD–430

11 a.m.
Environment and Public Works
To hold hearings on the nomination of John Peter Suarez, of New Jersey, to be Assistant Administrator, Office of Enforcement and Compliance Assurance, Environmental Protection Agency.
SD–406

2:30 p.m.
Appropriations
To resume hearings to examine homeland security funding issues and proposed legislation making supplemental appropriations for the fiscal year ending September 30, 2002.
SD–192

Health, Education, Labor, and Pensions
Aging Subcommittee
To hold hearings to examine issues surrounding the National Family Caregiver Support Program.
SD–430

3 p.m.
Armed Services
Airland Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–232A

4 p.m.
Armed Services
Personnel Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–222

5 p.m.
Armed Services
Readiness and Management Support Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–232A

MAY 8

9 a.m.
Armed Services
SeaPower Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–232A

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.
SR–253

Energy and Natural Resources
To hold hearings on the nomination of Guy F. Caruso, of Virginia, to be Administrator of the Energy Information Administration, Department of Energy.
SD–366

Governmental Affairs
To hold hearings to examine infrastructure security, focusing on private/public information sharing.
SD–342

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Federal Emergency Management Agency.
SD–138

10 a.m.
Armed Services
Strategic Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–222

Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Anthony Lowe, of Washington, to be Federal Insurance Administrator, Federal Emergency Management Agency.
SD–538

Judiciary
To hold hearings to examine the reformation of the Federal Bureau of Investigation, Department of Justice, focusing on mission refocusing and reorganization.
SD–226

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Department of Labor.
SD–124

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the General Accounting Office, Congressional Budget Office, and Government Printing Office.
SD–116

11:30 a.m.
Armed Services
Emerging Threats and Capabilities Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–232A

1:30 p.m.
Environment and Public Works
Superfund, Toxics, Risk, and Waste Management Subcommittee
To hold hearings on S. 1850, to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup.
SD–406

2:30 p.m.
Armed Services
Closed business meeting to markup proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–222

Intelligence
To hold closed hearings to examine certain intelligence matters.
SD–219

MAY 9

9:30 a.m.
Finance
To hold hearings to examine revenue issues related to the Highway Trust Fund.
SD–215

Armed Services
Closed business meeting to continue to markup proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–222

Commerce, Science, and Transportation
Oceans, Atmosphere, and Fisheries Subcommittee
To hold oversight hearings to examine management issues at the National Marine Fisheries Services.
SR–253

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine consolidated student loans, focusing on variable rates.
SD–430

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings on 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; S. 1497/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; S. 1711/H.R. 1576, to designate the James Peak Wilderness and the James Peak Protection Area in the State of Colorado; and S. 1907, to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon.
SD–366

MAY 10

9:30 a.m.
Armed Services
Closed business meeting to continue to markup proposed legislation authorizing appropriations for fiscal year 2003 for military activities of the Department of Defense.
SR–222

MAY 13

10 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine transformation plans of the United States Postal Service.
SD–342

MAY 17

10:30 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine non-proliferation programs, focusing on U.S. cruise missile threat.
SD–342

MAY 21

9:30 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine difficulties and solutions concerning nonproliferation disputes between Russia and China.
SD–342

Daily Digest

HIGHLIGHTS

See Résumé of Congressional Activity.

Senate passed H.R. 1646, Department of State Authorization.

Senate

Chamber Action

Routine Proceedings, pages S3581–S3790

Measures Introduced: Nine bills and two resolutions were introduced, as follows: S. 2431–2439, and S. Res. 258–259. **Page S3625**

Measures Passed:

Department of State Authorization: Committee on Foreign Relations was discharged from further consideration of H.R. 1646, to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Page S3605**

Reid (for Biden) Amendment No. 3385 (text of S. 1803), in the nature of a substitute. **Page S3605**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Biden, Sarbanes, Dodd, Kerry, Helms, Lugar, and Hagel. **Pages S3605, S3789**

National Better Hearing and Speech Month: Senate agreed to S. Con. Res. 103, supporting the goals and ideals of National Better Hearing and Speech Month. **Page S3789**

Andean Trade Preference Expansion Act: Senate began consideration of H.R. 3009, to extend the Andean Trade Preference Act, and to grant additional trade benefits under that Act, withdrawing the committee amendment in the nature of a substitute, and taking action on the following amendments proposed thereto: **Pages S3610–19**

Pending:

Daschle Amendment No. 3386, in the nature of a substitute. **Pages S3615–19**

Dorgan Amendment No. 3387 (to Amendment No. 3386), to ensure transparency of investor protection dispute resolution tribunals under the North American Free Trade Agreement. **Pages S3615–19**

During consideration of this measure today, Senate also took the following action:

By 77 yeas to 21 nays (Vote No. 100), Senate agreed to the motion to proceed to consideration of the bill. **Page S3581**

A unanimous-consent agreement was reached providing for further consideration of the bill at 10 a.m., on Thursday, May 2, 2002. **Page S3789**

Election Reform—Conferees: Senate appointed the following conferees to H.R. 3295, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to met those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission: Senators Dodd, Schumer, Durbin, McConnell, and Bond. **Page S3789**

Arctic National Wildlife Refuge—Conferees: Senate appointed the following conferees to H.R. 4, to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people: Senators Bingaman, Hollings, Baucus, Kerry, Rockefeller, Breaux, Reid, Jeffords, Lieberman, Murkowski, Domenici, Grassley, Nickles, Lott, Craig, Campbell, and Thomas. **Page S3789**

Nominations Received: Senate received the following nominations:

Kyle E. McSlarrow, of Virginia, to be Deputy Secretary of Energy.

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.

Reena Raggi, of New York, to be United States Circuit Judge for the Second Circuit. **Page S3790**

Messages From the House: Page S3623
Measures Referred: Page S3623
Enrolled Bills Presented: Page S3623
Executive Communications: Pages S3623–25
Additional Cosponsors: Pages S3625–27
Statements on Introduced Bills/Resolutions: Pages S3627–39
Additional Statements: Pages S3622–23
Amendments Submitted: Pages S3639–88
Notices of Hearings/Meetings: Page S3688
Authority for Committees to Meet: Page S3688
Text of H.R. 4, as Previously Passed: Pages S3688–S3788
Record Votes: One record vote was taken today. (Total—100) Page S3581

Adjournment: Senate met at 9:31 a.m., and adjourned at 6:43 p.m., until 9:30 a.m., on Thursday, May 2, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on pages S3789–90).

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—NAVY

Committee on Appropriations: Subcommittee on Defense concluded hearings on proposed budget estimates for fiscal year 2003 for the United States Navy, after receiving testimony from Gordon R. England, Secretary of the Navy; Adm. Vernon E. Clark, USN, Chief of Naval Operations; and Gen. James L. Jones, USMC, Commandant of the Marine Corps.

APPROPRIATIONS—SENATE SERGEANT AT ARMS/CAPITOL POLICE

Committee on Appropriations: Subcommittee on Legislative Branch concluded hearings on proposed budget estimates for fiscal year 2003 for the Office of the Senate Sergeant at Arms and U.S. Capitol Police, after receiving testimony on behalf of funds for their respective activities from Alfonso E. Lenhardt, U.S. Senate Sergeant-at-Arms; Wilson Livingwood, Chairman, Capitol Police Board; Robert R. Howe, Acting Chief, U.S. Capitol Police; and Alan M. Hantman, Architect of the U.S. Capitol.

APPROPRIATIONS—NASA

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies concluded hearings on proposed budget estimates for fiscal year 2003 for the National Aeronautics and Space Administration, after receiving testimony from Sean O'Keefe, Administrator, National Aeronautics and Space Administration.

INTERNATIONAL ECONOMIC AND EXCHANGE RATE POLICY

Committee on Banking, Housing, and Urban Affairs: Committee concluded oversight hearings to examine the Treasury Department's report to Congress on International Economic and Exchange Rate Policy, which reviews the global economic developments in the second half of 2001, after receiving testimony from Paul H. O'Neill, Secretary of the Treasury; Richard L. Trumka, AFL–CIO, Jerry J. Jasinowki, National Association of Manufacturers, and C. Fred Bergsten, Institute for International Economics, all of Washington, D.C.; Bob Stallman, Columbus, Texas, on behalf of the American Farm Bureau Federation; Ernest H. Preeg, Manufacturers Alliance/MAPI, Arlington, Virginia; and Steve H. Hanke, Johns Hopkins University Department of Economics, Baltimore, Maryland.

FEDERAL HOUSING

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation concluded oversight hearings on proposed legislation authorizing funds for the Temporary Assistance for Needy Families and Federal Housing Policy, after receiving testimony from Senator Corzine; Michael O'Keefe, Minnesota Department of Human Services, St. Paul; and Barbara Sard, Center on Budget and Policy Priorities, and Robert Rector, Heritage Foundation, both of Washington, D.C.

NOAA BUDGET

Committee on Commerce, Science, and Transportation: Committee concluded hearings on the President's proposed budget request for fiscal year 2003 for the National Oceanic and Atmospheric Administration, after receiving testimony from VAdm. Conrad C. Lautenbacher, Jr., USN (Ret.), Administrator, National Oceanic and Atmospheric Administration and Under Secretary for Oceans and Atmosphere, Department of Commerce.

FUTURE OF NATO

Committee on Foreign Relations: Committee concluded hearings to examine the future of the North Atlantic Treaty Organization, after receiving testimony from

Marc Grossman, Under Secretary of State for Political Affairs; Douglas J. Feith, Under Secretary of Defense for Policy; and Gen. Wesley K. Clark, USA (Ret.), Stephens Group, former Supreme Allied Commander Europe, and Lt. Gen. William E. Odom, USA (Ret.), Hudson Institute, former Director, National Security Agency, both of Washington, D.C.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again on Wednesday, May 8.

House of Representatives

Chamber Action

Measures Introduced: 14 public bills, H.R. 4626–4639; and 6 resolutions, H. Con. Res. 393–394 and H. Res. 405–408, were introduced.

Pages H2018–19

Reports Filed: Reports were filed as follows:

Conference report on H.R. 2646, to provide for the continuation of agricultural programs through fiscal year 2011 (H. Rept. 107–424);

H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982 (H. Rept. 107–425);

H. Res. 403, waiving points of order against the conference report to accompany H.R. 2646, to provide for the continuation of agricultural programs through fiscal year 2011 (H. Rept. 107–426); and

H. Res. 404, providing for consideration of motions to suspend the rules (H. Rept. 107–427).

Page H2018

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Gutknecht to act as Speaker pro tempore for today.

Page H1771

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Jim Congdon, Pastor of the Topeka Bible Church, Topeka, Kansas. **Page H1771**

Export-Import Bank Reauthorization Act: The House passed H.R. 2871, to reauthorize the Export-Import Bank of the United States by voice vote. Subsequently, the House passed S. 1372, a similar Senate-passed bill, after amending it to contain the text of H.R. 2871, as passed the House; and H.R. 2871 was laid on the table. **Page H1887–H1985**

The House insisted on its amendment, asked for a conference with the Senate, and appointed as conferees from the Committee of Financial Services: Chairman Oxley and Representatives Bereuter, Toomey, Gary Miller of California, LaFalce, and Sanders. And from the Committee on Government Reform for consideration of section 7 of the Senate bill, and modifications committed to conference: Chairman Burton and Representatives Horn and Waxman. **Page H1985**

Agreed to the Committee on Financial Services amendment in the nature of a substitute now printed in the bill, H. Rept. 107–292, and made in order by the rule. **Page H1984**

Agreed To:

Bereuter amendment No. 1 printed in H. Rept. 107–423 that specifies that the Export-Import Bank in consultation with the Department of the Treasury will set the principles, processes, and standards of the Tied Aid Credit Fund commonly known as the "Tied Aid War Chest" and revises various processes of the fund; **Pages H1778–79, H1790–91**

Kucinich amendment No. 3 printed in H. Rept. 107–423 that requires applicants for assistance to disclose whether they have violated the Foreign Corrupt Practices Act and further requires the bank to maintain a list of persons who have violated the law; and **Pages H1792–93**

Schakowsky amendment No. 5 printed in H. Rept. 107–423 that expresses the sense of the Congress that the bank should review an assessment of the potential human rights impact of proposed projects that are worth $10 million or more.

Pages H1982–83

Rejected:

Sanders amendment No. 4 printed in H. Rept. 107–423 that sought to require companies seeking or receiving assistance to provide annual reports on workforce numbers and compensation and to prohibit assistance to those who lay off a greater percentage of U.S. workers than they lay off in foreign countries (rejected by a recorded vote of 135 ayes to 283 noes, Roll No. 120). **Pages H1793–95, H1983**

Withdrawn:

DeFazio amendment No. 2 printed in H. Rept. 107–423 was offered but subsequently withdrawn that sought to ban assistance for projects involving the privatization of a government-held industry or sector when conditions relating to transparent implementation, worker and investor protections, and regulatory processes to ensure the functioning of competitive markets are not met. **Pages H1791–92**

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill. **Page H1984**

H. Res. 402, the rule that provided for consideration of the bill was agreed to by voice vote.

Pages H1773–76

Suspension—International Development Funds: The House agreed to suspend the rules and pass H.R. 2604, to authorize the United States to participate in and contribute to the seventh replenishment of the resources of the Asian Development Fund and the fifth replenishment of the resources of the International Fund for Agricultural Development, and to set forth additional policies of the United States towards the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American Development Bank, and the European Bank for Reconstruction and Development.

Pages H1986–90

Motion to Instruct Conferees—Violence Against Women Office: By a yea-and-nay vote of 416 yeas to 3 nays, roll No. 121, agreed to the DeGette motion to instruct conferees on H.R. 2215, 21st Century Department of Justice Appropriations Authorization Act, to agree to title IV of the Senate amendment (establishing A Violence Against Women Office); and insist upon section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 402 of the House bill (establishing duties and functions of the director of the Violence Against Women Office). **Pages H1990–97**

Senate Message: Message received from the Senate today appears on pages H1985–86.

Referrals: S. 1721 and S. Con. Res. 102 were held at the desk.

Quorum Calls—Votes: One yea-and-nay vote and one recorded vote during the proceedings of the House today and appear on pages H1984 and H1996–97. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 5:55 p.m.

Committee Meetings

LABOR, HHS, AND EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held a hearing on Bioterrorism. Testimony was heard from Claude Allen, Deputy Secretary, Department of Health and Human Services.

The Subcommittee also held a hearing on the Agency for Healthcare Research and Quality. Testimony was heard from Carolyn Clancy, M.D., Acting Director, Healthcare Research and Quality, Department of Health and Human Services.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Ordered reported, as amended H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, and for military construction, to prescribe military personnel strengths for fiscal year 2003;

Began markup of H.R. 4547, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003.

Committee recessed subject to call.

WORKING TOWARD INDEPENDENCE ACT

Committee on Education and the Workforce: Began markup of H.R. 4092, Working Toward Independence Act of 2002.

Will continue tomorrow.

CLEAN AIR ACT ACCOMPLISHMENTS

Committee on Energy and Commerce: Subcommittee on Energy and Air Quality held a hearing entitled "Accomplishments of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990." Testimony was heard from Jeffery Holmstead, Assistant Administrator, Air and Radiation, EPA; and public witnesses.

OVERSIGHT—GOVERNMENT PURCHASE CARD PROGRAM

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations held a hearing titled "Oversight and Management of the Government Purchase Card Program: Reviewing Its Weaknesses and Identifying Solutions." Testimony was heard from the following officials of the Department of Commerce: Johnnie E. Frazier, Inspector General; Mike Sade, Director, Acquisition and Procurement

Executive; and Howard Price, Procurement Analyst; the following officials of the Department of Energy: Gregory H. Friedman, Inspector General; and Steven Mournighan, Deputy Director, Procurement and Assistance Management; the following officials of the Department of Health and Human Services: Janet Rehnquist, Inspector General; and Marc Weisman, Acting Deputy Assistant Secretary, Grants and Acquisition Management; Linda Calbom, Director, Financial Management and Insurance, GAO; Patricia Mead, Acting Assistant Commissioner, Office of Acquisition, GSA; and Angela B. Styles, Administrator, Federal Procurement Policy, OMB.

CORPORATE ACCOUNTING PRACTICES

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled ''Corporate Accounting Practices: Is There a Credibility GAAP?'' Testimony was heard from Betty Montgomery, Attorney General, State of Ohio; and public witnesses.

Hearings continue May 7.

RIGHT SIZING: U.S. PRESENCE ABROAD

Committee on Government Reform: Subcommittee on National Security, Veterans' Affairs and International Relations held a hearing on Right Sizing: U.S. Presence Abroad. Testimony was heard from Grant S. Green, Jr., Under Secretary, Management, Department of State; Nancy P. Dorn, Deputy Director, OMB; Jess T. Ford, Director, International Affairs and Trade Division, GAO; Ken Lawson, Assistant Secretary, Enforcement, Department of the Treasury; Andrew Hoehn, Deputy Assistant Secretary, Strategy, Department of Defense; and Robert Diegelman, Acting Attorney General, Administration, Justice Management Division, Department of Justice; and a public witness.

E-CONGRESS

Committee on House Administration: Held a hearing on E-Congress? Using Technology to Conduct Congressional Operations in Emergency Situations. Testimony was heard from Representatives Dreier and Langevin; and public witnesses.

NATO ENLARGEMENT

Committee on International Relations: Subcommittee on Europe held a hearing on NATO Enlargement: A View from the Candidate Countries. Testimony was heard from Ambassadors to the United States from the following countries: Albania, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia and Slovenia.

FEDERAL AGENCY PROTECTION OF PRIVACY ACT

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on H.R. 4561, Federal Agency Protection of Privacy Act. Testimony was heard from public witnesses.

ENHANCING CHILD PROTECTION LAWS AFTER *ASHCROFT* v. *FREE SPEECH COALITION* DECISION

Committee on the Judiciary: Subcommittee on Crime, Terrorism and Homeland Security held an oversight hearing on ''Enhancing Child Protection Laws After the April 16, 2002 Supreme Court Decision, *Ashcroft* v. *Free Speech Coalition.*'' Testimony was heard from Michael J. Heimbach, Unit Chief, Crimes Against Children Unit, FBI, Department of Justice; Lt. William C. Walsh, Youth and Family Support Division, Police Department, Dallas, Texas; and a public witness.

OVERSIGHT—FOREST SERVICE FUTURE

Committee on Resources: Held an oversight hearing on the Future of the United States Forest Service. Testimony was heard from Ann Veneman, Secretary of Agriculture.

CONFERENCE REPORT—FARM SECURITY AND RURAL INVESTMENT ACT

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2646, Farm Security and Rural Investment Act of 2002, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Combest and Representative Stenholm.

PROVIDING FOR CONSIDERATION OF A MOTION TO SUSPEND THE RULES

Committee on Rules: Granted, by voice vote, a rule providing that it will be in order at any time on the legislative day of Thursday, May 2, 2002, to consider H. Res. 392, expressing solidarity with Israel in its fight against terrorism, under suspension of the rules. The rule provides 1 hour of debate on the suspension measure.

INVESTIGATION—WORLD TRADE CENTER COLLAPSE

Committee on Science: Continued hearings on the Investigation of the World Trade Center Collapse: Findings, Recommendations and Next Steps. Testimony was heard from Robert Shea, Acting Administrator, Federal Insurance and Mitigation Administration, FEMA; Arden Bement, Director, National Institute

of Standards and Technology, Department of Commerce; and public witnesses.

HIGHWAY FUNDING RESTORATION ACT

Committee on Transportation and Infrastructure: Ordered reported, as amended, H.R. 3694, Highway Funding Restoration Act.

MAJOR PROJECT MANAGEMENT

Committee on Transportation and infrastructure: Subcommittee on Highways and Transit held a hearing on Major Project Management: Solutions for Major Success. Testimony was heard from the following officials of the Department of Transportation: Mary E. Peters, Administrator, Federal Highway Administration; Jennifer L. Dorn, Administrator, Federal Transit Administration; and Kenneth M. Mead, Inspector General; JayEtta Z. Hecker, Director, Physical Infrastructure Issues, GAO; and Thomas E. Stephens, Director, Department of Transportation, State of Nevada.

RECREATIONAL WATERS PROTECTION ACT

Committee on Transportation and infrastructure: Subcommittee on Water Resources and Environment held a hearing on H.R. 3673, Recreational Waters Protection Act. Testimony was heard from Representative Saxton; and public witnesses.

VETERANS' LEGISLATION

Committee on Veterans' Affairs: Subcommittee on Health approved for full Committee action the following bills: H.R. 3253, amended, Department of Veterans Affairs Emergency Preparedness Research, Education, and Bio-Terrorism Prevention Act of 2002; H.R. 4514, amended, Veterans' Major Medical Facilities Construction Act of 2002; and H.R. 4608, to name the Department of Veterans Affairs medical center in Wichita, Kansas, as the "Robert J. Dole Department of Veterans Affairs Medical Center."

GLOBAL HOT SPOTS; GENERAL DEFENSE INTELLIGENCE PROGRAM BUDGET

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Global Hot Spots. Testimony was heard from departmental witnesses.

The Committee also met in executive session to hold a hearing on General Defense Intelligence Program Budget. Testimony was heard from departmental witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST *of April 22, 2002, p. D366)*

S. 2248, to extend the authority of the Export-Import Bank until May 31, 2002. Signed on May 1, 2002. (Public Law 107–168)

COMMITTEE MEETINGS FOR THURSDAY, MAY 2, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: to resume hearings to examine homeland security funding issues and proposed legislation making supplemental appropriations for the fiscal year ending September 30, 2002, 10 a.m., SD–192.

Committee on Banking, Housing, and Urban Affairs: to hold oversight hearings to examine bringing more Americans into the financial mainstream, 10 a.m., SD–538.

Committee on Foreign Relations: Subcommittee on International Operations and Terrorism, to hold hearings to examine the protection of U.S. citizens from terrorism abroad, 10:15 a.m., SD–419.

Committee on Governmental Affairs: business meeting to consider the nomination of Paul A. Quander, Jr., of the District of Columbia, to be Director of the District of Columbia Offender Supervision, Defender, and Courts Services Agency, 9:10 a.m., SD–342.

Permanent Subcommittee on Investigations: to resume hearings to examine how gasoline prices are set and why they have become so volatile, 9:30 a.m., SD–342.

Committee on the Judiciary: business meeting to consider S. 2031, to restore Federal remedies for infringements of intellectual property by States; S. 848, to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse; S. 1742, to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft; S. 1644, to further the protection and recognition of veterans' memorials; S. 1868, to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities; S. 2431, 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; S. Res. 255, to designate the week beginning May 5, 2002, as "National Correctional Officers and Employees Week"; and pending nominations, 10 a.m., SD–226.

Full Committee, to hold hearings to examine restructuring issues within the Immigration and Naturalization Service, Department of Justice, 2:30 p.m., SD–226.

Committee on Veterans' Affairs: to hold hearings to examine pending legislation, 9:30 a.m., SR–418.

House

Committee on Appropriations, Subcommittee on Labor, Health and Human Services, and Education, to continue on public witnesses, 9:45 a.m., 2358 Rayburn.

Committee on the Budget, hearing on Congressional Budget Office Role and Performance: Enhancing Accuracy, Reliability and Responsiveness in Budget and Economic Estimates, 10 a.m., 210 Cannon.

Committee on Education and the Workforce, to continue markup of H.R. 4092, Working Toward Independence Act of 2002, 9:45 a.m., 2175 Rayburn.

Subcommittee on Education Reform, hearing on ''Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act,'' following full Committee markup, 2175 Rayburn.

Committee on Energy and Commerce, to mark up H.R. 4560, Auction Reform Act of 2002, 1:30 p.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on International Monetary Policy and Trade, hearing entitled ''Proposed changes to both the World Bank International Development Association and the North American Development Bank,'' 10 a.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, hearing on H.R. 3844, Federal Information Security Management Act of 2002, 10 a.m., 2154 Rayburn.

Committee on International Relations, Subcommittee on East Asia and the Pacific, hearing on North Korea: Humanitarian and Human Rights Concerns, 10 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Courts, the Internet, and Intellectual Property, to mark up H.R. 4125, Federal Courts Improvement Act of 2002, 10 a.m., 2141 Rayburn.

Subcommittee on Immigration and Claims, to mark up the following bills: H.R. 4043, to bar Federal agencies from accepting for any identification-related purpose and State-issued driver's license, or other comparable identification document, unless the State requires licenses or comparable documents issued to nonimmigrant aliens to expire upon the expiration of the aliens' nonimmigrant visas; H.R. 4558, to extend the Irish Peace Process Cultural and Training Programs; and H.R. 4597, to prevent nonimmigrant aliens who are delinquent in child support payments from gaining entry into the United States, 11 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on the Magnuson-Stevens Act Amendments of 2002, 2 p.m., 1334 Longworth.

Committee on Rules, Subcommittee on Legislative and Budget Process, hearing on ''Assessing the Accuracy of Federal Budget Estimating,'' 10:30 a.m., H–313 Capitol.

Committee on Small Business, Subcommittee on Regulatory Reform and Oversight, hearing entitled ''Issues in the Travel Agency Business,'' 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, oversight hearing on Arming Flight Crews Against Terrorist Acts, 9:30 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Benefits, to mark up the following bills: H.R. 4015, Jobs for Veterans Act; and H.R. 4085, to increase, effective as of December 1, 2002, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, 10 a.m., 334 Cannon.

Committee on Ways and Means, to mark up the following: H.R. 4090, Personal Responsibility, Work, and Family Promotion Act of 2002; and the Encouraging and Supporting Marriage Act of 2002, 1 p.m., 1100 Longworth.

Subcommittee on Social Security, hearing on Challenges Facing the New Commissioner of Social Security, 9 a.m., B–328 Rayburn.

Permanent Select Committee on Intelligence, Executive, hearing on Consolidated Cryptologic Program Budget, 9 a.m., H–405 Capitol.

Résumé of Congressional Activity

SECOND SESSION OF THE ONE HUNDRED SEVENTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House. The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

DATA ON LEGISLATIVE ACTIVITY

January 23 through April 30, 2002

	Senate	*House*	*Total*
Days in session	51	39	..
Time in session	347 hrs., 36′	197 hrs., 04′	..
Congressional Record:			
Pages of proceedings	3,579	1,770	..
Extensions of Remarks	..	670	..
Public bills enacted into law	9	22	31
Private bills enacted into law	..	..	..
Bills in conference	3	6	..
Measures passed, total	105	130	235
Senate bills	14	10	..
House bills	31	46	..
Senate joint resolutions	1	1	..
House joint resolutions	1	1	..
Senate concurrent resolutions	7	3	..
House concurrent resolutions	8	24	..
Simple resolutions	43	45	..
Measures reported, total	45	69	114
Senate bills	13	1	..
House bills	15	41	..
Senate joint resolutions	1	..	..
House joint resolutions	..	..	..
Senate concurrent resolutions	4	..	..
House concurrent resolutions	2	6	..
Simple resolutions	10	21	..
Special reports	2	1	..
Conference reports	..	..	..
Measures pending on calendar	120	50	..
Measures introduced, total	613	1,191	1,804
Bills	539	1,015	..
Joint resolutions	5	9	..
Concurrent resolutions	10	94	..
Simple resolutions	59	73	..
Quorum calls	1	1	..
Yea-and-nay votes	99	69	..
Recorded votes	..	49	..
Bills vetoed	..	..	..
Vetoes overridden	..	..	..

DISPOSITION OF EXECUTIVE NOMINATIONS

January 23 through April 30, 2002

Civilian Nominations, totaling 358 (including 166 nominations carried over from the First Session), disposed of as follows:	
Confirmed	175
Unconfirmed	180
Withdrawn	3
Other Civilian Nominations, totaling 1,121 (including 535 nominations carried over from the First Session), disposed of as follows:	
Confirmed	950
Unconfirmed	171
Air Force Nominations, totaling 3,385 (including 4 nominations carried over from the First Session), disposed of as follows:	
Confirmed	2,653
Unconfirmed	732
Army Nominations, totaling 1,253 (including 53 nominations carried over from the First Session), disposed of as follows:	
Confirmed	1,032
Unconfirmed	221
Navy Nominations, totaling 732, disposed of as follows:	
Confirmed	345
Unconfirmed	387
Marine Corps Nominations, totaling 1,689 (including 33 nominations carried over from the First Session), disposed of as follows:	
Confirmed	1,438
Unconfirmed	251

Summary

Total Nominations carried over from the First Session	791
Total Nominations Received this Session	7,747
Total Confirmed	6,593
Total Unconfirmed	1,942
Total Withdrawn	3
Total Returned to the White House	0

Next Meeting of the SENATE

9:30 a.m., Thursday, May 2

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 10 a.m.), Senate will continue consideration of H.R. 3009, Andean Trade Preference Expansion Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, May 2

House Chamber

Program for Thursday: Consideration of the conference report on H.R. 2646, Farm Security and Rural Investment Act of 2002 (rule waiving points of order, one hour of debate); and

Consideration of H. Res. 392, expressing solidarity with Israel in its fight against terrorism (rule providing for consideration under suspension of the rules, one hour of debate).

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