SENATE—*Wednesday, July 29, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Have not I commanded thee? Be strong and of a good courage; be not afraid, neither be thou dismayed: for the Lord thy God is with thee whithersoever thou goest.—Joshua 1:9.

God of Abraham, Isaac, and Israel, Moses and the Prophets, Jesus and the Apostles, God of our fathers, thank You for Your command to Joshua under very difficult circumstances. The great leader, Moses, was gone. It remained to Your servant, Joshua, to lead the people of God into their land to establish a nation.

Grant, mighty Lord, that Your servants here in the Senate, who bear great responsibility under difficult circumstances, may learn to trust the Lord God who is with them whithersoever they go. Teach them Your sovereignty, Your transcendence, Your imminence, Your constant, never failing love and guidance. Help them to discover the unfailing goodness of a never failing Lord, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 29, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later in the day.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Kentucky is recognized.

OFFICE OF THRIFT SUPERVISION BEGINS IMPLEMENTATION OF STEALTH REGULATION

Mr. FORD. Mr. President, I rise to express my outrage over one of the most cynical regulatory actions I have seen around here in some time—the recent approval by the Office of Thrift Supervision [OTS] of an interstate branching request for S&L's under its controversial new regulations. OTS has again demonstrated its lack of concern for procedures and its lack of respect for this body. And even worse, OTS has taken another step in the wrong direction in its campaign to overrun States rights. They apparently feel they can play by their own rules and implement their own agenda. OTS feels they can ignore the Senate. They can ignore State regulators. They can ignore State legislatures. They can ignore everything but their own agenda and the interests they are trying to please.

Despite the difficult debates the Congress has had on interstate branching, despite the recent overwhelming vote by the Senate that OTS delay implementation of its rule, and despite the cloud over this regulation because of the way it has been implemented, OTS has done it again. Earlier this month, on July 10, OTS approved the first interstate branching request under its controversial new rule preempting State laws. This rush to action makes me wonder. Just what special interests are they seeking to please? Just who are they trying so hard to satisfy? Apparently, it has become more important to OTS to pursue their agenda than to maintain any credibility.

I do not need to remind my colleagues of all of the complex aspects of this issue which we have debated in recent months. However, let me just say that it is clear in this body that a great many Senators share my concern that States rights be respected and protected in this area.

This is not the view, however, of OTS. Mr. President, every single action taken by the OTS on this issue has raised credibility questions. Every single action taken by OTS on this regulation indicates they knew it would be controversial, they knew it would be considered out of line, but they did not care. They have tried to sneak by—and I repeat that—they have tried to sneak by every step of the way. Mr. President, this controversial new regulation might be better called the stealth regulation. OTS proposed the new rule the day before New Year's Eve 1991, when Congress was out of town. They made the rule final on April 9, the day before a 2-week recess. And they approved the first branching request on July 10, in the middle of another recess. This is how you implement a stealth regulation. Mr. President, this is how you put special interests above the public interest.

Let me briefly review the OTS record. Last year, after months of debate in our banking committees, and after hours of debate on this floor and in the other Chamber, we were unable to reach a final decision on interstate branching for banks. It is a very complex and very controversial subject. Yet on December 30 of last year, the day before New Year's Eve, OTS published its proposed new rule for S&L's. But that is not all. They proposed this major policy change with only a 30-day comment period, and no public hearings. An issue as complex as this would receive no hearings. OTS hoped no one would be watching. Despite the fact that 25—let me repeat—25 Members of this body objected in writing, OTS refused to extend the comment period. Despite the fact that more than 80 percent of the comments received opposed the new rule—many from State regulators—OTS was determined to rush forward.

But they had to wait a few weeks, Mr. President. They had to wait until the RTC funding bill moved through the Congress, so that the stealth regulation would not be attacked. It could only succeed if few noticed. So they waited through February and March for the RTC bill.

Then, on April 9, the day before Congress was to adjourn for 2 weeks, OTS published its final rule. What a surprise. The regulation was barely changed, except to make the language preempting all State laws more explicit. OTS apparently hoped the stealth regulation would not be noticed while Congress recessed for 2 weeks. The regulation became effective May 11.

But Congress did notice. On the House side, Banking Committee Chair-

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

man GONZALEZ expressed his concerns with the regulation. And on June 24, this Senate voted 82 to 15 to impose a 15-month moratorium on the enforcement of this regulation. This moratorium is an amendment to the pending GSE bill.

But this did not deter OTS. On July 10, while the Senate was in the middle of another recess, OTS approved the first interstate branching request under the controversial issue, the very first request. It makes it somewhat suspect, in my opinion. This was only 2 weeks after the overwhelming Senate vote for a moratorium, and less than 2 months after the controversial regulation became effective.

So you can see the pattern, Mr. President. Propose the regulation the day before New Year's Eve, make it final the day before a 2-week recess of the Congress, and approve the first application in the middle of another recess. Mr. President, this is truly the stealth regulation. And this is a very cynical regulator.

All of these actions, Mr. President, indicate that OTS is either rushing forward to serve a distinct few special interests, or they do not care if their actions have much credibility, or they simply view the formal regulatory procedures required by law as a mere rubber stamp for their predetermined decisions. Or maybe it is all of the above. Mr. President, I do not think we have heard the last on this controversial new issue.

TRIBUTE TO OZZIE MAGLINGER

Mr. FORD. Mr. President, I am honored to pay tribute today to Ozzie Maglinger, chief of the Owensboro Fire Department. After more than 36 years of service, 18 of which were as a chief officer, Chief Maglinger will retire on July 31 of this year. The department is sure to miss this model of dedication and community service.

During his tenure at the Owensboro Fire Department, Chief Maglinger has seen every man, fire station, and every piece of equipment replaced, with the exception of the 1926 fire truck located in the fire museum.

Chief Maglinger is also responsible for establishing the hazardous material team in the city of Owensboro.

I have known Chief Maglinger and his family for many years. One of ten children of Fred and Bertha Maglinger, Ozzie is the last child to retire. All of his siblings have a multitude of talents including three professional artists, a master photographer, a two-term representative in the Kentucky House of Representatives, and a photo-finishing entrepreneur. Rarely has one family displayed such raw talent.

Although Chief Maglinger will retire at the end of this month, I feel certain that he will continue in the spirit of community service, and he certainly will always be remembered for his exemplary service as a firefighter and administrator. I wish him all the best in his retirement.

I noted that the Honorable CURT WELDON introduced a House joint resolution to designate October 8, 1992, as National Firefighters' Day. I support this resolution to honor these unsung heroes and remind all Americans about the daily contributions of the fire service.

Mr. President, I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

A STRONG INTERNATIONAL EFFORT

Mr. LIEBERMAN. Mr. President, the reports from Baghdad this morning are disappointing, but not surprising. The U.N. inspection team has left the Agricultural Ministry in Baghdad empty-handed, not having found any of the incriminating evidence that they suspected was there. And this is the final evidence that, in the wake of the recent threats of military attack from U.N. forces, U.S. forces, Saddam did not blink, he merely winked. He got what he wanted: time to empty the Agricultural Ministry of any incriminating documents. And along with it, he got an outrageous bonus: the right to exclude Americans from the inspection team. That gives him bragging rights he does not deserve. And that gives us every reason to step up the diplomatic, economic and military pressure on his regime. It is time for a new deadline for Saddam, with a use of military force by the coalition if he fails to fully comply with all U.N. resolutions.

But, Mr. President, Iraq is not the only nation where brutal aggression causes us concern. There is another tragedy of historic proportions in the making in our world today. That is the tragedy of Bosnia and Hercegovina. Every day, we hear new tales of horror from Sarajevo and other communities in Bosnia and Hercegovina, where Moslems have been under siege from Serbian forces, bent on a perverse ethnic cleansing of the region. There are stories of starvation, as Serbian blockades keep the essentials of life from reaching innocent civilians. There are stories of terror trains, where people—most of them Moslems—have been locked up like cattle in freight cars, forced to live in intolerable conditions as they are moved away from their homes. There are stories of people being terrorized and herded into stadiums or small areas of cities—some might call them ghettos. One does not have to reach far for the historic parallels to such flagrant disregard for basic human rights.

Can the community of civilized nations react to this crisis in a concerted and effective manner? We are trying. But we are not succeeding. Through the United Nations, we are trying to provide humanitarian relief to the embattled Bosnians. But our relief efforts have stumbled in the face of a continuing war. Our instinct to help has been caught, quite literally, in the crossfire of this tragedy.

More than 1 million Bosnians have become refugees; 1 million more may flee, or be forced to flee, their homes in the coming months. If the crisis continues into the winter, U.N. officials say, hundreds of thousands of Bosnians may die of starvation and cold.

While the need for international relief is clear, the path toward that relief is a difficult one. But its difficulty should not dissuade us from finding a solution. Nor can we allow Presidential politics to confuse the signals of strength that we should be sending to the Serbian aggressors.

On Monday, the President's press secretary, Marlin Fitzwater, criticized Gov. Bill Clinton's very sensible, humane, and measured proposals for dealing with the crisis in Bosnia, calling them reckless. Governor Clinton simply, and correctly, in my view, called on the President to seek U.N. authorization of selective air strikes against those who are attacking the international relief effort. He did not call for all-out war. He did not call for the introduction of ground combat forces. He called for U.S. naval and air forces to participate in an international effort to protect relief supplies.

This is a proposal that has been echoed by Members of both parties in this Chamber, and indeed, may I say, as recently as yesterday by the Secretary of Defense himself. It is not a reckless proposal. In fact, to call Governor Clinton's proposal reckless is itself reckless, because it breaks a bipartisan consensus on how to deal with the tragedy in this region of the world that has formed in this Chamber, and it sends a very uncertain signal to the Serbian dictator Milosevic. Do we want him to believe that the United States considers the possibility of the use of force against Serbian aggressors as reckless? Do we want him to believe that the United States is not prepared to use force as part of a multinational coalition to stop Serbian aggression? By criticizing Governor Clinton's strong and reasonable proposals, I fear that we are sending the wrong signals to Belgrade.

The crisis in Bosnia is no less a test of the power of the United Nations, and of the United States' role in affecting world events, than is Iraq. We shirk our international responsibility here at our own peril.

Earlier this week, the President, in a campaign address, spoke of the telephone that links him to the White House crisis center, and he said, "The American people need to know that the

man who answers that phone has the experience, the seasoning, the guts to do the right thing." But I must say, sadly, that when it comes to the crisis in Bosnia, the President's phone has been ringing off the hook, with pleas for help from the people of Bosnia, and no one has answered that phone.

Mr. President, I support Governor Clinton's proposal, as I believe many Members of both parties in this Chamber do. It's time for us to draw a line in the Balkans and say to Slobodan Milosevic that this aggression will not stand. I believe we should:

Organize a multinational military force to accompany convoys of humanitarian relief for Bosnia from the air, and to provide and protect airdrops of such supplies where necessary, such as in the city of Gorazde, where people are beginning to starve from lack of food, and where a U.N. effort was sidetracked by landmines and gunfire. Such an airdrop has been called for by local U.N. officials;

The United States and our European allies should declare our intent to send arms to the Government of Bosnia, to help the Bosnians defend themselves and protect their people, who currently face slaughter at the hands of the better-equipped Serbian forces;

Sanctions against Serbia should be strengthened, because too many supplies are coming to Serbia through Romania, Bulgaria, and down the Danube River. We need U.N. monitors along all these routes so we can stop this flow of material;

Coalition airstrikes against Serbian airfields and military bases should be considered as a last resort if Serbian attacks on Bosnia do not end. It is clear we cannot get directly involved in a guerrilla war on the ground in Bosnia and Hercegovina. But by attacking clear-cut military targets in Serbia from the air, we can effectively checkmate Serbian aggression, making it far too costly for Milosevic to maintain his aggression abroad, while his army is under attack at home.

Like Saddam Hussein, Slobodan Milosevic has thumbed his nose at the rule of international law. He treats negotiations as a tactical vehicle for achievement of his aggressive goals. Such men understand only one thing—force—and only an incremental and sustained leveraging of international military force, accompanied by economic sanctions, can break the will of the Belgrade regime.

To those who question why it is important for the United States to be involved in this war so far away, I say that our history is replete with deadly examples of what happens when we ignore such conflicts, when we fail to recognize the rippling effect of historical events, and allow those ripples to form a tide. If Milosevic succeeds in Bosnia, a wider war in the region is possible, and that could involve Croatia, Macedonia, Kosovo, Albania, Bulgaria, and Greece. And, as I said in June, while there is not a linear connection between events in Bosnia and the future of the nations of the former Soviet Union, common sense tells us that the manner in which the Western nations react to Serbian aggression will affect the plans of those who are considering violence in other places once dominated by communism.

The way in which we react to Serbian aggression will affect the plans of those who are considering violence to achieve their parochial goals in other parts of the world. The stability of the world is in America's interests. Therefore, I am pleased that the Senate Foreign Relations Committee is expected to favorably recommend to this Chamber this week a resolution supporting a strong international effort to counter Serbian aggression.

I met last week with the foreign minister of Bosnia and Herzegovina, Dr. Haris Silajdzic and I conveyed to him my own support for his people, and my belief that this Senate and our country would do all we could to bring relief, and save lives. He, in turn, impressed upon me, with greater force than can be conveyed in news reports alone, the human scale of this disaster, and the need for a swift and strong response.

At this moment in history, when the lives of millions of people are hanging in the balance, let us speak out and demonstrate our outrage, and our commitment to finding a solution to this terrible tragedy. For we must remember this: History will record the villainy of Slobodan Milosevic. But history will also record what we did, or did not do, to stop him.

CONGRATULATION TO NICOLE HAISLETT UPON HER WINNING OF AN OLYMPIC GOLD MEDAL

Mr. MACK. Mr. President, I would like to take a few moments to acknowledge the fantastic accomplishments of Nicole Haislett, who yesterday became the first U.S. woman gold medalist by winning the 200 meter freestyle swimming competition at the summer Olympics in Barcelona, Spain. Like all Americans I was filled with enormous pride as I watched Nicole overtake her opponent in the last fifty meters to capture the gold medal. Her incredible determination to reach her goal, should not only serve as an inspiration to athletes, but should remind each of us of the American spirit which has defined us as a Nation and permitted us to rise to any challenge.

So today on behalf of myself and all Floridians, especially those from Nicole's hometown of St. Petersburg, I congratulate her on a very special victory.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,992,389,485,928.84, as of the close of business on Monday, July 27, 1992.

On a per capita basis, every man, women, and child owes $15,543.12—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

EXPLANATION OF VOTE IN SUPPORT OF THE SMITH AMENDMENT TO THE COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS BILL

Mr. DODD. Mr. President, yesterday, the Senate completed action on the Commerce, Justice, State, and Judiciary appropriations bill. During consideration of that measure, I supported an amendment, offered by my colleague Senator SMITH, to repeal the District of Columbia's Assault Weapon Manufacturing Strict Liability Act.

Let me say at the outset that I am firmly committed to the principle of gun control and support a direct ban on assault weapons. As I stated on the floor of the Senate last month, we must act now to reverse the escalating gun violence in this country.

The main problem with the District of Columbia's assault weapon law is that it attempts to use the law of torts, more specifically product liability law, as a method of gun control. Generally, the D.C. law allows people injured by certain assault weapons to collect damages from the manufacturer or dealer without proving that the company or seller was negligent. Accordingly, the D.C. law imposes strict liability on gun manufacturers for any injuries caused by assault weapons in the District of Columbia. The problem with that approach is that it unfairly places liability on a manufacturer who produced a lawful product and broke no criminal law.

If a jurisdiction, or this Nation, is serious about controlling the violence caused by assault weapons, then it ought to do that directly. Let's just ban them. The problem with the D.C. law is that it will lead to absurd results.

For example, assume that a gun manufacturer in Maryland sells an automatic weapon to the police department in the District of Columbia. Assume further that a criminal steals the gun from the police department and then shoots and injures a drug dealer. Under the D.C. law, the injured drug dealer could sue the gun manufacturer. But what did the gun manufacturer do wrong? Was the gun manufacturer supposed to know that the gun would be stolen?

In response to these types of concerns, and there are many other scenarios, several gun manufacturers have suggested that they may no longer sell guns to the D.C. Police, FBI, DEA, or the military because that is the only way they can avoid liability. Thus, the D.C. law, which is intended to make the streets safer, may actually make them more dangerous.

In conclusion, Mr. President, the District of Columbia's Assault Weapon Manufacturing Liability law is poorly conceived public policy and that is why I voted in support of the Smith amendment. Furthermore, I support approaching the problem of gun violence directly by banning assault weapons, instituting a waiting period before a gun may be purchased, and providing more funds for our besieged law enforcement officials.

TRIBUTE TO DR. BESSIE BOEHM MOORE

Mr. BUMPERS. Mr. President, on August 2, 1992, Dr. Bessie Boehm Moore, of Little Rock, AR, will celebrate her 90th birthday. It is an honor for me to share in this occasion in advance because this is certainly a significant milestone for her and our beloved Arkansas.

She is fortunate to be surrounded by her many friends and colleagues who have shared wonderful memories with her in the past and will continue to do so in the future. Dr. Moore has made remarkable accomplishments and dedicated many years to libraries and education in Arkansas and nationwide.

Considering Bessie's many achievements, it is not surprising that she is an inspiration to all who know her. In 1926 she organized the first county library in Arkansas and has served on the White House Conference on Libraries. In addition, one of Bessie's several honorary degrees is a doctor of library science. For 38 years she served under nine Governors as a member of the Arkansas State Library Commission and was appointed by Lyndon B. Johnson to the U.S. National Commission on Libraries and Information Services.

Bessie's contributions to education have been extensive as well. She is a member of the American Association of University Women, Arkansas Congress of Parents and Teachers, American Academy of Political and Social Science, Center for Economic Education, National Association of Economic Educators and the Joint Council on Economic Education.

In addition to her experience as an educator, Bessie is also a successful businesswoman. She has owned and operated a successful main street business in Little Rock and has served on the board of directors for First National Bank in Little Rock. She is a world traveler and has played an active role in lecturing at leading universities, as well as consulting on economic and career education.

Bessie earned a B.M.E. from the University of Central Arkansas at Conway in 1942 and a M.A. from the University of Connecticut in 1962. Her honorary degrees include a doctor of laws from the University of Arkansas in 1958, a doctor of laws from the University of Arizona in 1977, and as I mentioned before, a doctor of library science from the University of Arkansas at Little Rock in 1986. Bessie is a member of Who's Who in American Women, World Who's Who of Women, Advisory Commission on Women in the Armed Services, and was a State Department Emissary to West Germany for the Marshall Plan in 1954.

Often referred to as the poor man's Pearl Mesta, Bessie Moore is a charming lady and wonderful hostess. Indeed, it is not just Bessie and her family and friends who should be celebrating this wonderful occasion, but all Arkansans and people nationwide who have benefitted from her great achievements.

MORSE HIGH SCHOOL CLASS OF 1942 50TH REUNION

Mr. MITCHELL. Mr. President, in 1942, the graduating class of Morse High School was chosen by McCall's magazine as representative of small town high school graduates across America. In June, a remarkable 82 percent of the alumni of this class held a reunion in Bath, ME.

The class of 1942 is as representative of America in 1992 as it was in 1942. Alumni have moved to all regions of the United States and pursued careers in education, the law, engineering, government service, and the clergy. Like many in their generation, a majority of the class served their country during World War II. Two members of the class gave their lives in that conflict.

This class has lived through some of the most remarkable technological and social changes of the 20th century. This class reunion demonstrated that the class of 1942 successfully met these incredible challenges. Undoubtedly their coming of age in a time of world crisis was what gave them the ability to adapt to change and face adversity.

The Morse High School class of 1942 has represented Maine and the United States well. McCall's magazine made a wise decision in choosing the class as representative of our Nation. I am pleased that the class had a successful 50th class reunion and I look forward to hearing about the future successes of this class.

CONCLUSION OF MORNING BUSINESS

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Texas.

Mr. BENTSEN. Have we finished the morning hour?

The PRESIDING OFFICER. If there is no further morning business, then morning business will be closed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMPREHENSIVE NATIONAL ENERGY POLICY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 776, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 776) to provide for improved energy efficiency.

The Senate proceeded to consider the bill (H.R. 776) to provide for improved energy efficiency, which had been reported from the Committee on Finance, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 776

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 "Comprehensive National Energy Policy Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—ENERGY EFFICIENCY

Sec. 101. Findings, purpose, and definition.

Subtitle A—Buildings

Sec. 111. Residential and commercial building energy efficiency codes and standards.

Sec. 112. Voluntary home energy efficiency ratings.

Subtitle B—Federal Agency Energy Management

Sec. 121. Federal energy management amendments.

Sec. 122. Energy savings performance contracts.

Sec. 123. Intergovernmental energy management planning and coordination.

Sec. 124. Federal agency energy management training.
Sec. 125. Identification and attainment of agency energy reduction and management goals.
Sec. 126. Energy audit teams.
Sec. 127. Procurement and identification of energy efficient products.
Sec. 128. Federal energy efficiency funding study.

Subtitle C—Electricity and Utilities

PART 1—ELECTRIC UTILITIES

Sec. 131. Encouragement of investments in conservation and energy efficiency.
Sec. 132. Tennessee Valley Authority least-cost planning program.
Sec. 133. Amendment of Hoover Power Plant Act.

PART 2—GAS UTILITIES

Sec. 141. Encouragement of investments in conservation and energy efficiency.

PART 3—GENERAL PROVISIONS

Sec. 151. Conservation grants to State regulatory authorities.

Subtitle D—Requirements and Information

Sec. 161. Energy efficiency labeling for windows and window systems.
Sec. 162. Voluntary standards for industrial insulation and improvement of industrial audits.
Sec. 163. Energy conservation requirements for certain commercial and industrial equipment.
Sec. 164. Energy conservation requirements for certain lamps and plumbing products.
Sec. 165. Energy conservation requirements for certain other equipment and energy efficiency labeling for luminaires.
Sec. 166. Cooperative advanced appliance and equipment development.
Sec. 167. Evaluation of utility early replacement programs for appliances.

Subtitle E—Miscellaneous

Sec. 171. Commercial application of energy efficient lighting technology.
Sec. 172. Energy efficiency in industrial facilities.
Sec. 173. Process-oriented industrial energy efficiency.
Sec. 174. Miscellaneous.

TITLE II—NATURAL GAS PIPELINES

Sec. 201. Fewer restrictions on certain natural gas imports.
Sec. 202. Optional certificates for certain projects.
Sec. 203. Transportation under section 311 of the Natural Gas Policy Act of 1978.
Sec. 204. Rules in local distribution company bypass cases.
Sec. 205. Third party contracting by the Federal Energy Regulatory Commission for Natural Gas Act facilities.
Sec. 206. New rates and joint through rates.
Sec. 207. Utilization of informal rulemaking procedures.
Sec. 208. Faster issuance and review of Commission orders.
Sec. 209. Streamlined certificate procedures.
Sec. 210. Expedited Federal Energy Regulatory Commission rules.
Sec. 211. Gas delivery interconnections in production areas.
Sec. 212. Gas delivery interconnections in market areas for local utilities.
Sec. 213. Technical amendments.
Sec. 214. State regulation on the production of natural gas.

TITLE III—ALTERNATIVE FUELS—GENERAL

Sec. 301. Definitions.
Sec. 302. Amendments to the Energy Policy and Conservation Act.
Sec. 303. Assurance of acquisition of a variety of fueling facilities.
Sec. 304. Increased Federal fleet requirement.
Sec. 305. Use of alcohol-enhanced gasoline in Federal motor vehicles.
Sec. 306. Disadvantaged business enterprises.

TITLE IV—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

Sec. 401. Truck commercial application program.
Sec. 402. Conforming amendments.
Sec. 403. Alternative motor fuels amendments.
Sec. 404. Vehicular natural gas jurisdiction.
Sec. 405. Public information program.
Sec. 406. Labeling requirements.
Sec. 407. Availability of fueling facilities.
Sec. 408. Data acquisition program.
Sec. 409. Federal Energy Regulatory Commission authority to approve recovery of certain expenses in advance.
Sec. 410. State and local incentives programs.
Sec. 411. Alternative fuel bus program.
Sec. 412. Certification of training programs.
Sec. 413. Alternative fuel use in nonroad vehicles and engines.
Sec. 414. Reports to Congress.
Sec. 415. Low interest loan program.
Sec. 416. Commercial application funding for alternative fueled vehicles.
Sec. 417. Prohibited acts.
Sec. 418. Enforcement.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

Sec. 501. Mandate for alternative fuel providers.
Sec. 502. Replacement fuel supply and demand program.
Sec. 503. Replacement fuel demand estimates and supply information.
Sec. 504. Modification of goals; additional rulemaking authority.
Sec. 505. Voluntary supply commitments.
Sec. 506. Technical and policy analysis.
Sec. 507. Fleet requirement program.
Sec. 508. Secretary's recommendations to Congress.
Sec. 509. Effect on other laws.
Sec. 510. Prohibited acts.
Sec. 511. Enforcement.
Sec. 512. Powers of the Secretary.
Sec. 513. Authorization of appropriations.

TITLE VI—ELECTRIC MOTOR VEHICLES

Sec. 601. Definitions.

Subtitle A—Electric Motor Vehicle Commercial Demonstration Program

Sec. 611. Applications.
Sec. 612. Selection of proposers.
Sec. 613. Discounts to users.
Sec. 614. Reports to Congress.
Sec. 615. Authorization of appropriations.
Sec. 616. Technology transfer program.

Subtitle B—Electric Motor Vehicle Infrastructure and Support Systems Development Program

Sec. 621. Definitions.
Sec. 622. General authority.
Sec. 623. Solicitation of joint ventures.
Sec. 624. Electric utility participation study.
Sec. 625. Authorization of appropriations.

TITLE VII—ELECTRICITY

Sec. 701. Findings and purposes.

Subtitle A—Public Utility Holding Company Act Amendments

Sec. 711. Treatment of independent power producers under PUHCA.
Sec. 712. Ownership of independent power producers and qualifying facilities.
Sec. 713. Affiliate transactions; State authorities.

Subtitle B—Federal Power Act; Interstate Commerce in Electricity

Sec. 721. Interconnection.
Sec. 722. Amendments to section 211 of Federal Power Act.
Sec. 723. Transmission services.
Sec. 724. Information requirements.
Sec. 725. Sales by independent power producers.
Sec. 726. Penalties.
Sec. 727. Definitions.

Subtitle C—State and Local Authorities

Sec. 731. State authorities.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

Sec. 801. Environmental Protection Agency standards for disposal.
Sec. 802. Inflation adjustment for fees.
Sec. 803. Plan for timely payment of costs for disposal of defense waste in repository.
Sec. 804. Site characterization.
Sec. 805. Extension of Office of the Nuclear Waste Negotiator.

TITLE IX—URANIUM ENRICHMENT CORPORATION

Sec. 901. Establishment of the Uranium Enrichment Corporation.
Sec. 902. Conforming amendments and repealers.
Sec. 903. Restrictions on nuclear exports.
Sec. 904. Severability.
Sec. 905. Citizen suits.

TITLE X—REMEDIAL ACTION AT ACTIVE PROCESSING SITES

Sec. 1001. Remedial action program.
Sec. 1002. Regulations.
Sec. 1003. Authorization.
Sec. 1004. Definitions.
Sec. 1005. Uranium purchase reports.

TITLE XI—URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES

Sec. 1101. Uranium enrichment health, safety, and environment issues.
Sec. 1102. Table of contents.

TITLE XII—RENEWABLE ENERGY

Sec. 1201. Findings.
Sec. 1202. Purposes.
Sec. 1203. Renewable energy joint ventures.
Sec. 1204. Renewable energy production incentive.
Sec. 1205. Renewable energy export technology training.
Sec. 1206. Authority for States to undertake feasibility studies.
Sec. 1207. Renewable Energy Advancement Awards.
Sec. 1208. Study of export promotion practices.
Sec. 1209. Study of tax and rate treatment of renewable energy projects.
Sec. 1210. Study of rice milling energy by-product marketing.
Sec. 1211. Interagency working group.
Sec. 1212. Renewable energy commercialization.
Sec. 1213. Data system and energy technology evaluation.
Sec. 1214. Outreach.

59-059 O—97 Vol. 138 (Pt. 14) 29

TITLE XIII—COAL
Sec. 1301. Coal research and development relating to commercial application program.
Sec. 1302. Coal exports.
Sec. 1303. Clean coal technology export promotion and interagency coordination.
Sec. 1304. Innovative clean coal and renewable energy technology transfer program.
Sec. 1305. Conventional coal technology transfer.
Sec. 1306. Coal fired diesel engines.
Sec. 1307. Clean coal, waste-to-energy.
Sec. 1308. Nonfuel use of coal.
Sec. 1309. Coal refinery program.
Sec. 1310. Study of utilization of coal combustion byproducts.
Sec. 1311. Calculation of avoided cost.
Sec. 1312. Coalbed methane recovery.
Sec. 1313. Coalbed methane emission credits.
Sec. 1314. Ownership of coalbed methane.
Sec. 1315. Authorization of appropriations.
Sec. 1316. Establishment of data base and study of transportation rates.
Sec. 1317. Early banking of emissions credits for efficiency improvements from the application of clean coal technologies.
Sec. 1318. Metallurgical coal development.
Sec. 1319. Utilization of coal wastes.
TITLE XIV—STRATEGIC PETROLEUM RESERVE
Sec. 1401. Fill of the Refined Petroleum Product Reserve.
Sec. 1402. Additional authority for drawdown.
Sec. 1403. Insular areas study.
TITLE XV—OCTANE DISPLAY AND DISCLOSURE
Sec. 1501. Certification and posting of automotive fuel ratings.
Sec. 1502. Increased authority for enforcement.
Sec. 1503. Studies.
TITLE XVI—GREENHOUSE WARMING—ENERGY IMPLICATIONS
Sec. 1601. Interagency Coordinating Council.
Sec. 1602. Report on National Academy of Sciences recommendations.
Sec. 1603. Energy inventory and forecasts.
Sec. 1604. Assessment of alternative policy mechanisms for addressing greenhouse gas emissions.
Sec. 1605. Voluntary reductions of greenhouse gases.
Sec. 1606. International energy technology transfer.
Sec. 1607. Global Climate Change Response Fund.
TITLE XVII—ADDITIONAL FEDERAL POWER ACT AMENDMENTS
Sec. 1701. Additional Federal Power Act amendments.
TITLE XVIII—OIL PIPELINE REGULATORY REFORM
Sec. 1801. Oil pipeline ratemaking methodology.
Sec. 1802. Streamlining of Commission procedures.
Sec. 1803. Protection of certain existing rates.
Sec. 1804. Definitions.
[TITLE XIX—REVENUE PROVISIONS
[Sec. 1901. Amendment of 1986 Code.
[Subtitle A—Energy Conservation and Production Incentives
[Sec. 1911. Treatment of employer-provided transportation benefits.
[Sec. 1912. Exclusion of energy conservation subsidies provided by regulated public utilities.
[Sec. 1913. Deductions relating to clean-fuel vehicles.
[Sec. 1914. Credit for electricity produced from certain renewable sources.
[Sec. 1915. Repeal of minimum tax preferences for depletion and intangible drilling costs of independent oil and gas producers and royalty owners.
[Sec. 1916. Increased base tax rate on ozone-depleting chemicals.
[Sec. 1917. Treatment of certain ozone depleting chemicals.
[Sec. 1918. Permanent extension of energy investment credit for solar and geothermal property.
[Sec. 1919. Nuclear decommissioning funds.
[Sec. 1920. Facilities for production of certain fuels.
[Sec. 1921. Treatment under local furnishing rules of certain electricity transmitted outside local area.
[Subtitle B—Other Revenue Provisions
[Sec. 1931. Repeal of exemption from communications tax for news services.
[Sec. 1932. Exception from pro rata allocation of interest expense of financial institutions to tax-exempt interest for small issuers increased to $20,000,000.
[Sec. 1933. Certain minerals not eligible for percentage depletion.
[Sec. 1934. Disclosures of information for veterans benefits.
[Sec. 1935. Disallowance of interest on certain overpayments of tax.
[Sec. 1936. Information reporting with respect to certain seller-provided financing.
[Subtitle C—Federal Tax Exemption for Uranium Enrichment Corporation; Limitation on Borrowing Authority
[Sec. 1941. Federal tax exemption; limitation on borrowing authority.]
TITLE XIX—REVENUE PROVISIONS
Sec. 1901. Amendment of 1986 Code.
SUBTITLE A—ENERGY CONSERVATION AND PRODUCTION INCENTIVES
Sec. 1911. Treatment of employer-provided transportation benefits.
Sec. 1912. Exclusion of energy conservation subsidies provided by regulated public utilities.
Sec. 1913. Treatment of clean-fuel vehicles.
Sec. 1914. Credit for electricity produced from certain renewable sources.
Sec. 1915. Repeal of minimum tax preferences for depletion and intangible drilling costs of independent oil and gas producers and royalty owners.
Sec. 1916. Increased base tax rate on ozone-depleting chemicals.
Sec. 1917. Treatment of certain ozone depleting chemicals.
Sec. 1918. Permanent extension of energy investment credit for solar, geothermal, and ocean property.
Sec. 1919. Nuclear decommissioning funds.
Sec. 1920. Alcohol fuels.
Sec. 1921. Determination of independent producers.
Sec. 1922. Tas-exempt of financing for environmental enhancements of hydroelectric generating facilities.
Subtitle B—Other Revenue Provisions
Sec. 1931. Elimination of deduction for club membership fees.
Sec. 1932. Modifications to tax on insurance policies issued by foreign insurers.
Subtitle C—Health Care of Coal Miners
Sec. 1941. Short title.
Sec. 1942. Findings and declaration of policy.
Sec. 1943. Coal industry health benefits program.
TITLE XX—GENERAL PROVISIONS; REDUCTION OF OIL VULNERABILITY
Sec. 2001. Definitions.
Sec. 2002. Goals.
Subtitle A—Oil and Gas Supply Enhancement
Sec. 2011. Enhanced oil recovery.
Sec. 2012. Oil shale.
Sec. 2013. Natural gas supply research and development.
Subtitle B—Oil and Gas Demand Reduction and Substitution
Sec. 2021. General transportation research, development, and demonstration program.
Sec. 2022. Advanced automotive fuel economy.
Sec. 2023. Alternative fuel vehicle research, development, and demonstration program.
Sec. 2024. Biofuels research and development user facility.
Sec. 2025. Electric vehicle and battery research and development program.
Sec. 2026. Renewable hydrogen energy.
Sec. 2027. Advanced diesel emissions research, development, and demonstration program.
Subtitle C—Oil Substitution Through Coal Liquefaction
Sec. 2031. Oil substitution through coal liquefaction.
TITLE XXI—ENERGY AND ENVIRONMENT
Subtitle A—Improved Energy Efficiency
Sec. 2101. General improved energy efficiency research, development, and demonstration program.
Sec. 2102. Natural gas and electric heating and cooling technologies.
Sec. 2103. Pulp and paper research, development, and demonstration.
Sec. 2104. Advanced building research, development, and demonstration for low emission, low energy buildings by 2005.
Sec. 2105. Electric drives.
Sec. 2106. Mid-term technology demonstration program.
Sec. 2107. Steel and aluminum research.
Subtitle B—Electricity Generation and Use
Sec. 2111. Renewable energy.
Sec. 2112. High efficiency heat engines.
Sec. 2113. Nuclear energy.
Sec. 2114. Civilian nuclear waste.
Sec. 2115. Fusion energy.
Sec. 2116. Coal.
Sec. 2117. Fuel cells.
Sec. 2118. Environmental restoration and waste management program.
Sec. 2119. Efficient electric energy systems.
Sec. 2120. Electric and magnetic fields research and public information dissemination programs.
Subtitle C—Pollution Prevention
Sec. 2121. Energy efficient pollution prevention program.
TITLE XXII—ENERGY AND ECONOMIC GROWTH
Sec. 2201. National Critical Advanced Materials Initiative.
Sec. 2202. National Critical Advanced Manufacturing Technologies Initiative.
Sec. 2203. Supporting research and technical analysis.
Sec. 2204. Integration of research and development.
Sec. 2205. Definitions.
TITLE XXIII—POLICY AND ADMINISTRATIVE PROVISIONS
Sec. 2301. Cooperative research and development agreements in energy technology.

Sec. 2302. Policy on capital projects and construction.
Sec. 2303. Energy research, development, and demonstration advisory board.
Sec. 2304. Amendments to existing law.
Sec. 2305. Cost sharing.
Sec. 2306. Comprehensive energy research, development, and demonstration plan and program.
[Sec. 2307. Costs related to decommissioning and the storage and disposal of nuclear waste.
[Sec. 2308. Use of domestic products.
[Sec. 2309. Limitation on appropriations.
[Sec. 2310. Renewable energy and ocean resources center.
[Sec. 2311. Uncosted obligations.]

TITLE XXIV—MARINE AND COASTAL ENVIRONMENT PROTECTION

Sec. 2401. Short title.

Subtitle A—Ocean and Coastal Resources Block Grants

Sec. 2411. Short title.
Sec. 2412. Definitions.
Sec. 2413. Ocean and Coastal Resources Fund.
Sec. 2414. National ocean and coastal resources block grants.
Sec. 2415. Requirements on the use of block grants.
Sec. 2416. Relationship to other law.
Sec. 2417. Local governments.
Sec. 2418. Audit.
Sec. 2419. Rules and regulations.

Subtitle B—Revisions to the Outer Continental Shelf Program

Sec. 2431. Relationship to Outer Continental Shelf Leasing Program and existing law.
Sec. 2432. Specific regional Outer Continental Shelf planning areas.
Sec. 2433. Outer Continental Shelf leasing environmental sciences review.
Sec. 2434. Restrictions and requirements applicable to specific planning areas.
Sec. 2435. Alaska OCS subsistence review.
Sec. 2436. Definitions.

Subtitle C—Environmental Studies Program

Sec. 2441. Environmental studies.
Sec. 2442. Authorization of appropriations.

Subtitle D—Miscellaneous

Sec. 2451. Cancellation of leases.
Sec. 2452. Compensation for lease buybacks.
Sec. 2453. Evaluation of development potential.

Subtitle E—Alaska Resources

PART 1—TRANS-ALASKA PIPELINE

Sec. 2461. Responsibility of right-of-way holder.
Sec. 2462. Exxon Valdez settlement fund land acquisition.
Sec. 2463. Subsistence claims against Trans-Alaska Pipeline Liability Fund.
Sec. 2464. TAPS remedy not exclusive.
Sec. 2465. Utility Corridor.

PART 2—ARCTIC RESEARCH

Sec. 2471. Funding for Arctic research programs.

Subtitle F—Transshipment of Plutonium Through United States Ports

Sec. 2481. Transshipment of plutonium through United States ports.

TITLE XXV—COAL, OIL, AND GAS

Sec. 2501. Amendment to Surface Mining Act.
Sec. 2502. Hot dry rock geothermal energy.
Sec. 2503. Hot dry rock geothermal energy in Eastern United States.
Sec. 2504. Coal remining.
Sec. 2505. Surface Mining Act implementation.
Sec. 2506. Federal coal royalty study.
Sec. 2507. Acquired Federal land mineral receipts management.
Sec. 2508. Reserved oil and gas.
Sec. 2509. Outstanding oil and gas.
Sec. 2510. Federal onshore oil and gas leasing.
Sec. 2511. Oil placer claims.
Sec. 2512. Oil shale claims.
Sec. 2513. Health, safety, and mining technology research program.
Sec. 2514. Surface mining regulations.

TITLE XXVI—INDIAN ENERGY RESOURCES

Sec. 2601. Short title.
Sec. 2602. Definitions.
Sec. 2603. Treatment of Indian tribes as States.
Sec. 2604. Promoting energy resource development and energy vertical integration on Indian reservations.
Sec. 2605. Indian energy resource regulation.
Sec. 2606. Indian Energy Royalty Management Commission.

TITLE XXVII—INSULAR AREAS ENERGY SECURITY

Sec. 2701. Short title.
Sec. 2702. The Insular Areas Energy Security Amendment of 1992.
Sec. 2703. Definition.
Sec. 2704. Electricity requirements in Trust Territory of the Pacific Islands.
Sec. 2705. PCB cleanup in Marshall Islands and Federated States of Micronesia.

TITLE XXVIII—NUCLEAR PLANT LICENSE

Sec. 2801. Combined licenses.
Sec. 2802. Post-construction hearings on combined licenses.
Sec. 2803. Rulemaking.
Sec. 2804. Amendment of a combined license pending a hearing.
Sec. 2805. Judicial review.
Sec. 2806. Effect on pending proceedings.
Sec. 2807. Conforming amendment.

TITLE XXIX—RADIATION PROTECTION

Subtitle A—Below Regulatory Concern

Sec. 2901. State authority to regulate radiation below level of NRC regulatory concern.
Sec. 2902. Revocation of related NRC policy statements.

Subtitle B—Disposal Standards at Mill Tailings Sites

Sec. 2911. Disposal standards at mill tailings sites.

TITLE XXX—MISCELLANEOUS

Sec. 3001. Powerplant and Industrial Fuel Use Act of 1978 repeal.
Sec. 3002. Alaska Natural Gas Transportation Act of 1976 repeal.
Sec. 3003. Geothermal heat pumps.
Sec. 3004. Employee protection for nuclear whistleblowers.
Sec. 3005. Renewable Energy Park Demonstration Program.
Sec. 3006. Use of energy futures for fuel purchases.
Sec. 3007. Energy subsidy study.
Sec. 3008. Tar sands.
Sec. 3009. Exemption of certain research and educational licensees from annual charges.
Sec. 3010. Amendments to title 11 of the United States Code.

TITLE XXXI—FEDERAL AND STATE LANDS

Sec. 3101. Rights-of-way on certain Federal lands.
Sec. 3102. Dams in national parks.
Sec. 3103. State or local government lands.
Sec. 3104. Coordination with Federal agencies.

TITLE I—ENERGY EFFICIENCY

SEC. 101. FINDINGS, PURPOSE, AND DEFINITION.

(a) FINDINGS.—The Congress finds that the more efficient use of energy and the greater use of renewable energy can—

(1) improve energy security and the balance of trade by reducing energy imports;

(2) improve air quality by reducing combustion of fossil fuels;

(3) reduce emissions of carbon dioxide, a major "greenhouse" gas;

(4) save consumers money through reduced energy expenditures; and

(5) improve the international competitiveness of the United States economy.

(b) PURPOSE.—The purpose of this title is to encourage the more efficient use of energy and water.

(c) DEFINITION.—For the purposes of this title, the term "Secretary" means the Secretary of Energy.

Subtitle A—Buildings

SEC. 111. RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.

(a) IN GENERAL.—Title II of the National Energy Conservation Policy Act (42 U.S.C. 8211–8235i) is amended by adding at the end the following new part:

"PART 6—RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS

"SEC. 271. UPDATING OF ENERGY EFFICIENCY CODES AND STANDARDS.

"(a) TECHNICAL ASSISTANCE.—(1) Not later than 12 months after the date of the enactment of this part, the Secretary shall establish a program to provide technical assistance in the updating, implementing, and enforcing the energy efficiency provisions in residential and commercial building codes. In establishing and carrying out such program, the Secretary shall provide such assistance to State and local code officials, building professionals, and building owners and operators involved in reviewing and analyzing current model codes and standards for residential and commercial building energy efficiency, in designing appropriate code amendments, in developing code administration, compliance, and enforcement methods, or in implementing and enforcing the codes.

"(2) Such technical assistance shall include direct analytical and training support and may include grants to States, local governments, and other organizations from funds available for such purpose. States which have certified that they have met the requirements of subsections (b) and (c) shall be given a priority for grants made to implement and enforce energy efficiency provisions of building codes.

"(3)(A) The Secretary shall establish a task force to advise in the development of the program described in paragraph (1) and to review the results of such program.

"(B) The task force shall include representatives from building scientists, nonprofit groups concerned with energy efficiency in buildings, utilities, manufacturers and installers of energy efficient materials and systems, the building construction industry, the financial community, code officials, State governments, and commercial building owners, operators, and managers.

"(b) CERTIFICATION OF RESIDENTIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than two years after the date of the enactment of this part, each State shall certify that it has reviewed and updated its residential building code provisions affecting energy

efficiency. This certification shall include a demonstration that the State's residential building energy efficiency code provisions meet or exceed the requirements of the Council of American Building Officials' Model Energy Code of 1989.

"(2)(A) Whenever the model energy code referred to in paragraph (1) (or any successor of such code) is revised in a manner that the Secretary determines will improve energy efficiency in residential dwellings, the Secretary shall publish a notice of such determination in the Federal Register.

"(B) During any year beginning after December 31, 1995, the Secretary may, for the purpose of improving energy efficiency in residential buildings, prescribe regulations containing energy efficiency requirements that exceed the requirements of—

"(i) if no determination has been made under subparagraph (A), the model energy code referred to in paragraph (1); or

"(ii) if a determination has been made under subparagraph (A), the most recent code for which such a determination has been made.

"(C) Whenever the Secretary makes a determination under subparagraph (A) or prescribes regulations under subparagraph (B), each State shall, not later than two years after the date of the publication of such determination or regulations, certify that it has reviewed and updated its residential building code provisions affecting energy efficiency in accordance with the model energy code for which a determination has been made under subparagraph (A) or the regulations prescribed under subparagraph (B), as the case may be. Such certification shall include a demonstration that the State's building energy efficiency code provisions meet or exceed such code or regulations.

"(c) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than two years after the date of the enactment of this part, each State shall certify to the Secretary that it has reviewed and updated its commercial building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's code provisions meet or exceed the requirements of the American Society of Heating, Refrigerating, and Air Conditioning Engineers Standard 90.1-1989.

"(2)(A) Whenever the standard referred to in paragraph (1) (or any successor of such standard) is revised in a manner that the Secretary determines will improve energy efficiency in commercial buildings, the Secretary shall publish a notice of such determination in the Federal Register.

"(B) During any year beginning after December 31, 1995, the Secretary may, for the purpose of improving energy efficiency in commercial buildings, prescribe regulations containing energy efficiency requirements that exceed the requirements of—

"(i) if no determination has been made under subparagraph (A), the standard referred to in paragraph (1); or

"(ii) if a determination has been made under subparagraph (A), the most recent standard for which such a determination has been made.

"(C) Whenever the Secretary makes a determination under subparagraph (A) or prescribes regulations under subparagraph (B), each State shall, not later than two years after the date of the publication of such determination or regulations, certify that it has reviewed and updated its commercial building code provisions affecting energy efficiency in accordance with the standard for which a determination has been made under subparagraph (A) or the regulations prescribed under subparagraph (B), as the case may be. Such certification shall include a demonstration that the State's building energy efficiency code provisions meet or exceed such standard or regulations.

"(d) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements of subsections (b) and (c) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

"(e) PERIODIC REVIEW.—The Secretary shall, in consultation with the appropriate Federal agencies, periodically review the technical and economic basis of the provisions in widely used building energy standards and model energy codes developed through consensus processes with broad industry and public participation, such as those developed by the American Society of Heating, Refrigerating, and Air-conditioning Engineers and the Council of American Building Officials. Based upon the Secretary's review of these codes and standards and upon ongoing research on the energy efficiency of buildings and their components, the Secretary shall—

"(1) participate in any industry process carried out to review and modify energy provisions in building standards or codes;

"(2) recommend amendments to such energy provisions; and

"(3) seek adoption of all energy efficiency measures that are technically feasible and economically justified on a life-cycle cost basis.".

(b) CLERICAL AMENDMENTS.—(1) The National Energy Conservation Policy Act is amended by adding at the end of the table of contents for title II the following items:

"PART 6—RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.

"Sec. 271. Updating of energy efficiency codes and standards.".

(2) The title for title II of such Act, and the heading for such title in the table of contents of such Act, are amended to read as follows:

"TITLE II—ENERGY CONSERVATION IN GENERAL".

SEC. 112. VOLUNTARY HOME ENERGY EFFICIENCY RATINGS.

(a) IN GENERAL.—Title II of the National Energy Conservation Policy Act (42 U.S.C. 8211-8235i) is amended by adding at the end the following new part after the part added by section 111 of this Act:

"PART 7—VOLUNTARY ENERGY EFFICIENCY RATINGS FOR RESIDENTIAL BUILDINGS

"SEC. 281. RATINGS.

"(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this part, the Secretary shall, by rule, prescribe regulations containing procedures that may be used by State and local governments, utilities, builders, and others to assign energy efficiency ratings to residential buildings.

"(b) CONTENTS OF RULE.—The regulations prescribed under subsection (a) shall—

"(1) establish a uniform rating scale—

"(A) that measures the efficiency of energy use in residential buildings while taking into account local differences in climate and construction practices; and

"(B) that does not discriminate against different fuel types;

"(2) using the uniform rating scale established under paragraph (1), establish methods, including format and content, of labeling that indicate the estimated annual heating and cooling cost of residential buildings that would be rated pursuant to such scale;

"(3) establish procedures for implementing the rating scale and labeling referred to in paragraphs (1) and (2), including methods that take into account variance in local needs;

"(4) establish requirements and procedures for certifying the accuracy of building energy analysis tools used to determine the energy ratings made pursuant to such regulation;

"(5) establish data collection and reporting requirements for organizations operating energy rating systems pursuant to such regulation; and

"(6) establish a Federal model home energy rating system—

"(A) that shall not supersede any local energy rating system but shall be used in technical assistance efforts; and

"(B) that shall be made available for optional use, at no charge, to States, local governments, and other organizations seeking to establish home energy ratings programs.

"(c) SPECIAL RULE.—In promulgating the procedures under this section, the Secretary shall provide that the supply of energy to any residential building from solar energy shall be credited toward the energy efficiency rating of such building.

"(d) UTILIZATION.—The procedures prescribed under this section shall be designed to facilitate use of the uniform rating scale and the labeling referred to in paragraphs (1) and (2) of subsection (b) by real estate agents, builders, lenders, and agencies in the secondary mortgage markets.

"SEC. 282. TECHNICAL ASSISTANCE.

"Not later than 18 months after the date of the enactment of this part, the Secretary shall establish and begin carrying out a program, with funds available for this purpose, to provide technical assistance to State and local governments, utilities, real estate agents, builders, lenders, agencies in the secondary mortgage markets, and others utilizing energy efficiency rating systems based on the procedures promulgated under this part. Technical assistance shall include direct assistance in the form of analytical support, training, and educational materials and may include grants to State and local governments and nonprofit organizations to assist in the development of home energy ratings systems.

"SEC. 283. REPORT.

"(a) INTERIM REPORT.—Not later than 24 months after the date of the enactment of this part, the Secretary shall transmit to the President and the Congress a report detailing—

"(1) the procedures prescribed under section 281;

"(2) any problems encountered in prescribing such procedures; and

"(3) actions taken to provide technical assistance under section 282.

"(b) FINAL REPORT.—Not later than 36 months after the date of the enactment of this part, the Secretary shall transmit to the President and the Congress a final report containing—

"(1) a description of the action taken by States, local governments, and other organizations to implement the energy efficiency ratings procedures described in section 281 and any problems encountered in implementing such procedures; and

"(2) recommendations on the feasibility of requiring, as a prerequisite to receiving federally assisted mortgages, the achievement

of a certain threshold rating on the uniform rating scale established under section 281.".

(b) CLERICAL AMENDMENT.—The National Energy Conservation Policy Act is amended by adding at the end of the table of contents for title II the following items after the items added by section 111(b) of this Act:

"PART 7—VOLUNTARY HOME ENERGY EFFICIENCY RATINGS

"Sec. 281. Ratings.
"Sec. 282. Technical assistance.
"Sec. 283. Report.".

Subtitle B—Federal Agency Energy Management

SEC. 121. FEDERAL ENERGY MANAGEMENT AMENDMENTS.

(a) PURPOSE.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting after "use of energy" the following: "and water, and the use of renewable energy sources,".

(b) REQUIREMENTS FOR FEDERAL AGENCIES.—Section 543 of such Act (42 U.S.C. 8253(a)) is amended—

(1) in the section heading by striking "**goals**" and inserting "**requirements**";

(2) in subsection (a) by striking "GOAL" and inserting "REQUIREMENT";

(3) in subsection (a)(1) by inserting before the period at the end the following: "and so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 2000 is at least 20 percent less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985"; and

(4) by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:

"(b) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL AGENCIES.—(1)(A) Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544.

"(B) By January 1, 1994, each agency shall submit to the Secretary a list of projects meeting such 10-year payback criterion, the energy or water that each project will save, and the total energy, water, and cost savings involved.

"(C) The Secretary may waive the requirements of this subsection for any agency for such periods as the Secretary may determine if the Secretary finds that the agency is taking all practicable steps to meet the requirements and that the requirements of this subsection will pose an unacceptable burden upon the agency. If the Secretary waives the requirements of this subsection, the Secretary shall notify the Congress promptly in writing with an explanation and a justification of the reasons for such waiver.

"(D) Any agency which has jurisdiction of more than 300 buildings and facilities may determine its list of projects for the purpose of meeting the 10-year payback criterion by undertaking a technical and economic assessment of a statistically valid random sample of buildings and facilities.

"(2)(A) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impractical. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, and, in the cases of the Departments of Defense and Energy, the unique character of certain facilities operated by such Departments.

"(B) Each agency shall identify and list, in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary of Energy shall review such findings for consistency with the impracticability standards set forth in subparagraph (A), and may within 90 days after receipt of the findings, reverse a finding of impracticability. In the case of any such reversal, the agency shall comply with the requirements of paragraph (1) for the building concerned.

"(3) This subsection shall not apply to an agency's facilities that generate or transmit electric energy or to the uranium enrichment facilities operated by the Department of Energy.".

(c) IMPLEMENTATION.—Section 543(c) of such Act (as redesignated by subsection (b)(4) of this section) is amended—

(1) in the material preceding paragraph (1), by striking out "achieve the goal established in subsection (a)" and inserting in lieu thereof "meet the requirements of this section";

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) prepare and submit to the Secretary of Energy, within nine months after the date of the enactment of the Comprehensive National Energy Policy Act, a plan describing how the agency intends to meet such requirements, including how it will—

"(A) designate personnel primarily responsible for achieving such requirements;

"(B) identify high priority projects;

"(C) take maximum advantage of contracts authorized under title VIII of this Act, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs to the Government; and

"(D) otherwise implement this part;";

(3) by inserting the following before the semicolon at the end of paragraph (2): "and update such surveys as needed";

(4) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) using such surveys, determine the cost and payback period of energy and water conservation measures likely to achieve the requirements of this section;

"(4) install energy and water conservation measures that will attain the requirements of this section through the methods and procedures established pursuant to section 544; and"; and

(5) by redesignating paragraph (4) as paragraph (5).

(d) LIFE CYCLE COST METHODS AND PROCEDURES.—Section 544(a) of such Act (42 U.S.C. 8254(a)) is amended by striking out "National Bureau of Standards," in the material preceding paragraph (1) and inserting in lieu thereof "National Institute of Standards and Technology,".

(e) IDENTIFICATION OF FUNDS.—Section 545 of such Act (42 U.S.C. 8255) is amended to read as follows:

"SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"The President shall transmit to the Congress, along with each budget that is submitted to the Congress under section 1105 of title 31, United States Code, a statement of the amount of appropriations requested in such budget, if any, on an individual agency basis, for—

"(1) electric and other energy costs to be incurred in operating and maintaining agency facilities; and

"(2) compliance with the provisions of this part, the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), and all applicable Executive orders, including Executive Order 12003 (42 U.S.C. 6201 note) and Executive Order 12759 (56 Fed. Reg. 16257).".

(f) INCENTIVE PROGRAM.—Section 546 of such Act (42 U.S.C. 8256) is amended—

(1) by striking "(a) IN GENERAL.—" and inserting in lieu thereof "(a) CONTRACTS.—(1)";

(2) by redesignating subsection (b) as paragraph (2) and amending it to read as follows:

"(2) The Secretary shall, not later than 12 months after the date of the enactment of the Comprehensive National Energy Policy Act and after consultation with the Director of the Office of Management and Budget, the Secretary of Defense, and the Administrator of General Services, develop appropriate procedures and methods for use by agencies to implement the incentives referred to in paragraph (1).";

(3) by striking out subsection (c); and

(4) by adding at the end the following new subsections:

"(b) FEDERAL ENERGY EFFICIENCY FUND.—(1) The Secretary shall establish a Federal Energy Efficiency Fund to provide grants to agencies to enable them to meet the requirements of section 543.

"(2) Not later than June 30, 1993, the Secretary shall issue guidelines to be followed by agencies submitting proposals for such grants. All agencies shall be eligible to submit proposals for grants under the Fund.

"(3) The Secretary shall, on a quarterly basis, award grants from the Fund after a competitive assessment of the technical and economic effectiveness of each agency proposal. The Secretary shall give preference to those proposals that leverage utility rebates or private financing, or both, or provide for a direct commitment of agency funding.

"(4) The Secretary shall transmit to the Congress, on an annual basis, a report detailing the amount of funds awarded to each agency, the energy and water conservation measures installed with such funds, and the projected energy and water savings to be realized from installed measures. For each installed measure for which the projected energy and water savings reported in the previous year were not realized, such report shall also set forth the percentage of such projected savings that was not realized, the reasons such savings were not realized, and proposals for, and projected costs of, achieving such projected savings in the future.

"(5) There are authorized to be appropriated to carry out this subsection not more than $10,000,000 for fiscal year 1993, $50,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years thereafter.

"(c) UTILITY INCENTIVE PROGRAMS.—(1) Agencies are authorized and encouraged to participate in programs for energy or water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

"(2) Each agency may accept any financial incentive, generally available from any such utility, to conserve energy or water or manage electricity demand.

"(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

"(4) A public utility rate commission may not prohibit an agency from participating in

a program which offers financial incentives for conservation of energy or water or for management of electricity, if participation in the program is generally permitted for customers of the utility.

"(d) FINANCIAL INCENTIVE PROGRAM FOR FACILITY ENERGY MANAGERS.—(1) The Secretary shall establish a financial bonus program to reward, with funds available for such purpose, outstanding facility energy managers in agencies.

"(2) Not later than June 1, 1993, the Secretary shall issue procedures for the bonus program, including the criteria to be used in selecting outstanding energy managers. Such criteria shall include, but not be limited to, evident success in generating utility incentives and shared energy saving contracts and in the amount of energy saved by conservation projects.

"(3) Each year the Secretary shall publish and disseminate to agencies a report highlighting the achievements of bonus award winners.

"(4) There is authorized to be appropriated to carry out this subsection not more than $250,000 for each of the fiscal years 1993, 1994, and 1995.

"(e) USE OF SAVINGS.—The head of each agency (other than the Department of Defense) shall provide that an amount equal to the energy and water cost savings realized by such agency with respect to funds appropriated for any fiscal year beginning after fiscal year 1992 (including financial benefits resulting from shared energy savings contracts under title VIII and financial incentives described in subsection (c)(2)) shall be available as follows:

"(1) ⅓ of such amount shall remain available for obligation through the end of the fiscal year following the fiscal year for which the funds were appropriated. Such funds shall be available, without additional authorization or appropriation, for the implementation of additional energy and water conservation measures by the agency, as determined by the head of such agency in agreement with the Administrator of General Services.

"(2) ⅓ of such amount shall remain available for obligation through the last day of the fiscal year following the fiscal year for which the funds were appropriated, without additional authorization or appropriation, for use by the agency in the buildings or facilities at which the savings were realized, consistent with applicable law and regulations.

"(3) ⅓ of such amount shall be deposited into the general fund of the Treasury for the purposes of deficit reduction.".

(g) REPORTS.—Section 548 of such Act (42 U.S.C. 8258) is amended by adding at the end the following new subsection:

"(c) OTHER REPORTS.—(1)(A) The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Administrator of General Services, shall conduct a study on the monetary value of the environmental benefits resulting from energy and water efficiency improvements in Federal buildings. In conducting this study, the Secretary shall review—

"(i) other studies that attempt to assign monetary values to environmental benefits or damages; and

"(ii) methods used by State regulatory authorities to incorporate environmental benefits into their State's regulation of utility activities.

"(B) The Secretary, not later than 24 months after the date of the enactment of this subsection, shall transmit to the Congress a report of the findings and conclusions of such study, including a recommendation as to whether the monetary values should be included in the methods and procedures established pursuant to section 544 and used to calculate the 10-year payback required by section 543.

"(2) The Secretary, in consultation with the Administrator of General Services and the Administrator of the Environmental Protection Agency, shall conduct a study of—

"(A) the life-cycle costs and benefits to the Federal Government of replacing all existing toilets, urinals, shower heads, and faucets in buildings owned by the Federal Government with models that have lower flow rates and are commercially available;

"(B) the environmental benefits of replacing the plumbing items referred to in subparagraph (A), taking into consideration the reduced energy and water use and sewage flow resulting from such replacement; and

"(C) the impact on the plumbing industry and such industry's low-flow products of a large-scale Federal purchase of the plumbing items referred to in subparagraph (A).

"(3) The Secretary, in consultation with the Administrator of General Services, the Secretary of Housing and Urban Development, and the International District Heating and Cooling Association, shall conduct a study and evaluate legal, institutional, and other constraints to connecting buildings owned or leased by the Federal Government to district heating and district cooling systems.

"(4) The Secretary, not later than 18 months after the date of the enactment of this subsection, shall transmit to the Congress a report containing the findings and conclusions of the studies carried out under paragraphs (2) and (3), including—

"(A) recommendations about what actions the Federal Government should take to conserve water in buildings and facilities which it owns or leases; and

"(B) recommendations for the development of streamlined processes for the consideration of connecting buildings owned or leased by the Federal Government to district heating and cooling systems.".

(h) FEDERAL PROGRAMS.—Such Act is amended—

(1) by redesignating section 549 as section 551; and

(2) by inserting the following new section after section 548:

"SEC. 549. INNOVATIVE ENERGY TECHNOLOGY PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in cooperation with the Administrator of General Services, shall establish a program to promote the use of advanced commercially available energy efficiency technologies and renewable energy technologies that have not been generally used in federally owned buildings and facilities.

"(b) SELECTION CRITERIA.—The Secretary shall select proposals to be funded under this section on the basis of—

"(1) cost-effectiveness;

"(2) system reliability in a working environment;

"(3) lack of market penetration in the Federal sector;

"(4) the potential needs of the proposing Federal agency for the technology, projected over 5 to 10 years;

"(5) the potential Federal sector market, projected over 5 to 10 years;

"(6) energy conservation; and

"(7) other environmental benefits, including the projected reduction of greenhouse gas emissions and indoor air pollution.

"(c) PROPOSALS.—Federal agencies may submit to the Secretary for each fiscal year proposals for projects to be funded by the Secretary under this section. Each such proposal shall include—

"(1) a description of the proposed project emphasizing the innovative use of technology in the Federal sector;

"(2) a description of the technical reliability and cost-effectiveness data expected to be acquired;

"(3) an identification of the potential needs of the Federal agency for the technology;

"(4) a commitment to adopt the technology, if the project establishes its technical reliability and life cycle cost-effectiveness, to supply at least 10 percent of the Federal agency's potential needs identified under paragraph (3);

"(5) schedules and milestones for installing additional units; and

"(6) a technology transfer plan to publicize the results of the project.

"(d) PARTICIPATION BY GSA.—The Secretary may only select a project for funding under this section which is proposed to be carried out in a building under the jurisdiction of the General Services Administration if the project will be carried out by the Administrator of General Services. If such project involves a total expenditure in excess of $1,600,000, no appropriation shall be made for such project unless such project has been approved by a resolution adopted by the Committee on Public Works and Transportation of the House of Representatives.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for each of the fiscal years 1993, 1994, and 1995.".

(i) TECHNICAL AMENDMENTS.—(1) Section 548(a)(2) of such Act is amended—

(A) by striking "546(b)" and inserting in lieu thereof "546(a)(2)"; and

(B) by striking "546(c)" and inserting in lieu thereof "546(e)".

(2) The table of contents of such Act is amended by striking the item for section 549 and inserting in lieu thereof the following new items:

"Sec. 549. Innovative energy technology program.

"Sec. 550. Intergovernmental energy management planning and coordination.

"Sec. 551. Definitions.".

SEC. 122. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) IN GENERAL.—Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended—

(1) by striking "The head" and inserting the following:

"(a) IN GENERAL.—(1) The head"; and

(2) by inserting at the end the following:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Any such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate payments by an agency to both utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency would have paid for utilities without an energy savings performance contract (as estimated through the procedures developed pursuant to this section), during contract years.

"(C) Federal agencies may incur obligations to finance energy conservation measures provided guaranteed savings exceed the debt service requirements.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, with the concurrence of the Administrator of General Services and in consultation with the Secretary of Defense and the Administrator of the National Aeronautics Space Administration, not later than 180 days after the date of the enactment of the Comprehensive National Energy Policy Act, shall develop appropriate procedures and methods for use by Federal agencies to select energy savings service contractors in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner.

"(B) The procedures and methods established pursuant to subparagraph (A) shall be the procedures and contracting methods for selection, by an agency, of a contractor to provide energy savings performance services. Such procedures and methods shall provide for the calculation of energy savings based on sound engineering and financial practices.

"(2) The procedures and methods established pursuant to paragraph (1)(A) shall allow for the head of each agency to perform the following:

"(A) Request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information, from firms engaged in providing energy savings services.

"(B) Designate from the statements received, with an update at least annually, those firms that are qualified to provide energy savings services.

"(C) Select firms designated under subparagraph (B) to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project.

"(D) Select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information.

"(E) Permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that such agency has determined is qualified to provide such services under the procedures established pursuant to paragraph (1)(A), and require agency facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals. The head of an agency may enter into an energy savings performance contract with such a qualified firm consistent with the procedures and methods established pursuant to paragraph (1)(A).

"(c) REPORTING REQUIREMENTS.—Not later than three years after the date of the enactment of the Comprehensive National Energy Policy Act, the Comptroller General of the United States shall transmit to the Congress a report on the implementation of this section, including recommendations for legislative or regulatory changes. This report shall include, but not be limited to, an assessment of the following issues:

"(1) The quality of the energy audits conducted for the agencies.

"(2) The government's ability to maximize energy savings.

"(3) The total energy cost savings accrued by the agencies that have entered into such contracts.

"(4) The total costs associated with entering into and performing such contracts.

"(5) A comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector.

"(6) The number of firms selected as qualified firms under this section and their respective shares of awarded contracts.

"(7) The number of firms engaged in similar activity in the private sector and their respective market shares.

"(8) The number of applicant firms not selected as qualified firms under this section and the reason for their nonselection.

"(9) The frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(10) Whether the contracting procedures developed pursuant to this section and utilized by agencies have been effective and whether continued use of those procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.".

(b) DEFINITION.—Section 804 of such Act (42 U.S.C. 8287c) is amended—

(1) in the material preceding paragraph (1), by striking "title—" and inserting "title, the following definitions apply:";

(2) in paragraph (1), by striking "the" and inserting "The" and by striking ", and" and inserting a period;

(3) in paragraph (2), by striking "the term" and inserting "The term"; and

(4) by adding at the end the following:

"(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 savings measure or series of measures at one or more locations. Such contracts—

"(A) may provide for appropriate software licensing agreements; and

"(B) shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.), be in compliance with the prospectus requirements and procedures of the Public Buildings Act of 1959.".

SEC. 123. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

The National Energy Conservation Policy Act (42 U.S.C. 6201-8287c) is amended by inserting after section 549 the following new section:

"SEC. 550. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

"(a) CONFERENCE WORKSHOPS.—The Secretary, in consultation with the General Services Administration and the Task Force established under section 547, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy in the case of Federal buildings. The Secretary shall work and consult with other Federal agencies to plan for particular regional conferences. The Secretary shall invite State and local public officials, as appropriate, who have responsibilities for energy management of State and local facilities and shall seek the input of, and be responsive to, the views of such State and local officials in the planning and organization of such workshops.

"(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following (but may include other topics relating to strategy):

"(1) Developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region regarding the use of governmental facilities and buildings.

"(2) The design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques.

"(3) Procurement and use of energy efficient products.

"(4) Dissemination of energy information on innovative programs, technologies, and methods which have proven successful in government.

"(5) Technical assistance to design and incorporate effective energy management strategies.

"(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—In the annual report required under section 548(b), the Secretary shall set forth the schedule for the regional energy management workshops for that year. Not less than 5 workshops shall be held not later than 1 year after the date of the enactment of this Act, and at least 1 such workshop shall be held in each of the 10 Federal regions every 2 years beginning after September 30, 1993.".

SEC. 124. FEDERAL AGENCY ENERGY MANAGEMENT TRAINING.

(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under subsection (e)(2). Such programs shall be managed—

(A) by the department or agency representative on the Task Force; or

(B) if a department or agency is not represented on the Task Force, by the designee of the head of such department or agency.

(2) Departments and agencies described in paragraph (1) shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study in the areas described in subsection (e)(2) including, but not limited to, courses offered by—

(A) private or public educational institutions;

(B) Federal agencies; or

(C) professional associations.

(b) REPORT TO TASK FORCE.—(1) Each department and agency described in subsection (a)(1) shall, not later than 60 days following the date of the enactment of this Act, report to the Task Force the following information:

(A) Those individuals employed by such department or agency on the date of the enactment of this Act who qualify as trained energy managers as defined in subsection (e)(2).

(B) The General Schedule (GS) or grade level at which each of the individuals described in subparagraph (A) is employed.

(C) The facility or facilities for which such individuals are responsible or otherwise stationed.

(2) The Task Force shall provide a summary of the reports described in paragraph (1) to the Congress.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1) Not later than one year after the date of the enactment of this Act, the departments and agencies described under sub-

section (a)(1) shall upgrade their energy management capabilities by—

(A) designating facility energy supervisors as defined in subsection (e)(1);

(B) encouraging facility energy supervisors to become trained energy managers, as defined in subsection (e)(2); and

(C) increasing the overall number of trained energy managers within such department or agency to a sufficient level to ensure effective implementation of this Act.

(2) Departments and agencies described in subsection (a)(1) may hire trained energy managers to be facility energy supervisors. Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities—

(A) department or agency facilities identified as most costly to operate or most energy inefficient; or

(B) other facilities identified by the department or agency head as having significant energy savings potential.

(d) ANNUAL REPORT TO SECRETARY AND CONGRESS.—Each department and agency listed in subsection (a)(1) shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each such report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation, and maintenance of energy systems in Federal facilities which may include more than one building;

(2) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of fundamentals of building energy systems; building energy codes and applicable professional standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(3) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 125. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.

Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note) is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and inserting in lieu thereof "in consultation with the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act,";

(B) in paragraph (1), by striking out "and" after the semicolon;

(C) in paragraph (2), by striking out the period and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)(1), by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "the Committee on Energy and Commerce and the Committee on Public Works and Transportation of the House of Representatives, within 180 days after the date of the enactment of the Comprehensive National Energy Policy Act,"; and

(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Committee on Energy and Commerce and the Committee on Public Works and Transportation of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000, established under Executive Order No. 12759.".

SEC. 126. ENERGY AUDIT TEAMS.

(a) ESTABLISHMENT.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities.

(b) MONITORING PROGRAMS.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 127. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) PROCUREMENT.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, each shall undertake a program to include energy efficient products in carrying out their procurement and supply functions.

(b) IDENTIFICATION PROGRAM.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, in consultation with the Secretary of Energy, each shall implement, in conjunction with carrying out their procurement and supply functions, a program to identify and designate those energy efficient products that offer significant potential savings, using, to the extent practicable, the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254). The Secretary of Energy shall, to the extent necessary to carry out this section and after consultation with the aforementioned agency heads, provide estimates of the degree of relative energy efficiency of products.

(c) GUIDELINES.—The Administrator for Federal Procurement Policy, in consultation with the Administrator of General Services, the Secretary of Energy, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Secretary of Defense and the Director of the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) REPORT TO CONGRESS.—Not later than December 31 of 1993 and of each year thereafter, the Secretary of Energy, in consultation with the Administrator for Federal Procurement Policy, the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall report on the progress, status, activities, and results of the programs under subsections (a), (b), and (c). The report shall include—

(1) the types and functions of each product identified under subsection (b), and efforts undertaken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to encourage the acquisition and use of such products;

(2) the actions taken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(3) progress on the development and issuance of guidelines under subsection (c);

(4) an indication of whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been used in the identification of products under subsection (b);

(5) an estimate of the potential cost savings to the Federal Government from acquiring products identified under subsection (b) with respect to which energy is a significant component of life cycle cost, based on the quantities of such products that could be utilized throughout the Government; and

(6) the actual quantities acquired of products described in paragraph (5).

SEC. 128. FEDERAL ENERGY EFFICIENCY FUNDING STUDY.

(a) STUDY.—The Secretary shall, in consultation with the Secretary of the Treasury, the Director of the Office of Management and Budget, the Administrator of General Services, and such other individuals and organizations as the Secretary deems appropriate, conduct a detailed study of options for the financing of energy and water conservation measures required under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) and all applicable Executive orders. Such study shall, taking into account the unique characteristics of Federal agencies, consider and analyze—

(1) the Federal financial investment necessary to comply with such requirements;

(2) the use of revolving funds and other funding mechanisms which offer stable, long-term financing of energy and water conservation measures; and

(3) the means for capitalizing such funds.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing the results of the study required under subsection (a).

Subtitle C—Electricity and Utilities

PART 1—ELECTRIC UTILITIES

SEC. 131. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY.

(a) IN GENERAL.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by inserting at the end the following new paragraphs:

"(7) LEAST-COST PLANNING.—Each electric utility shall employ least-cost planning in order to provide adequate and reliable service to its electric customers at the lowest system cost. All plans or filings of a State regulated electric utility before a State regulatory authority to meet the requirements

of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority.

"(8) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates charged by any electric utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other energy demand management measures which are consistent with the findings and purposes of title I of the Comprehensive National Energy Policy Act are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, generation, transmission, and distribution facilities.

"(9) ENERGY EFFICIENCY IMPROVEMENTS IN POWER GENERATION AND SUPPLY.—The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation and supply. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall reduce or eliminate disincentives to better maintenance by electric utilities and investment by electric utilities in more efficient power generation, transmission, and distribution technologies.

"(10) INCLUSION OF EXTERNAL COSTS.—The utility's least cost plans shall include, to the greatest extent practicable, the external costs and benefits of providing electric service, including but not limited to environmental impacts, maintaining access to foreign and domestic sources of supply, employment opportunities, economic development, and health.".

(b) IMPACT ON SMALL BUSINESS.—Section 111 of such Act is amended by inserting the following new subsection at the end thereof:

"(e) SMALL BUSINESS IMPACTS.—If a State regulatory authority implements a standard established by subsection (d)(7) or (8), such authority shall (1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand side management measures, and (2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) EFFECTIVE DATE.—Section 112(b) of such Act is amended by inserting "(or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (7), (8), (9), and (10) of section 111(d))" after "Act" in both places such word appears in paragraphs (1) and (2).

(d) DEFINITION OF LEAST COST PLANNING.—Section 3 of such Act is amended by adding the following new paragraph at the end:

"(19) The term 'least-cost planning' means planning by use of any standard, regulation, practice, or policy by which a State regulatory agency undertakes, or requires an electric or gas utility to undertake, a systematic comparison of energy efficiency, transmission, distribution, generation and supply investment opportunities to minimize life-cycle costs of adequate and reliable utility services to customers. Least-cost planning shall take into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk and shall treat demand and supply resources on a consistent and integrated basis.".

(e) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Energy shall transmit a report to the President and to the Congress containing a survey of all State laws, regulations, practices, and policies under which State regulatory authorities—

(1) require least-cost planning (as defined in the Public Utility Regulatory Policies Act of 1978); and

(2) implement the provisions of paragraphs (7), (8), (9), and (10) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (as added by subsection (a) of this section).

The report shall include an analysis prepared in consultation with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

SEC. 132. TENNESSEE VALLEY AUTHORITY LEAST-COST PLANNING PROGRAM.

(a) IN GENERAL.—The Tennessee Valley Authority shall conduct a least-cost planning program in accordance with this section.

(b) CONDUCT OF PROGRAM.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall employ and implement a planning and selection process for new energy resources which evaluates the full range of existing and incremental resources (including new power supplies, energy conservation and efficiency, and renewable energy resources) in order to provide adequate and reliable service to electric customers of the Tennessee Valley Authority at the lowest system cost.

(2) PLANNING AND SELECTION PROCESS.—The planning and selection process referred to in paragraph (1) shall—

(A) take into account necessary features for system operation, including diversity, reliability, dispatchability, and other factors of risk;

(B) take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and

(C) treat demand and supply resources on a consistent and integrated basis.

(3) SYSTEM COST DEFINED.—As used in paragraph (1), the term "system cost" means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) PARTICIPATION BY DISTRIBUTORS.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall—

(A) provide an opportunity for distributors of the Tennessee Valley Authority to recommend cost-effective energy efficiency opportunities, rate structure incentives, and renewable energy proposals for inclusion in such program; and

(B) encourage and assist such distributors in the planning and implementation of cost-effective energy efficiency options.

(2) ASSISTANCE.—The Tennessee Valley Authority shall provide appropriate assistance to distributors under paragraph (1)(B). Such assistance shall, where cost effective, be provided by the Tennessee Valley Authority acting through, or in cooperation with, an association of distributors. Such assistance may include publications, workshops, conferences, one-on-one assistance, financial assistance, equipment loans, technology assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers.

(d) PUBLIC REVIEW AND COMMENT.—Before the selection and addition of a major new energy resource on the Tennessee Valley Authority system, the Tennessee Valley Authority shall provide an opportunity for public review and comment and shall include a description of any such action in an annual report to the President and Congress.

(e) EXEMPTION FROM CERTAIN REQUIREMENTS.—The Tennessee Valley Authority shall not be subject to the least-cost planning requirements contained in section 111(d) of the Public Utility Regulatory Policies Act of 1978 or any similar requirement which might arise out of the Tennessee Valley Authority's electric power transactions with the Southeastern Power Administration.

SEC. 133. AMENDMENT OF HOOVER POWER PLANT ACT.

Title II of the Hoover Power Plant Act of 1984 (42 U.S.C. 7275-7276, Public Law 98-381) is amended to read as follows:

"TITLE II—INTEGRATED RESOURCE PLANNING

"Sec. 201. Definitions.
"Sec. 202. Regulations to require integrated resource planning.
"Sec. 203. Technical assistance.
"Sec. 204. Integrated resource plans.
"Sec. 205. Central Valley Project energy efficiency pilot program.
"Sec. 206. Miscellaneous provisions.

"SEC. 201. DEFINITIONS.

"As used in this title:

"(1) The term 'Administrator' means the Administrator of the Western Area Power Administration.

"(2) The term 'integrated resource planning' means planning by which a customer undertakes a systematic comparison of all practicable energy efficiency and energy supply resource options (including load-management programs and renewable energy resources) to identify least-cost options for providing reliable electric service. Integrated resource planning shall take into account necessary features for system operations, such as diversity, reliability, dispatchability, and other factors of risk.

"(3) The term 'least cost option' means an option for providing reliable electric services to electric customers which will, to the extent practicable, minimize life-cycle system costs, including adverse environmental effects, of providing such service. To the extent practicable, energy efficiency and renewable resources may be given priority in any least-cost option.

"(4) The term 'long-term firm power service contract' means any contract for the sale by Western Area Power Administration of firm capacity, with or without energy, which is to be delivered over a period of more than one year.

"(5) The terms 'customer' or 'customers' means any entity or entities purchasing firm

capacity with or without energy, from the Western Area Power Administration under a long-term firm power service contract. Such terms include parent-type entities and their distribution or user members.

"(6) For any customer, the term 'applicable integrated resource plan' means the integrated resource plan approved by the Administrator under this title for that customer.

"SEC. 202. REGULATIONS TO REQUIRE INTEGRATED RESOURCE PLANNING.

"(a) REGULATIONS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer purchasing electric energy under a long-term firm power service contract with the Western Area Power Administration to implement, within 3 years after the enactment of this section, integrated resource planning in accordance with the requirements of this title.

"(b) CERTAIN SMALL CUSTOMERS.—Notwithstanding subsection (a), for customers with total annual energy sales or usage of 25 Gigawatthours or less which are not members of a joint action agency or a generation and transmission cooperative with power supply responsibility, the Administrator may establish different regulations and apply such regulations to customers that the Administrator finds have limited economic, managerial, and resource capability to conduct integrated resource planning. The regulations under this subsection shall require such customers to consider all reasonable opportunities to meet their future energy service requirements using demand-side techniques, new renewable resources and other programs that will provide retail customers with electricity at the lowest possible cost, and minimize, to the extent practicable, adverse environmental effects.

"SEC. 203. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Administrator shall provide technical assistance to customers to, among other things, conduct integrated resource planning, implement applicable integrated resource plans, and otherwise comply with the requirements of this title. Technical assistance may include publications, workshops, conferences, one-to-one assistance, equipment loans, technology and resource assessment studies, marketing studies, and other mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers. The Administrator shall give priority to providing technical assistance to customers that have limited capability to conduct integrated resource planning.

"(b) PILOT PROGRAMS.—Within 12 months after the enactment of this section, the Administrator shall develop pilot programs to assist its customers in understanding the benefits, costs and potential of demand-side management. The Administrator shall design programs to—

"(1) develop information regarding the benefits, costs and potential of demand-side management for each major customer class;

"(2) develop information regarding the benefits, costs and potential of demand-side management that focuses on these factors on a regional or subregional basis; and

"(3) develop information that is not already otherwise available to the Administrator and its customers.

"(c) FULL SCALE PILOT PROGRAMS.—On the basis of the information developed pursuant to subsection (b) of this section and any other information available to the Administrator, the Administrator shall design full-scale, cost-effective demand-side management programs that the Western Area Power Administration and its customers may utilize.

"(d) ENVIRONMENTAL COSTS.—The Administrator shall document and make available information regarding various methodologies to quantify environmental costs, values of demand-side management, and energy supply-side resource options.

"SEC. 204. INTEGRATED RESOURCE PLANS.

"(a) REVIEW BY WESTERN AREA POWER ADMINISTRATION.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to submit an integrated resource plan to the Administrator within 12 months after such regulations are amended. The regulation shall require a revision of such plan to be submitted every 5 years after the initial submission. The Administrator shall review the initial plan in accordance with a schedule established by the Administrator (which schedule will provide for the review of all initial plans within 24 months after such regulations are amended), and each revision thereof within 120 days after his receipt of the plan or revision and determine whether the customer has in the development of the plan or revision, complied with this title. Plan amendments may be submitted to the Administrator at any time and the Administrator shall review each such amendment within 120 days after receipt thereof to determine whether the customer in amending its plan has complied with this title. If the Administrator determines that the customer, in developing its plan, revision, or amendment, has not complied with the requirements of this title, the customer shall resubmit the plan at any time thereafter. Whenever a plan or revision or amendment is resubmitted the Administrator shall review the plan or revision or amendment within 120 days after his receipt thereof to determine whether the customer has complied with this title.

"(b) CRITERIA FOR APPROVAL OF INTEGRATED RESOURCE PLANS.—The Administrator shall approve an integrated resource plan submitted as required under subsection (a) if, in developing the plan, the customer has:

"(1) Identified and accurately compared all practicable energy efficiency and energy supply resource options available to the customer.

"(2) Included a 2-year action plan and a 5-year action plan which describe specific actions the customer will take to implement its integrated resource plan.

"(3) Designated 'least-cost options' to be utilized by the customer for the purpose of providing reliable electric service to its retail consumers and explained the reasons why such options were selected.

"(4) To the extent practicable, minimized adverse environmental effects of new resource acquisitions.

"(5) In preparation and development of the plan (and each revision or amendment of the plan) has provided for full public participation, including participation by governing boards.

"(6) Included load forecasting.

"(7) Provided methods of validating predicted performance in order to determine whether objectives in the plan are being met.

"(8) Met such other criteria as the Administrator shall require.

"(c) USE OF OTHER INTEGRATED RESOURCE PLANS.—Where a customer or group of customers are implementing integrated resource planning under a program responding to Federal, State, or other initiatives, in evaluating that customer's integrated resource plan under this title, the Administrator shall accept such plan as fulfillment of the requirements of this title to the extent such plan substantially complies with the requirements of this title.

"(d) COMPLIANCE WITH INTEGRATED RESOURCE PLANS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to fully comply with the applicable integrated resource plan and submit an annual report to the Administrator (in such form and containing such information as the Administrator may require) describing the customer's progress to the goals established in such plan. After the initial review under subsection (a) the Administrator shall periodically conduct reviews of a representative sample of applicable integrated resource plans and the customer's implementation of the applicable integrated resource plan to determine if the customers are in compliance with their plans. If the Administrator finds a customer out-of-compliance, the Administrator shall impose a surcharge under this section on all electric energy purchased by the customer from the Western Area Power Administration or reduce such customer's power allocation by 10 percent, unless the Administrator finds that a good faith effort has been made to comply with the approved plan.

"(e) ENFORCEMENT.—

"(1) NO APPROVED PLAN.—If an integrated resource plan for any customer is not submitted before the date 12 months after the guidelines are amended as required under this section or if the plan is disapproved by the Administrator and a revised plan is not resubmitted by the date 9 months after the date of such disapproval, the Administrator shall impose a surcharge of 10 percent of the purchase price on all power obtained by that customer from the Western Area Power Administration after such date. The surcharge shall remain in effect until an integrated resource plan is approved for that customer. If the plan is not submitted for more than one year after the required date, the surcharge shall increase to 20 percent for the second year (or any portion thereof prior to approval of the plan) and to 30 percent thereafter until the plan is submitted or the contract for the purchase of power by such customer from the Western Area Power Administration terminates.

"(2) FAILURE TO COMPLY WITH APPROVED PLAN.—After approval by the Administrator of an applicable integrated resource plan for any customer, the Administrator shall impose a 10 percent surcharge on all power purchased by such customer from the Western Area Power Administration whenever the Administrator determines that such customer's activities are not consistent with the applicable integrated resource plan. The surcharge shall remain in effect until the Administrator determines that the cus-

tomer's activities are consistent with the applicable integrated resource plan. The surcharge shall be increased to 20 percent if the customer's activities are out of compliance for more than one year and to 30 percent after more than 2 years, except that no surcharge shall be imposed if the customer demonstrates, to the satisfaction of the Administrator, that a good faith effort has been made to comply with the approved plan.

"(3) REDUCTION IN POWER ALLOCATION.—In the case of any customer subject to a surcharge under paragraph (1) or (2), in lieu of imposing such surcharge the Administrator may reduce such customer's power allocation from the Western Area Power Administration by 10 percent. The Administrator shall provide by regulation the terms and conditions under which a power allocation terminated under this subsection may be reinstated.

"(4) SUITS TO REQUIRE ENFORCEMENT.—A retail customer of any customer may bring an action against the Administrator to require the Administrator to—

"(A) immediately approve or disapprove a plan or plan revision or amendment whenever the Administrator has failed to approve or disapprove such plan or plan revision or amendment within the applicable time period specified in subsection (a); or

"(B) impose a surcharge or power allocation reduction on any customer whenever such surcharge or reduction is mandated in accordance with paragraphs (1), (2), and (3) of this subsection.

The United States District Courts shall have jurisdiction in any action under this paragraph, without regard to the amount in controversy or the citizenship of the parties, to require the Administrator to immediately approve or disapprove a plan or plan revision or amendment or to impose a surcharge or power allocation reduction on any customer, as the case may be. No action may be brought under this paragraph until 60 days after the plaintiff has given notice to the Administrator of the proposed action.

"(f) INTEGRATED RESOURCE PLANNING COOPERATIVES.—With the approval of the Administrator, customers within any State or region may form integrated resource planning cooperatives for the purposes of complying with this title, and such customers shall be allowed an additional 6 months to submit an initial integrated resource plan to the Administrator.

"(g) CUSTOMERS WITH MORE THAN 1 CONTRACT.—If more than one long-term firm power service contract exists between the Administrator and a customer, only one integrated resource plan shall be required for that customer under this title.

"(h) PROGRAM REVIEW.—Within 1 year after January 1, 1999, and at appropriate intervals thereafter, the Administrator shall initiate a public process to review the program established by this section. The Administrator is authorized at that time to revise the criteria set forth in section 204(b) to reflect changes, if any, in technology, needs, or other developments.

"(i) RENEWABLE ENERGY.—(1) Within 12 months after the date of enactment of this title, the Administrator shall establish a Renewable Energy Joint Venture Fund to provide assistance under paragraph (2). There is authorized to be appropriated to the Administrator not more than $25,000,000 to be deposited in the Renewable Energy Joint Venture Fund. Expenditures from the Renewable Energy Joint Venture Fund shall be nonreimbursable. Not more than $5,000,000 may be expended from the fund for providing assistance to a single project.

"(2) Upon the request of a Western Area Power Administration customer, the Administrator is authorized to use amounts available in the Renewable Energy Joint Venture Fund to provide such technical and related assistance to such customer in accordance with paragraph (3) as is necessary to facilitate the development and design of cost-effective renewable energy demonstration projects by such customer.

"(3) Assistance provided under paragraph (2) may consist of grants to cover the capital costs of renewable energy demonstration projects. Such assistance shall not exceed an amount equal to 50 percent of the total capital costs of any project (including the total capital costs of any necessary transmission interconnections for such renewable energy project). Any need for power determination made in connection with the construction of a project assisted under this section shall be made by the Secretary of Energy.

"(4) As used in this subsection, the term 'renewable energy' has the same meaning as provided by section 808 of Public Law 101-549.

"(5) The provisions of this subsection shall terminate 3 years after the enactment of the Energy Development and Environmental Protection Act.

"SEC. 205. CENTRAL VALLEY PROJECT ENERGY EFFICIENCY PILOT PROGRAM.

"(a) ENERGY EFFICIENCY AND CONSERVATION IMPROVEMENTS.—Within 1 year after the enactment of this section, the Secretary of Energy, in cooperation with the Secretary of Interior, is directed to promulgate regulations and implement a public process whereby any entity with a long-term firm power service Central Valley Project (hereinafter referred to as 'CVP') contract may propose to the Administrator energy efficiency and conservation improvements in the CVP water delivery, power generation, transmission systems, and associated irrigation and water systems, provide all financing for such efficiency improvements, and receive 80 percent of the energy and capacity savings produced from such improvements. Any energy efficiency improvements which are approved by the Administrator under subsection (c) shall be implemented by the Administrator or by the Secretary of the Interior.

"(b) DURATION OF RECEIPT OF EFFICIENCY SAVINGS.—An entity providing financing for an efficiency improvement referred to in subsection (a) shall receive, through a contract with the Administrator, 80 percent of all savings that result from such efficiency improvement, for a period of not more than 20 years. After such contract expires, the savings shall be made available for other project purposes as authorized by law.

"(c) ENERGY EFFICIENCY SAVINGS.—Any entity receiving energy efficiency savings under subsection (b) shall only receive 80 percent of those energy efficiency savings directly produced from efficiency improvements that they have provided financing for and that have been independently verified.

"(d) CRITERIA FOR APPROVAL.—The Administrator shall approve any energy efficiency or conservation improvement referred to in subsection (a) based on the following criteria:

"(1) The technical feasibility of the improvement.

"(2) The amount of energy saved in relation to amount of money invested.

"(3) The lack of negative effect of the improvement on others.

"(4) The capability of the entity to finance the proposed improvements.

"(5) The degree to which participating entities have secured or can secure the necessary financing, permits, clearances, and other arrangements necessary to implement the improvements.

"(6) The lack of negative impact on the environment.

"(7) Such other criteria as may be established by the Secretary of Energy.

"(e) 20-PERCENT SET-ASIDE.—The Western Area Power Administration shall receive 20 percent of any power saved from an improvement to the CVP system. These savings shall be made available to the Secretary of the Interior to restore the fish and wildlife resources of the CVP, including using such savings to provide power to operate refuges, hatcheries, pumps or other facilities. Any power surplus to these needs shall be made available for other project purposes as authorized by law. Power supply from nonfederally financed improvements shall not be classified as project power except for the power made available to the Secretary of the Interior for fish and wildlife purposes. Any changes in CVP operation for this program shall not impact the CVP's ability to meet its other authorized purposes.

"(f) SUNSET PROVISION.—The authority of this section shall expire 5 years following promulgation of final regulations under this section. Any contracts in place at the end of the 5-year period shall continue in effect through the term of the contract.

"SEC. 206. MISCELLANEOUS PROVISIONS.

"(a) ENVIRONMENTAL IMPACT STATEMENT.—The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Administrator implementing this title in the same manner and to the same extent as such provisions apply to other major Federal actions significantly affecting the quality of the human environment.

"(b) ANNUAL REPORTS.—The Administrator shall include in the annual report submitted by the Western Area Power Administration (1) a description of the activities undertaken by the Administrator and by customers under this title and (2) an estimate of the energy savings and renewable resource benefits achieved as a result of such activities.

"(c) STATE REGULATED INVESTOR-OWNED UTILITIES.—Investor-owned electric utilities whose rates and charges for the sale of electric energy are regulated by a State regulatory authority shall be exempt from the requirements of this title.".

PART 2—GAS UTILITIES

SEC. 141. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY.

(a) IN GENERAL.—Section 303(b) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting at the end the following new paragraphs:

"(3) LEAST-COST PLANNING.—Each gas utility shall employ least-cost planning, as defined in section 131(c) of this title, in order to provide adequate and reliable service to its gas customers at the lowest system cost. All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority. Section 303(c) shall not apply to this paragraph to the extent that it could be construed to require the State regulatory authority to extend the record of a State proceeding in submitting reports to the Federal Government.

"(4) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates charged by any gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other energy demand management measures which are consistent with the findings and purposes of the Comprehensive National Energy Policy Act are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities. This objective requires that (A) regulators link the utility's net revenues at least in part to the utility's performance in implementing cost-effective programs promoted by this section; and (B) regulators ensure that, for purposes of recovering fixed costs, including its authorized return, the utility's performance is not affected by reductions in its retail sales volumes.

"(5) INCLUSION OF EXTERNAL COSTS.—The utility's least-cost plans shall include, to the greatest extent practicable, the external impacts of providing gas service, including environmental degradation, and in the case of imported resources, maintaining access to foreign sources of supply. Such impacts will be used in determining the cost-effectiveness of demand and supply options. Regulators shall seek to avoid incentives for use of environmentally inferior unregulated fuels, and shall ensure that their treatment of external impacts is symmetrical for each fuel subject to their regulation, to avoid creation of inappropriate fuel substitution incentives.".

(b) IMPACT ON SMALL BUSINESS.—Section 303 of such Act is amended by inserting the following new subsection at the end thereof:

"(d) SMALL BUSINESS IMPACTS.—If a State regulatory authority implements a standard established by subsection (b) (3) or (4), such authority shall (1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand side management measures, and (2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) EFFECTIVE DATE.—Section 303(a) of such Act is amended by inserting "(or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (3), (4), and (5) of subsection (b))" after "Act" and by striking out "standard established by subsection (b)(2)" in paragraph (2) and inserting "standards established by paragraphs (2), (3), (4) and (5) of subsection (b)".

(d) REPORT.—The report under section 131(d) of this Act transmitted by the Secretary of Energy to the President and to the Congress shall contain a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (3), (4), and (5) of section 303(b) of the Public Utility Regulatory Policies Act of 1978 (as added by subsection (a) of this section). The report shall include an analysis prepared in consultation with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

PART 3—GENERAL PROVISIONS

SEC. 151. CONSERVATION GRANTS TO STATE REGULATORY AUTHORITIES.

(a) CONSERVATION GRANTS.—The Secretary of Energy is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $100,000 per authority, for purposes of encouraging the consideration of conservation, energy efficiency resources, and other demand side management measures consistent with the purposes of this title as a means of meeting electric supply needs and to meet the requirements of paragraphs (7), (8), (9), and (10) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (as added by section 131(a) of this Act) and as a means of meeting gas supply needs and to meet the requirements of paragraphs (3), (4), and (5) of section 303(b) of the Public Utility Regulatory Policies Act of 1978 (as added by section 141(a) of this Act). Such grants may be utilized by a State regulatory authority to provide financial assistance to nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine demand-side management.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c)(1) SECRETARIAL ACTION.—In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority to achieve the purposes of this section and to consider implementation of the ratemaking standards established in—

(A) paragraphs (7), (8), (9), and (10) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (as added by section 131(a) of this Act); or

(B) paragraphs (3), (4), and (5) of section 303(b) of the Public Utility Regulatory Policies Act of 1978 (as added by section 141(a) of this Act).

(2) Such actions—

(A) shall include procedures to facilitate the participation of grantees and nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authority to examine demand-side management; and

(B) shall provide for coverage of the cost of such subgrantees' participation in such participation.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) RULES.—The Secretary may prescribe such rules as may be necessary or appropriate for carrying out the provisions of this section.

(f) DEFINITION.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as provided by section 3 of the Public Utility Regulatory Policies Act of 1978 in the case of electric utilities, and such term shall have the same meaning as provided by section 302 of the Public Utility Regulatory Policies Act of 1978 in the case of gas utilities, except that in the case of any State without a statewide ratemaking authority, such term shall mean the State energy office.

(g) AUTHORIZATION.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Subtitle D—Requirements and Information

SEC. 161. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.

(a) IN GENERAL.—(1) The Secretary shall, with funds available to carry out this section, provide financial assistance to support a voluntary national window rating program that will develop energy ratings and labels for windows and window systems by December 31, 1992.

(2) The rating program shall include—

(A) specifications and guidelines that will enable all window buyers to make more informed purchasing decisions about the energy efficiency of windows and window systems; and

(B) information that will allow window buyers to assess the energy consumption and potential cost savings of alternative window products.

(3) The rating program shall be established and administered by the National Fenestration Rating Council which shall periodically report to the Congress and the Secretary on the progress being made toward establishing the program.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts of the National Fenestration Rating Council and make determinations about whether the program established within the Council is consistent with subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary has not, by December 31, 1992, certified that a voluntary national window rating program consistent with the objectives of subsection (a) has been established, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, by December 31, 1993, testing procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for windows and window systems.

(2) If the Secretary develops such procedures, the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for windows and window systems except that, with respect to any type of window or window system (or class thereof), the Commission may determine that such labeling is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, windows and window systems shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 162. VOLUNTARY STANDARDS FOR INDUSTRIAL INSULATION AND IMPROVEMENT OF INDUSTRIAL AUDITS.

(a) IN GENERAL.—(1) The Secretary of Energy shall, with funds available to carry out this section, develop, directly or by contract, a voluntary national program to devise standards for the proper levels of industrial insulation.

(2) The standards shall be developed in consultation with manufacturers, suppliers, and installers of insulation and with utilities and major industrial energy users.

(3) The Secretary shall issue such standards not later than December 31, 1992.

(b) RECOMMENDATIONS.—Not later than December 31, 1992, the Secretary shall, in conjunction with the development of standards under subsection (a), review the status of industrial energy auditing procedures and make recommendations for improvement as appropriate.

(c) OTHER ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance concerning the standards and auditing procedures.

(d) REPORT.—The Secretary shall transmit, by December 31, 1994, a report to the Congress detailing—

(1) the standards developed and recommended changes in audit procedures; and

(2) the educational and technical assistance provided under this section, an evaluation of its effectiveness, and the responsiveness of the industrial sector to the standards.

SEC. 163. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (G); and

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

"(B) Small commercial package air conditioning and heating equipment.

"(C) Large commercial package air conditioning and heating equipment.

"(D) Packaged terminal air-conditioners and packaged terminal heat pumps.

"(E) Warm air furnaces and packaged boilers.

"(F) Storage water heaters, instantaneous water heaters, and unfired hot water storage tanks."; and

(2) in paragraph (2)(B)—

(A) by striking out "pumps)" and inserting in lieu thereof "pumps, small and large commercial package air conditioning and heating equipment, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks)"; and

(B) by striking out clauses (v) and (xi) and redesignating clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) as clauses (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively; and

(3) by adding at the end the following:

"(8) The term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity).

"(9) The term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(10)(A) The term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability energy.

"(B) The term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heating availability by builder's choice of energy.

"(11)(A) The term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces.

"(B) The term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.

"(12)(A) The term 'storage water heater' means a water heater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. Such term does not include units with an input rating of 4000 Btu per hour or more per gallon of stored water.

"(B) The term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water.

"(C) The term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(13)(A) The term 'electric motor' means any motor which is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.

"(B) The term 'definite purpose motor' means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(C) The term 'special purpose motor' means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

"(D) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

"(E) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed airtight.

"(F) The term 'small electric motor' means a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

"(G) The term 'efficiency' when used with respect to an electric motor means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(H) The term 'nominal full load efficiency' means the average efficiency of a population of motors of duplicate design as determined in accordance with NEMA Standards Publication MG1-1987.

"(14) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

"(15) The term 'IES' means the Illuminating Engineering Society of North America.

"(16) The term 'NEMA' means the National Electrical Manufacturers Association.

"(17) The term 'IEEE' means the Institute of Electrical and Electronics Engineers.

"(18) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—(1) Section 343(a) of such Act (42 U.S.C. 6314) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section."; and

(B) by adding at the end the following new paragraphs:

"(4)(A) With respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks to which standards are applicable under section 342, the Secretary shall, not later than 18 months after the date of the enactment of this paragraph, prescribe test procedures that are consistent with those generally accepted industry testing procedures or rating procedures, if any, developed by the Air-Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers, or for storage water heaters and instantaneous water heaters, contained in American National Standard Z21.10.3, as in effect on the date of enactment of this paragraph.

"(B) If such an industry test procedure or rating procedure for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks is amended, the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

"(C) If the Secretary prescribes a rule containing such a determination, the rule may establish an amended test procedure for such product that meets the requirements of paragraphs (2) and (3) of this subsection.

"(5) With respect to electric motors to which standards are applicable under section 342, the Secretary shall, not later than 18 months after the date of the enactment of this paragraph, prescribe test procedures that are consistent with NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency.".

(2) The second subsection designated as subsection (d) of section 343 of such Act (42

U.S.C. 6314(d)(1)) is amended in paragraph (1) in the material preceding subparagraph (A), by inserting after "180 days" the following: "(or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days)".

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended—

(1) in subsection (a), by striking out "may" and inserting in lieu thereof "shall";

(2) in subsection (c), by striking out "may" in the material preceding paragraph (1) and inserting in lieu thereof "shall";

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), (j), and (k), respectively; and

(4) by inserting after subsection (c), the following new subsections:

"(d) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for electric motors under section 343, the Secretary shall prescribe labeling rules under this section applicable to electric motors taking into consideration NEMA Standards Publication MG1-1987. Such rules shall provide that the labeling of any electric motor manufactured after the 12-month period beginning on the date the Secretary prescribes such labeling rules, shall—

"(1) indicate the energy efficiency of the motor on the permanent nameplate attached to such motor;

"(2) prominently display the energy efficiency of the motor in equipment catalogs and other material used to market the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for electric motors under section 342.

"(e) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks under section 343, the Secretary shall prescribe labeling rules under this section for such equipment. Such rules shall provide that the labeling of any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, and unfired hot water storage tank manufactured after the 12-month period beginning on the date the Secretary prescribes such rules shall—

"(1) indicate the energy efficiency of the equipment on the permanent nameplate attached to such equipment or other nearby permanent marking;

"(2) prominently display the energy efficiency of the equipment in new equipment catalogs used by the manufacturer to advertise the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for such equipment under section 342.".

(d) STANDARDS.—Section 342 of such Act is amended to read as follows:

"STANDARDS

"SEC. 342. (a) SMALL AND LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT, PACKAGED TERMINAL AIR CONDITIONERS AND HEAT PUMPS, WARM-AIR FURNACES, PACKAGED BOILERS, STORAGE WATER HEATERS, INSTANTANEOUS WATER HEATERS, AND UNFIRED HOT WATER STORAGE TANKS.—(1) Each small commercial package air conditioning and heating equipment manufactured on or after January 1, 1994, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph, or, with respect to the equipment specified in subparagraphs (A), (B), (D), and (E), the standard levels set forth for such products in addendum a to ASHRAE/IES Standard 90.1. Such standards are as follows:

"(A) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0.

"(B) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7.

"(C) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees F db).

"(D) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8.

"(E) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6.

"(F) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db).

"(G) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

"(H) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively-cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

"(I) The minimum coefficient of performance of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water).

"(2) Each large commercial package air conditioning and heating equipment manufactured on or after January 1, 1995, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph. Such standards are as follows:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db).

"(B) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9.

"(C) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86).

"(3) Each packaged terminal air conditioner and packaged terminal heat pump manufactured on or after January 1, 1994, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph. Such standards are as follows:

"(A) The minimum energy efficiency ratio of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0 — (0.16 x Capacity [in thousands of Btu per hour] EER) (at a standard rating of 95 degrees F db, outdoor temperature). If a unit has a capacity of less than 7000 Btu per hour, then 7000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(B) The minimum coefficient of performance of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 x the minimum cooling EER as specified in subparagraph (A)) (at a standard rating of 47 degrees F db).

"(4) Each warm air furnace and packaged boiler manufactured on or after January 1, 1994, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph. Such standards are as follows:

"(A) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent.

"(B) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent.

"(C) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent.

"(D) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent.

"(5) Each storage water heater, instantaneous water heater, and unfired water storage tank manufactured on or after January 1, 1994, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph. Such standards are as follows:

"(A) Except as provided in subparagraph (G), the maximum standby loss, in percent

per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]).

"(B) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(C) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(D) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent.

"(E) Except as provided in subparagraph (G), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

"(F) Except as provided in subparagraph (G), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area.

"(G) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (A) through (C) and subparagraphs (E) and (F) if the tank surface area is thermally insulated to R-12.5 and if a standing pilot light is not used.

"(6)(A) If ASHRAE/IES Standard 90.1, as in effect on the date of enactment of the Comprehensive National Energy Policy Act, is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, the Secretary shall establish an amended uniform national standard for that product at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1, unless the Secretary determines, by rule published in the Federal Register and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than such amended ASHRAE/IES Standard 90.1 for such product would result in significant additional conservation of energy and is technologically feasible and economically justified.

"(B)(i) If the Secretary issues a rule containing such a determination, the rule shall establish such amended standard. In determining whether a standard is economically justified for the purposes of subparagraph (A), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products which are likely to result from the imposition of the standard;

"(III) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(VI) the need for national energy conservation; and

"(VII) other factors the Secretary considers relevant.

"(ii) The Secretary may not prescribe any amended standard under this paragraph which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types or classes.

"(C) A standard amended by the Secretary under this paragraph shall become effective for products manufactured—

"(i) with respect to small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, on or after a date which is two years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A); and

"(ii) with respect to large commercial package air conditioning and heating equipment, on or after a date which is three years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A);

except that an energy conservation standard amended by the Secretary pursuant to a rule under subparagraph (B) shall become effective for products manufactured on or after a date which is four years after the date such rule is published in the Federal Register.

"(b) ELECTRIC MOTORS.—(1) Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (2), each electric motor manufactured (alone or as a component of another piece of equipment) after the 60-month period beginning on the date of the enactment of this subsection, or in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after the 84-month period beginning on such date, shall have a nominal full load efficiency of not less than the following:

	"Nominal Full-Load Efficiency					
	Open Motors			Closed Motors		
"Number of poles	6	4	2	6	4	2
Motor Horsepower						
1	80.0	82.5	.....	80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	84.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary may, by rule, provide that the standards specified in paragraph (1) shall not apply to certain types or classes of electric motors if—

"(i) compliance with such standards would not result in significant energy savings because such motors cannot be used in most general purpose applications or are very unlikely to be used in most general purpose applications; and

"(ii) standards for such motors would not be technically feasible or economically justified.

"(B) Not later than one year after the date of the enactment of this subsection, a manufacturer seeking an exemption under this paragraph with respect to a type or class of electric motor developed on or before the date of the enactment of such subsection shall submit a petition to the Secretary requesting such exemption. Such petition shall include evidence that the type or class of motor meets the criteria for exemption specified in subparagraph (A).

"(C) Not later than two years after the date of the enactment of this subsection, the Secretary shall rule on each petition for exemption submitted pursuant to subparagraph (B). In making such ruling, the Secretary shall afford an opportunity for public comment.

"(D) Manufacturers of types or classes of motors developed after the date of the enactment of this subsection to which standards under paragraph (1) would be applicable may petition the Secretary for exemptions from compliance with such standards based on the criteria specified in subparagraph (A).

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is five years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—(1) Section 345(a) of such Act (42 U.S.C. 6316(a)) is amended—

(A) in the material preceding paragraph (1)—

(i) by inserting after "to this part" the following: "(other than the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1))"; and

(ii) by striking out "and sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (s) of section 325, and section 327";

(B) in paragraph (1)—

(i) by striking out "and 324" and inserting in lieu thereof ", 324, and 325"; and

(ii) by striking out "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(C) in paragraph (3), by striking out "and" at the end thereof;

(D) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(E) by adding after paragraph (4) the following new paragraphs:

"(5) section 327(a) shall be applied, in the case of electric motors, as if the National Appliance Energy Conservation Act of 1987 was the Comprehensive National Energy Policy Act;

"(6) section 327(b)(1) shall be applied as if electric motors were fluorescent lamp ballasts and as if the National Appliance Energy Conservation Amendments of 1988 were the Comprehensive National Energy Policy Act;

"(7) section 327(b)(4) shall be applied as if electric motors were fluorescent lamp ballasts and as if paragraph (5) of section 325(g) were section 342; and

"(8) notwithstanding any other provision of law, a regulation or other requirement adopted by a State or subdivision of a State contained in a State or local building code for new construction concerning the energy efficiency or energy use of an electric motor covered under this part is not superseded by the standards for such electric motor established or prescribed under section 342(b) if such regulation or requirement is identical to the standards established or prescribed under such section.".

(2) Section 345 of such Act (42 U.S.C. 6316) is amended by adding at the end the following new subsection:

"(b)(1) The provisions of section 326 (a), (b), and (d), section 327(a), and sections 328 through 336 shall apply with respect to the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1) to the same extent and in the same manner as they apply in part B. In applying such provisions for the purposes of such equipment, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

"(2)(A) A standard prescribed or established under section 342(a) shall, beginning on the effective date of such standard, supersede any State or local regulation concerning the energy efficiency or energy use of a product for which a standard is prescribed or established pursuant to such section.

"(B) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a standard for such a product contained in a State or local building code for new construction if—

"(i) the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1; and

"(ii) the standard in the building code does not take effect prior to the effective date of the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede the standards established by the State of California set forth in table C-6, California Code of Regulations, Title 24, Part 2, chapter 2-53, for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993.

"(D) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures, and other requirements specified in section 327(d) of this Act.".

(3) Section 345 of such Act (42 U.S.C. 6316) is amended by striking out the section heading and inserting in lieu thereof "ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION".

(f) TECHNICAL AMENDMENTS.—(1) Section 340(3) of such Act is amended by striking out "(3) the" and inserting in lieu thereof the following: "(3) The".

(2) Section 343 of such Act (42 U.S.C. 6314) is amended by redesignating the first subsection designated as subsection (d) as subsection (c).

(3) The table of contents of such Act is amended—

(A) by striking out the item relating to section 342 and inserting in lieu thereof the following new item:

"Sec. 342. Standards.";

and

(B) by striking the item for section 345 and inserting in lieu thereof the following new item:

"Sec. 345. Administration, penalties, enforcement, and preemption.".

SEC. 164. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN LAMPS AND PLUMBING PRODUCTS.

(a) STATEMENT OF PURPOSE.—Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in paragraph (6), by striking out "and" at the end;

(2) in paragraph (7), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to conserve water by improving the water efficiency of certain plumbing products and appliances.".

(b) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1) by striking out the subsection designation;

(2) in paragraph (1)—

(A) in subparagraph (A), by inserting before the semicolon the following: "or, with respect to showerheads, faucets, water closets, and urinals, water"; and

(B) in subparagraph (B), by striking out "ballasts" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals";

(3) in paragraph (6)—

(A) in subparagraph (A), by inserting ", or, in the case of showerheads, faucets, water closets, and urinals, water use," after "energy use"; and

(B) in subparagraph (B)—

(i) by striking out "and (14)" and inserting in lieu thereof "(15), (16), (17), and (19)"; and

(ii) by striking out "325(o)" and inserting in lieu thereof "325(r)";

(4) in paragraph (7), by inserting after "to be consumed annually" the following: ", and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost of water and wastewater treatment services likely to be incurred annually,"; and

(5) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1-1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3-1978 (R1984) and related supplement ANSI C78.3a-1985.

"(B) The term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but does not include any lamp designed and marketed for the following nongeneral lighting applications:

"(i) Fluorescent lamps designed to promote plant growth.

"(ii) Fluorescent lamps specifically designed for cold temperature installations.

"(iii) Colored fluorescent lamps.

"(iv) Impact-resistant fluorescent lamps.

"(v) Reflectorized or aperture lamps.

"(vi) Fluorescent lamps designed for use in reprographic equipment.

"(vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.

"(viii) Lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding ER or BR) with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts.

"(iii) Any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) The term 'general service incandescent lamp' means incandescent lamps (other than miniature or photographic lamps) which can be used to satisfy the majority of lighting applications, but does not include any lamp specifically designed for—

"(i) traffic signal, or street lighting service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The terms 'fluorescent lamp' and 'incandescent lamp' do not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'incandescent reflector lamp' means a lamp described in subparagraph (C)(ii).

"(G) The term 'average lamp efficacy' means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

"(H) The term 'base' means the portion of the lamp which connects with the socket as described in ANSI C81.61–1990.

"(I) The term 'bulb shape' means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980 (R1984).

"(J) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(K) The term 'correlated color temperature' means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

"(L) The term 'IES' means the Illuminating Engineering Society of North America.

"(M) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(N) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(O) The term 'lamp wattage' means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(P) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures described in the IES Lighting Handbook-Reference Volume.

"(Q) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(R) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(S) The term 'medium base compact fluorescent lamp' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp.

"(31)(A) The term 'water use' means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 323.

"(B) The term 'ASME' means the American Society of Mechanical Engineers.

"(C) The term 'ANSI' means the American National Standards Institute.

"(D) The term 'showerhead' means any showerhead (including a handheld showerhead), except a safety shower showerhead.

"(E) The term 'faucet' means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

"(F) The term 'water closet' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(G) The term 'urinal' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(H) The terms 'blowout', 'flushometer tank', 'low consumption', and 'flushometer valve' have the meaning given such terms in ASME A112.19.2M–1990.".

(c) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (19); and

(2) by inserting after paragraph (13) the following new paragraphs:

"(14) General service fluorescent lamps and incandescent reflector lamps.

"(15) Showerheads, except safety shower showerheads.

"(16) Faucets.

"(17) Water closets.

"(18) Urinals.".

(d) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by inserting after "energy use," the following "water use (in the case of showerheads, faucets, water closets and urinals),";

(B) in paragraph (4)—

(i) by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use" after "energy use";

(ii) by inserting after "such cycle" the following: ", or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle"; and

(iii) by inserting ", water, and wastewater treatment" before the period at the end of the second sentence; and

(C) by adding at the end the following new paragraphs:

"(6) With respect to fluorescent lamps and incandescent reflector lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be carried out by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

"(7)(A) With respect to showerheads and faucets to which standards are applicable under subsection (j) of section 325, the Secretary shall, not later than six months after the date of the enactment of this paragraph, prescribe test procedures that are consistent with ASME A112.18.1M–1989.

"(B) If the test procedure requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

"(8)(A) With respect to water closets and urinals to which standards are applicable under subsection (k) of section 325, the Secretary shall, not later than six months after the date of the enactment of this paragraph, prescribe test procedures that are consistent with ASME A112.19.6–1990.

"(B) If the test procedure requirements of ASME A112.19.6–1990 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).";

(2) in paragraphs (1) and (2) of subsection (c), by inserting "or water use" after "efficiency"; and

(3) in subsection (e)—

(A) in paragraph (1), by striking out "or measured energy use" and inserting in lieu thereof ", measured energy use, or measured water use";

(B) in paragraph (2), by striking out "energy efficiency or energy use" each place it appears and inserting in lieu thereof "energy efficiency, energy use, or water use"; and

(C) in paragraph (3), by striking out "energy efficiency or energy use" and inserting in lieu thereof "energy efficiency, energy use, or water use".

(e) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraphs:

"(C) Not later than one year after the date of the enactment of the Comprehensive National Energy Policy Act, the Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Such rules shall provide that the labeling of any general service fluorescent lamp, medium base compact fluorescent lamp, and general service incandescent lamp manufactured after the 12-month period beginning on the date of the publication of such rule shall indicate conspicuously on the packaging of the lamp, in a manner prescribed by the Commission under subsection

(b), such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements. Labeling information for incandescent lamps shall be based on performance when operated at 120 volts input, regardless of the rated lamp voltage.

"(D)(i) Not later than one year after the date of the enactment of the Comprehensive National Energy Policy Act, the Commission shall prescribe labeling rules under this section for showerheads and faucets to which standards are applicable under subsection (j) of section 325. Such rules shall provide that the labeling of any showerhead or faucet manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.18.1M-1989, except that each fitting shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.18.1M-1989 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each fitting to bear a permanent legible marking indicating the flow rate of such fitting.

"(E)(i) Not later than one year after the date of the enactment of the Comprehensive National Energy Policy Act, the Commission shall prescribe labeling rules under this section for water closets and urinals to which standards are applicable under subsection (k) of section 325. Such rules shall provide that the labeling of any water closet or urinal manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.19.2M-1990, except that each fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the water use, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.19.2M-1990 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each fixture and flushometer valve to bear a permanent legible marking indicating the water use of such fixture or flushometer valve.";

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(19)";

(3) in subsection (b)(1)(B), by striking out "(14)" and inserting in lieu thereof "(13), and paragraphs (15) through (19)";

(4) in paragraphs (3) and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(5) in subsection (c)—

(A) in paragraph (7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13), (14), (16), and (18) of section 322(a)"; and

(B) by adding at the end the following:

"(8) If a manufacturer of a covered product specified in paragraph (15) or (17) of section 322(a) elects to provide a label for such covered product conveying the estimated annual operating cost of such product or the range of estimated annual operating costs for the type or class of such product—

"(A) such estimated cost or range of costs shall be determined in accordance with test procedures prescribed under section 323;

"(B) the format of such label shall be in accordance with a format prescribed by the Commission; and

"(C) such label shall be displayed in a manner, prescribed by the Commission, to be likely to assist consumers in making purchasing decisions and appropriate to carry out the purposes of this Act.".

(f) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating subsections (i) through (q) as subsections (l) through (t);

(2) by inserting after subsection (h) the following:

"(i) GENERAL SERVICE FLUORESCENT LAMPS AND INCANDESCENT REFLECTOR LAMPS.—(1)(A) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

"FLUORESCENT LAMPS

"Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	≤35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	≤100 W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(B) For the purposes of the tables set forth in subparagraph (A), the term 'effective date' means the last day of the month set forth in the table which follows the date of the enactment of the Comprehensive National Energy Policy Act.

"(2) Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp which is in compliance with the law at the time such lamp was manufactured.

"(3) Not less than 36 months after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on the date of the enactment of this subsection to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Not less than eight years after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than nine years and six months after the date of the enactment of this subsection to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(5) Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall initiate a rulemaking procedure to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended so that they would be applicable to additional general service fluorescent and general service incandescent lamps and shall publish, not later than 18 months after initiating such rulemaking, a final rule including such amended standards, if any. Such rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date such rule is published.

"(6)(A) With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of such lamp of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"(B) Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if such action is warranted as a result of other Federal action (including restrictions on materials or processes) which would have the effect of either increasing the energy use or decreasing the energy efficiency of such product.

"(7) Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to such section, each manufacturer of a product to which such standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type. Such report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period. With respect to lamp types which are not manufactured during the 12-month period preceding the date such standards become effective, such report shall be filed with the Secretary not later than the date which is 12 months after the date manufacturing is commenced and shall include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during such 12-month period.

"(j) STANDARDS FOR SHOWERHEADS AND FAUCETS.—(1)(A) The maximum water use allowed for any showerhead manufactured after January 1, 1994, is 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch.

"(B) When used as a component part of a showerhead, any flow restricting insert shall be mechanically retained at the point of manufacture. The requirement of the previous sentence shall not apply to showerheads which cause water to leak significantly from areas other than the spray face when the flow restricting insert is removed. For purposes of this subparagraph, the term 'mechanically retained' means that a pushing or pulling force of 8 pounds or more is required to remove the flow restricting insert.

"(2) The maximum water use allowed for any of the following faucets manufactured after January 1, 1994, when measured at a flowing water pressure of 80 pounds per square inch, is as follows:

"Lavatory faucets	2.5 gallons per minute
"Lavatory replacement aerators.	2.5 gallons per minute
"Kitchen faucets	2.5 gallons per minute
"Kitchen replacement aerators.	2.5 gallons per minute
"Metering faucets	0.25 gallons per cycle

"(3)(A) If the maximum flow rate requirements or the design requirements of ASME Standard A112.18.1M–1989, as in effect on the date of the enactment of the Comprehensive National Energy Policy Act, are amended to improve the efficiency of water use of any type or class of showerhead or faucet and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in the amended ASME/ANSI Standard A112.18.1M and providing that such standard shall apply to products manufactured after a date which is 12 months after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.18.1M—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a standard for any type or class of showerhead or faucet more stringent than such amended ASME/ANSI Standard A112.18.1M would result in additional conservation of energy or water. If the Secretary so determines, such rule shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(i) is more stringent than the standard in effect for such type or class of showerhead or faucet; and

"(ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(C) If, after any period of five consecutive years, the maximum flow rate requirements of the ASME/ANSI standard for showerheads are not amended to improve the efficiency of water use of such products, or after such period such requirements for faucets are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(i) is more stringent than the standards in effect for such product; and

"(ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(k) STANDARDS FOR WATER CLOSETS AND URINALS.—(1)(A) Except as provided in subparagraph (B), the maximum water use allowed in gallons per flush for any of the following water closets manufactured after January 1, 1994, is the following:

"Gravity tank-type toilets	1.6 gpf.
"Flushometer tank toilets	1.6 gpf.
"Electromechanical hydraulic toilets	1.6 gpf.
"Blowout toilets	3.5 gpf.

"(B) The maximum water use allowed for any gravity tank-type toilet which bears a permanent mark conspicuous upon installation consisting of the words 'Commercial Use Only' manufactured after January 1, 1994, and before January 1, 1997, is 3.5 gallons per flush.

"(C) The maximum water use allowed for flushometer valve toilets, other than blowout toilets, manufactured after January 1, 1997, is 1.6 gallons per flush.

"(2) The maximum water use allowed for any urinal manufactured after January 1, 1994, is 1.0 gallons per flush.

"(3)(A) If the maximum flush volume requirements of ASME Standard A112.19.6–1990, as in effect on the date of the enactment of the Comprehensive National Energy Policy Act, are amended to improve the efficiency of water use of any low consumption water closet or low consumption urinal and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in amended ASME/ANSI Standard A112.19.6 and providing that such standard shall apply to products manufactured after a date which is one year after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.19.6—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of low consumption water closet or low consumption urinal more stringent than such amended ASME/ANSI Standard A112.19.6 for such product would result in additional conservation of energy or water. If the Secretary so determines, such rule shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of low consumption water closet or low consumption urinal if such State regulation—

"(i) is more stringent than the standard in effect for such type or class of low consumption water closet or low consumption urinal; and

"(ii) is applicable to any sale or installation of all products in such type or class of low consumption water closet or low consumption urinal.

"(C) If, after any period of five consecutive years, the maximum flush volume requirements of the ASME/ANSI standard for low consumption water closets are not amended to improve the efficiency of water use of such products, or after such period such requirements for low consumption urinals are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of water closet or urinal if such State regulation—

"(i) is more stringent than the standards in effect for such type or class of water closet or urinal; and

"(ii) is applicable to any sale or installation of all products in such type or class of water closet or urinal.";

(3) in subsection (l) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraphs (1) and (2), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(B) in paragraphs (1) and (3), by striking out "(l) and (m)" and inserting in lieu thereof "(o) and (p)";

(4) in subsection (m) (as redesignated by paragraph (1) of this subsection), by striking out "(h)" and inserting in lieu thereof "(i)";

(5) in subsection (n) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1)—

(i) by striking out "and in paragraph (13)" and inserting in lieu thereof ", and in paragraphs (13) and (14)"; and

(ii) by striking out "(h)" and inserting in lieu thereof "(i)";

(B) in paragraph (2)(C), by striking out "(l)(2)(B)(i)(II)" and inserting in lieu thereof "(o)(2)(B)(i)(II)"; and

(C) in paragraph (3)(B), by inserting "general service fluorescent lamps, incandescent reflector lamps," after "fluorescent lamp ballasts,";

(6) in subsection (o) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1), by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use," after "energy use,";

(B) in paragraph (2)(A), by inserting ", or, in the case of showerheads, faucets, water closets, or urinals, water efficiency," after "energy efficiency";

(C) in paragraph (2)(B)(i)(III), by inserting ", or as applicable, water," after "energy";

(D) in paragraph (2)(B)(i)(VI), by inserting "and water" after "energy";

(E) in paragraph (2)(B)(iii), by striking out "energy savings" and inserting "energy, and as applicable water, savings"; and

(F) in paragraph (3)(B), by inserting ", in the case of showerheads, faucets, water closets, or urinals, water, or" after "energy or"; and

(7) in subsection (p)(3)(A) (as redesignated by paragraph (1) of this subsection)—

(A) by striking out "(l)(2)" and inserting in lieu thereof "(o)(2)"; and

(B) by striking out "(l)(4)" and inserting in lieu thereof "(o)(4)".

(g) REQUIREMENTS OF MANUFACTURERS.—Section 326 of such Act (42 U.S.C. 6296) is amended—

(1) in subsection (b)(4), by inserting "or water use" after "consumption"; and

(2) in subsection (d)(1), by striking out "or energy use" and inserting in lieu thereof ", energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use".

(h) EFFECT ON OTHER LAW.—Section 327 of such Act (42 U.S.C. 6297) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the material preceding subparagraph (A), by inserting "or water use" after "energy consumption";

(B) in paragraph (1)(A), by inserting ", water use," after "energy consumption";

(C) in paragraph (1)(B), by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use"; and

(D) by amending paragraph (2) to read as follows:

"(2) For purposes of this section, the following definitions apply:

"(A) The term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions. With respect to showerheads, faucets, water closets, and urinals, such term shall also mean a law, regulation, or other requirement of a river basin commission that has jurisdiction within a State.

"(B) The term 'river basin commission' means—

"(i) a commission established by interstate compact to apportion, store, regulate, or otherwise manage or coordinate the management of the waters of a river basin; and

"(ii) a commission established under section 201(a) of the Water Resources Planning Act (42 U.S.C. 1962b(a)).";

(2) in subsection (b)—

(A) in the material preceding paragraph (1), by striking out "or energy use of the covered product" and inserting in lieu thereof ", energy use, or water use of the covered product";

(B) by inserting before the semicolon at the end of paragraph (1) the following: ", or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before the date of the enactment of the Comprehensive National Energy Policy Act";

(C) in paragraph (4), by inserting before the semicolon at the end the following: ", or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 325(i) is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 325(j) is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 325(k) is applicable";

(D) in paragraph (5), by striking out "or";

(E) in paragraph (6), by striking out the period at the end and inserting "; or"; and

(F) by adding at the end the following new paragraph:

"(7) is a regulation (or portion thereof) concerning the water efficiency or water use of low consumption flushometer valve water closets.";

(3) in subsection (c)—

(A) in the material preceding paragraph (1)—

(i) by inserting ", subparagraphs (B) and (C) of section 325(j)(3), and subparagraphs (B) and (C) of section 325(k)(3)" after "section 325(b)(3)(A)(ii)"; and

(ii) by striking out "or energy use" and inserting in lieu thereof the following: ", energy use, or water use";

(B) in paragraph (1), by inserting before the semicolon at the end the following: ", except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 325(i) is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary and is applicable to such lamps";

(C) in paragraph (2), by striking out "or";

(D) in paragraph (3), by striking out the period at the end and inserting a semicolon; and

(E) by adding at the end the following new paragraphs:

"(4) is a regulation concerning the water use of lavatory faucets adopted by the State of New York or the State of Georgia before the date of the enactment of the Comprehensive National Energy Policy Act;

"(5) is a regulation concerning the water use of lavatory or kitchen faucets adopted by the State of Rhode Island prior to the date of the enactment of the Comprehensive National Energy Policy Act; or

"(6) is a regulation (or portion thereof) concerning the water efficiency or water use of gravity tank-type low consumption water closets for installation in public places, except that such a regulation shall be effective only until January 1, 1997.";

(4) in subsection (d)(1)—

(A) in subparagraph (A)—

(i) by inserting "or river basin commission" after "Any State"; and

(ii) by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use";

(B) in subparagraph (B)—

(i) by striking out "State has" and inserting "State or river basin commission has"; and

(ii) by inserting "or water" after "energy";

(C) in subparagraph (C)—

(i) in the material preceding clause (i) and in clause (ii), by inserting "or water" after "energy" each place it appears; and

(ii) by inserting before the period at the end the following: ", and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development"; and

(5) in subsection (d)(5)(B)(i)—

(A) in the material preceding subclause (I), by inserting "or water" after "energy";

(B) in subclause (I), by striking "or electric energy" and inserting ", electric energy, water, or wastewater treatment"; and

(C) in subclause (II), by inserting "or water" after "energy".

(i) INCENTIVE PROGRAMS.—Section 337 of such Act (42 U.S.C. 6307) is amended—

(1) by striking out "337." and inserting "337. (a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) STATE AND LOCAL INCENTIVE PROGRAMS.—(1) The Secretary shall, not later than one year after the date of the enactment of this subsection, issue recommendations to the States for establishing State and local incentive programs designed to encourage the acceleration of voluntary replacement, by consumers, of existing showerheads, faucets, water closets, and urinals with those products that meet the standards established for such products pursuant to subsections (j) and (k) of section 325.

"(2) In developing such recommendations, the Secretary shall consult with the heads of other federal agencies, including the Administrator of the Environmental Protection Agency; State officials; manufacturers, suppliers, and installers of plumbing products; and other interested parties.".

SEC. 165. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN OTHER EQUIPMENT AND ENERGY EFFICIENCY LABELING FOR LUMINAIRES.

(a) STANDARDS FOR CERTAIN OTHER EQUIPMENT.—Section 346 of the Energy Policy and Conservation Act (42 U.S.C. 6317) is amended to read as follows:

"ENERGY CONSERVATION STANDARDS FOR CERTAIN OTHER EQUIPMENT

"SEC. 346. (a)(1) The Secretary shall, within 18 months after the date of the enactment of the Comprehensive National Energy Policy Act, prescribe testing requirements for those high-intensity discharge lamps, distribution transformers, and certain office equipment for which the Secretary makes a determination that energy conservation standards, or, in the case of certain office equipment, labeling, would result in significant energy savings.

"(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those high-intensity discharge lamps and distribution transformers for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) with respect to high-intensity discharge lamps shall apply to such lamps manufactured 36 months after the date such rule is published.

"(b)(1) The Secretary shall, within 24 months after the date of the enactment of the Comprehensive National Energy Policy Act, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technically feasible and economically justified, and would result in significant energy savings.

"(2) The Secretary shall, within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) shall apply to small electric motors manufactured 60 months after the date such rule is published or, in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory, 84 months after such date. Such standards shall not apply to any small electric motor which is a component of a covered product under section 322(a) or a covered equipment under section 340.

"(c) In establishing any standard under this section, the Secretary shall take into consideration the criteria contained in section 325(n).

"(d)(1) The Secretary shall, within six months after the date on which testing requirements are prescribed by the Secretary pursuant to subsection (a) for certain office equipment, prescribe labeling requirements for such equipment.

"(2) The Secretary, within six months after the date on which energy conservation standards are prescribed by the Secretary for distribution transformers pursuant to subsection (a)(2) and, within six months after the date on which energy conservation standards are prescribed by the Secretary for small electric motors pursuant to subsection (b)(2), shall prescribe labeling requirements for such transformers and small electric motors, respectively.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards are prescribed by the Secretary for high-intensity discharge lamps pursuant to subsection (a)(2), prescribe labeling requirements for such lamps.

"(e) Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (d), each manufacturer of a product to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(f)(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a), a new covered product to which a rule under section 324 applies; and

"(B) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product—

"(i) in the case of high-intensity discharge lamps, distribution transformers, and small electric motors for which an energy conservation standard is prescribed under subsection (a)(2) or (b)(2), any such lamp, transformer, or small electric motor which is not in conformity with the applicable energy conservation standard; and

"(ii) in the case of certain office equipment to which a labeling rule is applicable under subsection (d)(1), any such office equipment which is not in conformity with the applicable labeling requirement prescribed for it under subsection (d)(1).

"(2) For purposes of section 333(a), paragraph (1) of this subsection shall be considered to be a part of section 332.".

(b) ENERGY EFFICIENCY LABELING FOR LUMINAIRES.—Part C of title III of such Act (42 U.S.C. 6311 et seq.) is amended by adding at the end the following new section:

"ENERGY EFFICIENCY LABELING FOR LUMINAIRES

"SEC. 347. (a)(1) Not later than one year after the date of the enactment of this Act, and in consultation with the National Electric Manufacturers Association, representatives of the lighting and electric utility industries, the National Institute of Standards and Technology, and other appropriate organizations, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program for luminaires.

"(2) Such program shall set forth information that will enable purchasers of luminaires to make informed decisions about the energy efficiency and costs of alternative luminaires. Such information may include labels affixed to equipment in product showrooms, information printed in product catalogs and other promotional material, and other reasonable and appropriate mechanisms.

"(b) Not later than three years after the date of the enactment of this Act, the Secretary shall, by rule, establish a rating and testing program for luminaires under section 343 and 344 to meet the objectives of subsection (a). In developing such rule, if a national energy efficiency rating and labeling program was successfully developed under subsection (a), the Secretary shall adopt such program, unless the Secretary determines, by rule, that to do so would not meet the requirements of subsection (a).

"(c)(1) Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for luminaires under subsection (b), each manufacturer of a luminaire to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(2) After the date on which a manufacturer must provide a label for a luminaire pursuant to paragraph (1), each such luminaire shall be considered, for purposes of paragraphs (1) and (2) of section 332(a), a new covered product to which a rule under section 324 applies.

"(d) For purposes of sections 343 and 344, luminaires shall be considered covered equipment under section 340 to the extent necessary to carry out this section.

"(e) There are authorized to be appropriated $750,000 for each of the fiscal years 1993 and 1994 to carry out the purposes of this section.".

(c) TECHNICAL AMENDMENT.—The table of contents of such Act is amended by striking out the item for section 346 and inserting in lieu thereof the following new items:

"Sec. 346. Energy conservation standards for certain other equipment.

"Sec. 347. Energy efficiency labeling for luminaires.".

SEC. 166. COOPERATIVE ADVANCED APPLIANCE AND EQUIPMENT DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Energy shall establish and carry out a program, with funds available for such purpose, to assist utilities and appliance manufacturers in the early introduction of high-efficiency appliances and equipment. The purpose of this program shall be to promote the production and use of appliances and equipment which are substantially more efficient than required by Federal or State law.

(b) PLAN.—(1) Within 12 months after the date of enactment of this Act, the Secretary of Energy shall prepare, and submit to Congress, a plan for the program to be established under this section.

(2) Such plan shall identify candidate technologies, appliances, and equipment which meet the following criteria:

(A) The potential exists for substantial improvement in the technology's energy efficiency beyond the minimum established in Federal and State law.

(B) The potential for total energy savings at the national or regional level from widespread use of the technology is substantial.

(C) With an adequate volume of production, the technology is likely to be cost-effective for consumers.

(D) Electric, water, or gas utilities are prepared to support and promote the introduction of such appliances or equipment.

(E) Manufacturers are unlikely to undertake development and production of such appliances or equipment on their own, or development and production would be substantially accelerated by support to manufacturers.

(3) The program plan also shall—

(A) be developed in close consultation with utilities, appliance and equipment manufacturers, and other interested parties;

(B) describe the steps the Secretary of Energy will take to provide continuing coordination and assistance of utility efforts to speed the introduction of highly efficient appliances and equipment;

(C) describe proposals for the development and production of highly efficient appliances and equipment which would be jointly funded by the Secretary of Energy, utilities, and appliance manufacturers;

(D) identify methods by which Federal purchase of highly efficient appliances and equipment could assist the early introduction of such appliances and equipment and also assist utility and manufacturer efforts; and

(E) identify such additional budget authorizations as may be needed to carry out the plan.

SEC. 167. EVALUATION OF UTILITY EARLY REPLACEMENT PROGRAMS FOR APPLIANCES.

Within 1 year after the date of the enactment of this Act, the Secretary, in consultation with utilities and appliance manufacturers, shall evaluate and report to the Congress on the energy savings and environmental benefits of programs which are directed to the early replacement of older, less efficient appliances presently in use by consumers with existing products which are more efficient than required by Federal law.

Subtitle E—Miscellaneous

SEC. 171. COMMERCIAL APPLICATION OF ENERGY EFFICIENT LIGHTING TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to promote commercial application of energy efficient lighting technology.

(b) DEFINITION.—For purposes of this section, the term "energy efficient lighting" means lighting technologies, including but not limited to, advanced lighting technologies such as high intensity discharge, compact fluorescent, high efficiency fluorescent, and incandescent lamps; electronic ballasts; luminaires; day lighting strategies; shading strategies; and lighting controls, such as light sensors and continuous dimming systems.

(c) REGIONAL ENERGY EFFICIENT LIGHTING AND DEMONSTRATION CENTERS.—

(1) GRANTS FOR ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall make grants to nonprofit institutions (or consortiums that may include nonprofit institutions, State and local governments, and utilities) to establish or enhance one regional energy efficient lighting demonstration center (hereafter in this section referred to as a "regional center") in each of the ten regions served by a Department of Energy regional support office.

(2) RESPONSIBILITIES.—Each regional center established under this subsection shall—

(A) hold special workshops for architects, lighting designers, and other professionals;

(B) prepare outreach materials and publications;

(C) provide information on energy efficient lighting technologies, design, installation, operation, and maintenance;

(D) display the latest energy efficient lighting technologies;

(E) serve as a clearing house to ensure that information about new energy efficient lighting technologies, including case studies of successful applications, is disseminated to end-users in the region; and

(F) study lighting needs of the region and make available region-specific lighting information to facilitate the adoption of cost-effective energy efficient lighting.

(3) APPLICATION.—Any nonprofit institution or consortium interested in receiving a grant under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require. A lighting center in existence on the date of the enactment of this section which is owned and operated by a nonprofit institution or a consortium as described in paragraph (1) shall be eligible for a grant under this subsection.

(4) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this

subsection on the basis of the following criteria:

(A) The capability of the grant recipient to establish a board of directors for the regional center composed of representatives from State and local governments, industry trade and professional associations, lighting manufacturers, electric utilities, electrical contractors, lighting designers, and nonprofit energy and environmental organizations.

(B) The demonstrated resources available to the grant recipient for carrying out this subsection.

(C) The demonstrated ability of the grant recipient to disseminate results of energy efficient lighting technology developments.

(D) The projects which the grant recipient proposes to carry out under the grant.

(E) The demonstrated ability of the grant recipient to carry out the responsibilities specified in paragraph (2).

(5) REQUIREMENT OF MATCHING FUNDS.—

(A) FEDERAL SHARE.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the regional center.

(B) NON-FEDERAL CONTRIBUTIONS.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will provide non-Federal contributions in an amount not less than an amount equal to the Federal share. Such non-Federal contributions may be provided through donations by State governments, nonprofit institutions, foundations, corporations, electric utilities, and other non-Federal entities.

(6) ALLOCATION OF FUNDS.—Of the amounts available to carry out this subsection for any fiscal year, not more than $500,000 shall be awarded to any regional center.

(7) TASK FORCE.—The Secretary shall establish a task force to—

(A) advise the Secretary on activities to be carried out by grant recipients;

(B) review and evaluate programs carried out by grant recipients; and

(C) make recommendations regarding possible future program modifications.

(8) MEMBERSHIP TERMS AND ADMINISTRATION OF TASK FORCE.—

(A) IN GENERAL.—The task force shall be composed of 25 members with expertise in the area of energy efficient lighting.

(B) APPOINTMENT.—Members of the task force shall be appointed by the Secretary as follows:

(i) Not less than 2 members shall be representatives from State or local energy offices.

(ii) Not less than 2 members shall be representatives from building industry trade or professional associations.

(iii) Not less than 2 members shall be representatives from engineering industry trade or professional associations.

(iv) Not less than 2 members shall be representatives from lighting manufacturers, design firms, or industry trade or professional associations.

(v) Not less than 2 members shall be representatives from electric utilities or related associations.

(vi) Not less than 2 members shall be representatives from electrical contractors or management companies.

(vii) Not less than 2 members shall be representatives from national laboratories.

(viii) Not less than 2 members shall be representatives from nonprofit energy or environmental organizations.

(C) GEOGRAPHIC REPRESENTATION.—Of the members appointed under this paragraph, the Secretary shall ensure that there is at least one member from each of the 10 regions in which a regional center is authorized to be established pursuant to paragraph (1).

(D) TERMS.—Members shall be appointed for a term of 3 years. A vacancy in the task force shall be filled in the manner in which the original appointment was made.

(E) PAY.—Members shall serve without pay. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) CHAIRPERSON.—The Chairperson and Vice Chairperson of the task force shall be elected by the members.

(G) MEETINGS.—The task force shall meet biannually and at the call of the Chairperson.

(H) TERMINATION DATE INAPPLICABLE.—Section 14 of the Federal Advisory Committee Act shall not apply to the task force.

(9) REPORT.—The Secretary shall transmit annually to the Congress a report containing a detailed statement of the activities of regional centers established under this subsection, including the degree to which matching funds are being leveraged from private sources to operate such centers.

(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this subsection not more than $5,000,000 for each of fiscal years 1993, 1994, and 1995.

(d) STATE ENERGY OFFICES.—

(1) WORKSHOPS.—State energy offices are encouraged to supplement the activities of the regional centers established under subsection (c) in providing workshops for local building owners, developers, and facility energy and financial managers regarding energy efficient lighting. Such workshops shall be conducted in cooperation with the regional center for the region in which the State is located.

(2) GRANTS TO STATES.—

(A) IN GENERAL.—The Secretary may provide matching grants to States for the purposes of carrying out paragraph (1).

(B) PREFERENCE.—In awarding grants under this paragraph, the Secretary shall give preference to States in which a regional center has not been established.

(C) APPLICATION.—The Secretary shall prescribe the form and procedures for States to follow in applying for grants under this paragraph.

(D) ALLOCATION OF FUNDS.—Of the amounts available to carry out this subsection for any fiscal year, not more than $100,000 shall be awarded to any State energy office.

(3) REPORT.—The Secretary shall transmit to the Congress an annual report containing a detailed description of the workshops supported by State energy offices on a State-by-State basis.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this subsection not more than $2,000,000 for each of fiscal years 1993, 1994, and 1995.

SEC. 172. ENERGY EFFICIENCY IN INDUSTRIAL FACILITIES.

(a) INDUSTRIAL ENERGY SAVINGS TARGETS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall establish voluntary energy efficiency improvement targets for each major energy consuming industry specified in paragraph (5). The targets shall represent a percentage reduction in energy consumption per unit of production that the Secretary determines is cost effective and achievable by 1997.

(2) TARGETS FOR SPECIFIC INDUSTRIES.—Within each major energy consuming industry specified in paragraph (5), the Secretary may also set voluntary energy efficiency improvement targets for industries specified in 3-digit or 4-digit Standard Industrial Classification code levels.

(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall seek input from industries affected by this section and provide an opportunity for public comment in establishing voluntary energy efficiency improvement targets.

(4) MODIFICATION OF TARGETS.—The Secretary, in consultation with the Administrator of the Energy Information Administration, shall assess the degree to which industries have achieved the targets established by this subsection and shall modify the targets every 5 years, beginning in 1997 for targets that shall become applicable in 2002.

(5) DEFINITION.—For the purposes of this subsection, the term "major energy consuming industry" means the following industries:

(A) Food and kindred products.

(B) Textiles.

(C) Lumber and wood products.

(D) Paper.

(E) Chemicals.

(F) Petroleum.

(G) Stone, clay, and glass.

(H) Primary metals.

(I) Fabricated metal products.

(J) Transportation equipment.

(K) Such industries as the Secretary determines to be appropriate.

(b) MANUFACTURING ENERGY CONSUMPTION SURVEY.—Section 205(i)(1) of the Department of Energy Organization Act (42 U.S.C. 7135(i)(1)) is amended by striking out "on at least a triennial basis" and inserting in lieu thereof the following: "at least once every two years".

(c) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize industry associations and individual industrial companies that have significantly improved their energy efficiency.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to industry associations (or otherwise as the Secretary determines is appropriate) to support achievement of the voluntary energy efficiency improvement targets established under subsection (a) through educational and promotional projects.

(2) AWARDING OF GRANTS.—The Secretary shall request project proposals and provide grants on a competitive basis each year. In evaluating grant proposals under this paragraph, the Secretary shall consider—

(A) potential energy savings;

(B) potential environmental benefits;

(C) the degree of cost sharing;

(D) the degree to which new and innovative technologies will be encouraged;

(E) the level of industry involvement; and

(F) estimated project cost effectiveness.

(3) ELIGIBLE PROJECTS.—Projects eligible for grants may include the following:

(A) Workshops.

(B) Training seminars.

(C) Handbooks.

(D) Newsletters.

(E) Data bases.

(F) Other activities approved by the Secretary.

(4) LIMITATION; COST SHARING.—A grant provided under this subsection shall not exceed $250,000 and shall not exceed 75 percent of the total cost of the project for which the grant is made.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 173. PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "process-oriented industrial assessment" means—

(A) the identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental waste; and

(iii) technological improvements designed to increase competitiveness and achieve cost-effective product quality enhancement;

(B) the identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and building envelope systems operating outside of the production process; and

(C) the identification of opportunities for using renewable energy technology both in the production process and in the systems described in subparagraph (B);

(3) the term "Secretary" means the Secretary of Energy; and

(4) the term "utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy to retail customers.

(b) GRANT PROGRAM—

(1) USE OF FUNDS.—The Secretary shall make grants to States to be used for the following purposes:

(A) To promote, through appropriate institutions such as universities, nonprofit organizations, State and local government entities, technical centers, utilities, and trade organizations, the use of energy-efficient technologies in covered industries.

(B) To establish programs to train individuals (on an industry-by-industry basis) in conducting process-oriented industrial assessments and to encourage the use of such trained assessors.

(C) To assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers in covered industries.

(2) CONSULTATION.—States receiving grants under this subsection shall consult with utilities and industry representatives, as appropriate, in determining the most effective use of such funds consistent with the requirements of paragraph (1).

(3) ELIGIBILITY CRITERIA.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants made pursuant to this subsection. Such criteria shall require a State applying for a grant to demonstrate that such State, by legislation or regulation—

(A) allows utilities to recover the prudently incurred costs of providing process-oriented industrial assessments;

(B) requires least-cost planning as provided in section 111(d)(7) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as added by section 131(a) of this Act);

(C) provides for investments in conservation and demand management as provided in section 111(d)(8) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as added by section 131(a) of this Act); and

(D) encourages utilities to provide to covered industries served—

(i) process-oriented industrial assessments; and

(ii) financial incentives for implementing energy efficiency improvements.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this subsection shall be allocated each fiscal year among States meeting the criteria of paragraph (3) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each such State's share of value added in industry (as determined by the Census of Manufactures) as a percentage of the value added by all such States.

(5) RENEWAL OF GRANTS.—A grant under this subsection may be renewed for 1 additional year after 2 consecutive fiscal years during which a State receives a grant under this subsection, subject to the availability of funds, if—

(A) the Secretary determines that the funds made available to the State during the previous 2 years were used in a manner required under paragraph (1); and

(B) such State demonstrates, in a manner prescribed by the Secretary, utility participation in programs established pursuant to this subsection.

(6) COORDINATION WITH OTHER FEDERAL PROGRAMS.—In carrying out the functions described in paragraph (1), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

(c) OTHER FEDERAL ASSISTANCE.—

(1) MODEL ASSESSMENT GUIDELINES.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall, by contract with one or more nonprofit organizations expert in process-oriented industrial energy efficiency technology, establish and update as appropriate, on an industry-by-industry basis, model guidelines for conducting process-oriented industrial assessments. Such guidelines shall be made available to State governments, public utility commissions, utilities, and other interested parties.

(2) DIRECTORY.—The Secretary shall establish a nationwide directory, on an industry-by-industry basis, of organizations offering industrial energy efficiency technologies and services consistent with the purposes of this section. Such directory shall be made available to State governments, public utility commissions, utilities, industry representatives, and other interested parties.

(3) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize utilities operating outstanding or innovative industrial energy efficiency technology assistance programs.

(4) MEETINGS.—The Secretary shall convene annual meetings of State energy officials, public utility commission officials, industry and utility representatives, and other interested parties for the purpose of developing strategies to—

(A) transfer information among States and utilities;

(B) encourage States to establish programs for encouraging utilities to provide energy efficiency financial and technical assistance to industry;

(C) encourage effective implementation of such programs; and

(D) provide coordination between such programs which are conducted by States and utilities and Federal programs such as those conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(1) identifies barriers encountered in implementing this section;

(2) makes recommendations for overcoming such barriers;

(3) documents the results achieved as a result of the programs established and grants awarded pursuant to this section;

(4) reviews any difficulties encountered by industry in securing and implementing energy-efficient technologies recommended in process-oriented industrial assessments or otherwise identified as a result of programs established pursuant to this section; and

(5) recommends methods for further promoting the distribution and implementation of energy-efficient technologies consistent with the purposes of this section.

(e) AUTHORIZATION.—There are authorized to be appropriated $8,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and $12,000,000 for fiscal year 1995 for the purposes of carrying out subsection (b).

SEC. 174. MISCELLANEOUS.

(a) ENERGY INFORMATION ADMINISTRATION.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding after subsection (i) the following new subsections:

"(j) With regard to renewable energy, the Administrator shall, annually and on a State-by-State basis, including where applicable Indian reservations, as defined in section 2602(2)—

"(1) collect and analyze data on the number of new wind machines installed, the power production of such machines, total installed capacity, kilowatt hours produced, and measures of wind turbine efficiency as the Administrator deems appropriate;

"(2) collect and analyze data on the new installed capacity of geothermal power projects, the total installed capacity, kilowatt hours produced, and measures of geothermal powerplant efficiency the Administrator deems appropriate;

"(3) collect and analyze data on the new installed capacity of biomass fueled powerplants by type of biomass fuel (including wood, municipal solid waste, agricultural residues, methane, and any others the Administrator deems appropriate), heating systems, total installed capacity, kilowatt hours produced, British thermal units produced from industrial process heating systems and other information that the Administrator deems appropriate;

"(4) collect and analyze data on shipments of solar thermal collectors (determining how much of such shipments are installed domestically by State, and estimating the amount of energy produced annually from such collectors), the amount of solar thermal electric power capacity installed each year, and the total capacity and number of kilowatt hours generated each year; and

"(5) determine the percentage of photovoltaic production exported versus the percentage installed in the United States for remote and utility connected applications.

"(k) With regard to energy use, the Administrator shall conduct surveys of residential, commercial, and industrial energy use at least once every three years and make such information available to the public on a State-by-State basis.

"(1) With regard to utility demand side management, the Administrator shall, when surveying electric utilities, collect information on demand side management programs conducted by such utilities, including information regarding the types of demand side management programs being operated, the quantity of measures installed, expenditures on demand side management programs, and estimates of energy savings resulting from such programs.".

(b) REPEAL.—The National Energy Extension Service Act, title V of Public Law 95-39, is repealed.

(c) DISTRICT HEATING AND COOLING PROGRAMS.—(1) The Secretary of Energy, in consultation with appropriate industry organizations, shall conduct a study to—

(A) assess existing district heating and cooling technologies to determine cost-effectiveness, technical performance, energy efficiency, and environmental impacts compared to alternative methods for heating and cooling buildings;

(B) estimate the economic value of benefits that may result from implementation of district heating and cooling systems but that are not currently recognized, such as reduced emissions of air pollutants, local economic development, and energy security;

(C) evaluate the cost-effectiveness, including the economic value referred to in subparagraph (B), of cogenerated district heating and cooling technologies compared to other alternatives for generating or conserving electricity; and

(D) assess, and make recommendations for reducing, institutional and other constraints on the implementation of district heating and cooling systems.

(2) Within 24 months after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report containing the findings and conclusions made by the Secretary as a result of the study conducted under paragraph (1).

(3) Based on such findings and conclusions, the Secretary shall, within 24 months after the date of the enactment of this Act, establish and carry out a program, with funds available for such purpose, to—

(A) provide information to city governments, electric utilities, and others about the technical performance, efficiency, costs, environmental aspects, and other characteristics of district heating and cooling systems; and

(B) assess the prospects for implementing new or expanded district heating and cooling systems, taking into consideration the needs of local governments and electric utilities and other factors.

(4) The Secretary may provide, with funds available for such purpose, technical and financial assistance to local governments, on a cost-share basis, for the assessment and design of district heating and cooling systems.

(d) STUDY AND REPORT.—(1) The Secretary of Energy shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(2) In carrying out such study, the Secretary shall—

(A) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand-side management; and

(B) evaluate the cost effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(3) The Secretary shall transmit to the Congress, within 18 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this subsection.

(4) The Secretary may, based on the findings and conclusions of such study, carry out at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithims in products or equipment with a significant potential for increased energy efficiency.

TITLE II—NATURAL GAS PIPELINES

SEC. 201. FEWER RESTRICTIONS ON CERTAIN NATURAL GAS IMPORTS.

(a) Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting "(a)" before "After six months"; and by adding at the end a new subsection as follows:

"(b) With respect to natural gas which is imported into the United States from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and with respect to liquefied natural gas—

"(1) the importation of such natural gas shall be treated as a 'first sale' within the meaning of section 2(21) of the Natural Gas Policy Act of 1978;

"(2) neither the Commission nor a State may prohibit or condition the importation of such natural gas, nor treat such natural gas while it is within the United States differently than domestic natural gas, nor permit any pipeline transporting such natural gas to maintain rates, terms, or conditions of service for such natural gas different from those it maintains for domestic natural gas; and

"(3) for purposes of subsection (a), the importation of such natural gas shall be deemed to be consistent with the public interest, and applications for such importation shall be granted without modification or delay.".

(b) Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding at the end the following new subsection:

"(h) In exercising its authority under this section and sections 5 and 7 of this Act with respect to the transportation rates and charges of an interstate pipeline (as such term is defined in section 2(15) of the Natural Gas Policy Act of 1978), the Commission shall base any determination of whether rates and charges are just and reasonable on costs and other relevant factors relating directly to an interstate pipeline's transportation function, and not on any factors relating to the natural gas being transported by the interstate pipeline or on rates and charges with respect to pipelines not subject to the Commission's jurisdiction.".

SEC. 202. OPTIONAL CERTIFICATES FOR CERTAIN PROJECTS.

(a) OPTIONAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) OPTIONAL CERTIFICATE.—

"(i) ISSUANCE.—

"(I) CONSTRUCTION OF NEW FACILITIES.—Upon application by any natural-gas company, or person which will become a natural-gas company upon completion of any proposed construction or extension, the Commission shall issue an optional certificate of public convenience and necessity for the construction, extension, and operation of, and transportation of natural gas through, open access facilities constructed after the date of enactment of this subparagraph, without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities, if the requirements of this subparagraph are met.

"(II) CONVERSION OF EXISTING FACILITIES.—Upon application by any natural-gas company, or person which will become a natural-gas company upon completion of any proposed conversion or operation, the Commission shall issue an optional certificate of public convenience and necessity for the conversion and operation of existing facilities which are not subject to rate or abandonment regulation, and the transportation of natural gas through such facilities, provided that such facilities were not constructed under section 311 of the Natural Gas Policy Act of 1978 or this section, without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities, if the requirements of this subparagraph are met.

"(III) NONEXCLUSIVITY.—An optional certificate issued under subclause (I) or (II) shall be nonexclusive and nonprejudicial to any other authorization under this Act or the Natural Gas Policy Act of 1978.

"(ii) CONDITIONS.—

"(I) IMPAIRMENT OF ADEQUATE SERVICE.—The Commission shall issue an optional certificate under this subparagraph unless it finds that the construction, extension, conversion, and operation of facilities will impair any certificate holder's ability to render adequate service to its customers.

"(II) ENVIRONMENTAL AND OTHER REQUIREMENTS.—The Commission shall attach to an optional certificate issued under this subparagraph conditions respecting the environment, including mitigation measures and alternate routes, and other conditions to ensure compliance with requirements under environmental and other applicable laws.

"(III) STAND ALONE PRICING.—No costs or expenses incurred in relation to the construction, extension, conversion, and operation of facilities, or the sale of facilities, covered by an optional certificate issued under this subparagraph may be included in the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(IV) NO CREDITING.—The Commission shall not require the holder of an optional certificate issued under this subparagraph to credit any revenues received in relation to providing transportation under such certificate, or the sale of facilities authorized under such certificate, to any other rate filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(V) PREVENTION OF DELAY.—Notwithstanding section 15(a) of this Act, the holder of an optional certificate issued under this subparagraph shall not participate in any proceedings (other than those it may initiate) for the construction, extension, conversion, or operation of facilities that would serve the same market served by the facilities authorized by the holder's optional certificate. The Commission may waive this subclause if the participation of the holder of an optional certificate will help expedite a proceeding.

"(VI) SEPARATE BOOKS.—The holder of an optional certificate issued under this subparagraph shall maintain a separate system of books, accounts, and records for the facilities and transportation authorized under such certificate.

"(iii) NEGOTIATION RULE.—The Commission shall ensure that all agreements between the

certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation utilizing facilities authorized in an optional certificate issued under this subparagraph are negotiated at arms length (or in the case of affiliates, the substantial equivalent thereof).

"(iv) PUBLIC NOTICE.—The Commission shall provide reasonable public notice of the application for the issuance of an optional certificate under this subparagraph, including notification at the time of application to the State commission for the State in which the pipeline facility will be located.

"(v) RATES REQUIRED TO BE PUBLIC.—Not later than 60 days before the commencement of transportation pursuant to an optional certificate issued under this subparagraph, or at such time as the Commission may find necessary and reasonable, the certificate holder shall file with the Commission copies of all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation utilizing facilities authorized in the optional certificate. After the commencement of such transportation, the certificate holder shall file with the Commission, not later than 10 days before the initiation of any new transportation utilizing such facilities, a copy of any new or amended agreement entered into by the certificate holder and any person, including any affiliate of the certificate holder, contracting for transportation utilizing such facilities. The Commission shall keep and make available for public inspection all agreements required to be filed with the Commission pursuant to this clause.

"(vi) NEGOTIATED RATES DEEMED LAWFUL; EXCEPTION.—The rates, charges, classifications, or practices for the transportation of natural gas contained in the agreements filed with the Commission pursuant to clause (v) shall be deemed to be lawful within the meaning of sections 4 and 5 of this Act. If, however, the Commission, after a hearing held upon the petition of a person who has made a bona-fide offer to enter into a contract for the transportation of natural gas utilizing facilities authorized in an optional certificate issued under this subparagraph, finds that the failure to provide a requested rate, charge, classification, or practice in connection with such requested transportation is an unjustifiable, effective denial of access to such facilities, the Commission shall determine the rates, charges, classifications, or practices which allow access, and shall fix the same by order. The Commission may not order the requested transportation to the extent that it finds that transportation capacity is not available. Unless the Commission issues a final order on a petition filed pursuant to this clause within 120 days after it is filed, such petition shall be deemed denied.".

(b) NONAPPLICABILITY OF ABANDONMENT RULE.—Section 7(b) of the Natural Gas Act (15 U.S.C. 717c(b)) is amended by adding at the end the following: "This subsection shall not apply to any facility or transportation certificated pursuant to subsection (c)(1)(D) of this section.".

(c) NONAPPLICABILITY OF NATURAL GAS ACT SECTION 4 PROCEDURES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (e):

"(f) Subsections (c), (d) and (e) of this section shall not apply to the transportation of natural gas through facilities authorized by a certificate of public convenience and necessity issued under section 7(c)(1)(D) of this Act.".

(d) NONAPPLICABILITY OF NATURAL GAS ACT SECTION 5 PROCEDURES.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end the following: "This subsection shall not apply to any rate, charge, classification, or practice by a natural-gas company in connection with the transportation of natural gas through facilities authorized by a certificate issued under section 7(c)(1)(D) of this Act.".

SEC. 203. TRANSPORTATION UNDER SECTION 311 OF THE NATURAL GAS POLICY ACT OF 1978.

(a) AMENDMENT.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended—

(1) in the section head, by inserting "; construction" after "sales and transportation";

(2) in the subsection head for subsection (a), by inserting "; CONSTRUCTION" after "APPROVAL OF TRANSPORTATION";

(3) by striking subsection (a)(1), and inserting in lieu thereof the following:

"(1) INTERSTATE PIPELINES.—

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

"(i) any intrastate pipeline;

"(ii) any local distribution company; or

"(iii) any other person, including such interstate pipeline.

"(B) JUST AND REASONABLE RATES.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

"(C) NONDISCRIMINATORY TRANSPORTATION.—Any transportation authorized under subparagraph (A) shall not be unjust, unreasonable, unduly discriminatory, or preferential (within the meaning of the Natural Gas Act).

"(D) CONSTRUCTION.—60 days after notification to the State commission (as such term is defined in the Natural Gas Act) for the State in which the pipeline facility will be located, an interstate pipeline may construct facilities of any size or capacity to be used solely for transportation provided under this subsection.";

(4) by striking subsection (a)(2)(A), and inserting in lieu thereof the following:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

"(i) any interstate pipeline;

"(ii) any local distribution company served by an interstate pipeline; or

"(iii) any other person, including such intrastate pipeline."; and

(5) by adding at the end the following new subsection:

"(d) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—The Commission shall prepare a programmatic environmental impact statement under the National Environmental Policy Act of 1969 to accompany the regulations to implement the amendments to this section made by the Comprehensive National Energy Policy Act. The programmatic environmental impact statement shall be prepared in accordance with the regulations of the Council on Environmental Quality implementing the National Environmental Policy Act of 1969.".

(b) TABLE OF CONTENTS AMENDMENT.—The item relating to section 311 in the table of contents of the Natural Gas Policy Act of 1978 is amended to read as follows:

"Sec. 311. Authorization of certain sales and transportation; construction.".

SEC. 204. RULES IN LOCAL DISTRIBUTION COMPANY BYPASS CASES.

(a) NOTICE.—In any case where service by a natural gas company under section 7(c)(1)(D) of the Natural Gas Act or section 311 of the Natural Gas Policy Act of 1978 would displace existing service by a local distribution company, no contract for such service shall be binding on the buyer, and no such service shall commence, before 60 days after notice to the local distribution company whose service would be displaced.

(b) RECOVERY OF TAKE OR PAY COSTS.—In any case where service by a natural gas company under section 7(c)(1)(D) of the Natural Gas Act or section 311 of the Natural Gas Policy Act of 1978 displaces existing service by a local distribution company, such natural gas company shall not recover from such local distribution company any take or pay costs allocated by the Federal Energy Regulatory Commission on a volumetric basis to the recipient of the new service. Such natural gas company may not reallocate costs not recoverable from the local distribution company by reason of this subsection to any other service provided by such natural gas company, except that those costs may be included in the rates charged to the recipient of the new service.

(c) APPLICABILITY.—This section shall apply to service under section 311 of the Natural Gas Policy Act of 1978 only if such service commences or will commence after the date of enactment of this Act.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "local distribution company" means—

(A) a local distribution company, as such term is defined in section 2(17) of the Natural Gas Policy Act of 1978; and

(B) a holder of a service area determination described in section 7(f)(2) of the Natural Gas Act; and

(2) the term "natural gas company" has the meaning given the term "natural-gas company" in section 2(6) of the Natural Gas Act.

SEC. 205. THIRD PARTY CONTRACTING BY THE FEDERAL ENERGY REGULATORY COMMISSION FOR NATURAL GAS ACT FACILITIES.

(a) THIRD PARTY CONTRACTING.—Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding the following after paragraph (2):

"(3) THIRD PARTY CONTRACTING.—

"(A) GENERAL RULE.—Where the Commission is required to prepare a draft or final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in connection with applications for authority to construct, extend, or operate facilities under this Act, the Commission shall permit, at the election of the applicant, a contractor, consultant, or other person funded by the applicant to prepare such environmental impact statement for the Commission. Such contractor, consultant, or other person shall be selected by the applicant from among a list of individuals or companies determined by the Commission to be qualified to do such work. The Commission shall establish the scope of work for the environmental impact statement, and procedures to oversee the preparation of the statement and to ensure that the contractor, consultant, or other person has no financial or other potential conflict of interest in the outcome of the proceeding. To determine the scope of work, the Commission shall institute a scoping process in accordance with regulations issued by the Council on Environmental Quality.

"(B) ENVIRONMENTAL ASSESSMENTS.—Where an environmental assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in connection with an application for authority to construct, extend, or operate facilities under this Act, the Commission shall permit an applicant, or a contractor, consultant, or other person selected by the applicant, to prepare such environmental assessment. The Commission shall institute procedures, including preapplication consultations, to advise potential applicants of studies or other information related to such environmental assessment foreseeably required by the Commission. The Commission shall allow the filing of such environmental assessment as part of the application.

"(C) RELATIONSHIP TO OTHER LAW.—Nothing in this paragraph shall be construed to—

"(i) relieve the Commission of its responsibilities to review and approve or disapprove environmental documents or to otherwise carry out its responsibilities under the National Environmental Policy Act of 1969; or

"(ii) supersede the responsibility of any Federal agency under any Federal statute, including the National Environmental Policy Act of 1969.

"(D) FUNDS NOT CONSIDERED APPROPRIATIONS.—Funds paid to a contractor, consultant, or other person pursuant to this paragraph shall not be considered an appropriation to the Commission, except as otherwise specified in appropriations Acts.".

(b) COMMUNICATIONS WITH THE COMMISSION.—The Federal Energy Regulatory Commission, within 1 year after the date of enactment of this Act, shall amend its rules governing ex parte communications to clarify that the prohibitions contained in such rules do not apply to communications between the Commission's environmental advisory staff and other Federal and State agencies that are cooperating agencies for purposes of compliance with title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331-35). In the event of a communication between such parties, an accurate public record of all such communications shall be kept, and any party to the proceeding with respect to which such communication was made may respond in writing to such communication.

(c) NEPA COMPLIANCE.—Except as provided in sections 203(d) and 205, nothing in this title or the amendments made by this title shall be construed to modify, impair, or supersede the applicability and operation of the National Environmental Policy Act of 1969.

SEC. 206. NEW RATES AND JOINT THROUGH RATES.

(a) NOTICE OF CHANGES.—The first and third sentences of section 4(d) of the Natural Gas Act (17 U.S.C. 717c(d)) are amended by striking "thirty days' notice" and inserting in lieu thereof "sixty days' notice".

(b) JOINT RATES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding after subsection (f) the following new subsection:

"(g) Under such rules and regulations as the Commission may prescribe to preclude anticompetitive conduct, natural-gas companies may jointly file with the Commission rates for the sequential transportation of natural gas through their facilities.".

SEC. 207. UTILIZATION OF INFORMAL RULEMAKING PROCEDURES.

The first sentence of section 403(c) of the Department of Energy Organization Act (42 U.S.C. 7173(c)) is amended to read as follows: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or to the establishment of rates and charges, the issuance of a certificate of public convenience and necessity, or the abandonment of facilities and services under the Natural Gas Act may be conducted by rulemaking procedures.".

SEC. 208. FASTER ISSUANCE AND REVIEW OF COMMISSION ORDERS.

(a) NATURAL GAS ACT AMENDMENTS.—

(1) REHEARING.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within 60 days after it is filed, such application shall be deemed denied, except that the Commission may, for good cause, extend the period for rehearing an additional 90 days or, in the case of a rulemaking proceeding, an additional 120 days.".

(2) COURT REVIEW.—Section 19(b) of the Natural Gas Act (15 U.S.C. 717r(b)) is amended by striking the first and second sentences and inserting in lieu thereof the following: "Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural-gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 30 days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(b) NATURAL GAS POLICY ACT OF 1978 AMENDMENTS.—

(1) REHEARING.—Section 506(a)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(a)(2)) is amended by striking "Unless the Commission acts upon such application for rehearing within 30 days after it is filed, such application shall be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within 60 days after it is filed, such application shall be deemed denied, except that the Commission may, for good cause, extend the period for rehearing an additional 90 days or, in the case of a rulemaking proceeding, an additional 120 days.".

(2) COURT REVIEW.—Section 506(a)(4) of the Natural Gas Policy Act (15 U.S.C. 3416(a)(4)) is amended by striking the second and third sentences and inserting the following in lieu thereof: "Review shall be obtained by filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 30 days after the final action of the Commission on the application for rehearing required under paragraph (2). The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

SEC. 209. STREAMLINED CERTIFICATE PROCEDURES.

(a) UNOPPOSED APPLICATIONS.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by striking subparagraph (B) and inserting in lieu thereof the following:

"(B) UNOPPOSED APPLICATIONS.—In any case not described in the proviso of subparagraph (A), the Commission shall file notice in the Federal Register of the proposed certificate of public convenience and necessity as soon as the required information in connection therewith has been received by the Commission. If no party has filed a protest or objection in response to such notice within 60 days after publication of such notice, or if all protests and objections are withdrawn, the certificate of public convenience and necessity shall, after completion by the Commission of any responsibilities under the National Environmental Policy Act of 1969, be issued.

"(C) HEARINGS; EMERGENCY CERTIFICATES.—

"(i) HEARING REQUIREMENT.—If a party has filed a protest or objection that has not been withdrawn, the Commission shall set the matter for hearing and shall give such reasonable notice of the hearing thereon to all interested persons as in its judgment may be necessary under rules and regulations to be prescribed by the Commission; and the application shall be decided in accordance with the procedure provided in subsection (e) of this section and such certificate shall be issued or denied accordingly. Within 90 days after the date of enactment of the Comprehensive National Energy Policy Act, the Commission shall institute a rulemaking to establish a procedure for dealing expeditiously with protests which do not raise material issues of fact necessitating an evidentiary hearing.

"(ii) CONCLUSIVE EVIDENCE OF NEED.—In a hearing under this subparagraph, proof of binding contractual commitments by bona fide shippers for firm natural gas service to be rendered utilizing substantially all the capacity of the facilities proposed to be constructed or extended shall be conclusive evidence of the need for such proposed service and facilities, and shall be sufficient to dismiss any claim of mutual exclusivity by another applicant.

"(iii) PHASED CERTIFICATE PROCEDURES.—In a hearing under this subparagraph, the Commission, where appropriate, may phase its consideration of issues raised in connection with the application and may issue an initial order containing preliminary findings with respect to such issues. Notwithstanding the preliminary findings in such initial order, the issuance of a certificate of public convenience and necessity shall be subject to a final order based upon the complete record of the hearing under this subparagraph.

"(iv) EMERGENCY CERTIFICATE.—The Commission may issue a temporary certificate in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a certificate, and may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of the certificate will not be required in the public interest.".

(b) CERTIFICATE NOT REQUIRED FOR REPLACEMENT FACILITIES.—Section 7(c)(1) of the

Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN REPLACEMENT FACILITIES.—The replacement or repair of physically deteriorated or obsolete facilities shall not be subject to any certification requirements of this subsection if—

"(i) such replacement or repair does not result in a reduction or abandonment of service by means of such facilities;

"(ii) such replacement or repair has substantially equivalent designed delivery capacity as the particular facilities being replaced or repaired; and

"(iii) the cost of such replacement or repair does not exceed $20,000,000 per project, as adjusted pursuant to the implicit price deflator for gross national product.".

(c) PRIORITY PROJECTS.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(F) PRIORITY PROJECTS.—(i) If the Chairman of the Commission finds that the national interest requires expeditious construction or extension of facilities for the transportation of natural gas—

"(I) over a specific route;

"(II) from a specific gas-producing area; or

"(III) into a specific gas-consuming market,

the Chairman may designate facilities needed to serve such route, area, or market as a priority project for purposes of this subparagraph.

"(ii) If the Chairman designates facilities as a priority project under clause (i), the Commission shall issue, within such period as the Chairman may prescribe in such designation order, a certificate of public convenience and necessity under this section to authorize one or more proposals for the construction or extension of the facilities so designated. The Commission may impose such conditions under subsection (e) as it determines the public convenience and necessity require.

"(iii)(I) The Commission shall provide public notice and reasonable opportunity, consistent with time limits under the designation order, for the presentation of alternative proposals to construct or extend facilities designated as a priority project under this subparagraph, and for presentation of written data, views, and arguments on such proposals.

"(II) Sections 556 and 557 of title 5, United States Code, shall not apply to Commission proceedings under this subparagraph.

"(III) Nothing in this subparagraph shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

"(iv) Actions taken under this subparagraph, and the validity of this subparagraph, shall be subject to judicial review in the same manner as are actions and provisions under section 10 (a), (b), and (c) (1) and (2) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h (a), (b), and (c) (1) and (2)).".

SEC. 210. EXPEDITED FEDERAL ENERGY REGULATORY COMMISSION RULES.

The Federal Energy Regulatory Commission shall, within 1 year after the date of enactment of this Act, issue regulations to expedite the process by which the Commission considers applications under section 7 of the Natural Gas Act for the grant of certificates of public convenience and necessity for natural gas transportation facilities.

SEC. 211. GAS DELIVERY INTERCONNECTIONS IN PRODUCTION AREAS.

Section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a)) is amended by—

(1) by striking "(a)" and inserting in lieu thereof "(a) EXTENSION OF FACILITIES.—

"(1) GENERAL RULE.—"; and

(2) inserting at the end the following new paragraph—

"(2) REQUIRED CONNECTIONS.—Upon the petition of any person, the Commission by order may direct a natural-gas company, for the sole purpose of receiving natural gas from the petitioner, to establish, at petitioner's expense, and upon such reasonable terms as the Commission may prescribe, physical connection of the natural-gas company's gas transportation facilities, including facilities constructed under section 311 of the Natural Gas Policy Act of 1978, with—

"(A) the petitioner's production or gathering facilities;

"(B) the petitioner's intrastate pipeline (as such term is defined in section 2(16) of the Natural Gas Policy Act of 1978) within a production area (as such term is defined by the Commission); or

"(C) the petitioner's pipeline certificated pursuant to subsection (c) of this section, within a production area (as such term is defined by the Commission).

The proviso in paragraph (1) shall apply to interconnections required under this paragraph.".

SEC. 212. GAS DELIVERY INTERCONNECTIONS IN MARKET AREAS FOR LOCAL UTILITIES.

Section 7(a)(1) of the Natural Gas Act, as so redesignated by section 211 of this Act, is amended—

(1) by inserting "or transport" after "facilities of, and sell"; and

(2) by inserting "or transport" after "physical connection or sell".

SEC. 213. TECHNICAL AMENDMENTS.

Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended—

(1) in subsection (b), by inserting "ABANDONMENT.—" before "No natural-gas company";

(2) in subsection (c)—

(A) by striking "(c)(1)(A)" and inserting in lieu thereof the following:

"(c) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—

"(1) TRADITIONAL AND OPTIONAL CERTIFICATES.—

"(A) GENERAL RULE.—"; and

(B) by inserting "HIGH-PRIORITY CERTIFICATES.—" before "The Commission may issue" in paragraph (2);

(3) in subsection (d), by inserting "APPLICATIONS.—" before "Application for certificates";

(4) in subsection (e), by inserting "ISSUANCE OF CERTIFICATES; CONDITIONS.—" before "Except in the cases";

(5) in subsection (f)—

(A) by striking "(f)(1)" and inserting in lieu thereof the following:

"(f) SERVICE AREAS.—

"(1) COMMISSION DETERMINATION.—"; and

(B) by inserting "TRANSPORTATION EXCEPTION.—" before "If the Commission" in paragraph (2);

(6) in subsection (g), by inserting "NONEXCLUSIVITY.—" before "Nothing contained in";

(7) in subsection (h), by inserting "EMINENT DOMAIN.—" before "When any holder"; and

(8) by conforming the indentation of each subsection, paragraph, and subparagraph to those established in section 212 of this title.

SEC. 214. STATE REGULATION OF THE PRODUCTION OF NATURAL GAS.

Section 602 of the Natural Gas Policy Act of 1978 is amended by adding a new subsection (c), as follows:

"(c) STATE REGULATION OF THE PRODUCTION OF NATURAL GAS.—

"(1) CERTAIN STATE RESOURCE AND PROPERTY REGULATION AUTHORIZED.—State regulation of natural gas production, which has the substantial purpose or effect of furthering legitimate State interests in resource conservation, the prevention of physical waste, and the protection of correlative rights of producers in a common reservoir, including—

"(A) oil and natural gas well spacing;

"(B) prevention of flaring and physical waste;

"(C) prevention of undue drainage and protection of correlative rights of producers within, or probably within, a common reservoir;

"(D) flow restrictions against past overproducers within, or probably within, a common reservoir;

"(E) unitization of a reservoir;

"(F) restrictions on production of natural gas caps in oil/gas reservoirs;

"(G) gas/oil ratios; and

"(H) maximization of ultimate hydrocarbon production according to sound engineering practices,

is authorized, notwithstanding any incidental effect from such regulation of restricting production and increasing prices.

"(2) CERTAIN STATE PRICING REGULATION PROHIBITED.—A State may not engage in regulation of the production of natural gas which has the substantial purpose or effect of generally restricting natural gas production and raising the general price level of natural gas, including—

"(A) market demand prorationing;

"(B) statewide prorationing;

"(C) prorationing between reservoirs not reasonably shown to be in geologic communication; and

"(D) other prorationing which unreasonably prevents buyers from purchasing lower-priced natural gas in preference to higher-priced natural gas.

"(3) COURT ENFORCEMENT.—Any natural gas pipeline, private or municipal local distribution company, natural gas marketer, consumer of natural gas, or State public utility regulatory commission may bring a civil action in the Federal district court for the District of Columbia to enjoin any State regulation, including any State or State agency rule, order, or law, on grounds it is prohibited under paragraph (2). Such court shall, after considering the purpose and effect of such regulation and all relevant information, set aside and enjoin such regulation to the extent it is prohibited under paragraph (2).

"(4) STATE-OWNED PRODUCTION.—This subsection shall not apply to the regulation of a natural gas well wholly owned by a State or the portion of a natural gas well's production owned by a State.".

TITLE III—ALTERNATIVE FUELS—GENERAL

SEC. 301. DEFINITIONS.

For purposes of this title, title IV, title V, and title VI—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 80 percent, as determined by the Secretary, by

rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; electricity; and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(3) the term "alternative fueled vehicle" means a dedicated vehicle or a dual fueled vehicle;

(4) the term "dedicated vehicle" means—

(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile,

that operates solely on alternative fuel;

(5) the term "domestic" means derived from resources within the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States, including the outer Continental Shelf, as such term is defined in the Outer Continental Shelf Lands Act, or from resources within a Nation with which there is in effect a free trade agreement requiring national treatment for trade;

(6) the term "dual fueled vehicle" means—

(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile,

that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel;

(7) the term "fleet" means a group of light duty motor vehicles, located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1990 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a governmental entity or other person, by any person who controls such person, by any person controlled by such person, and by any person under common control with such person, except that such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration motor vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement motor vehicles;

(E) emergency motor vehicles;

(F) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) nonroad vehicles, including farm and construction motor vehicles; or

(H) motor vehicles which under normal operations are garaged at personal residences at night;

(8) the term "fuel provider" means—

(A) any person engaged in the importing, refining, or processing of crude oil to produce motor fuel;

(B) any person engaged in the importation, production, storage, transportation, distribution, or sale of motor fuel; and

(C) any person engaged in generating, transmitting, importing, or selling at wholesale or retail electricity;

(9) the term "light duty motor vehicle" means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. 7550(7)), of less than or equal to 8,500 pounds gross vehicle weight rating;

(10) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle;

(11) the term "motor vehicle" has the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(12) the term "replacement fuel" means the portion of any motor fuel that is methanol, ethanol, or other alcohols, natural gas, liquefied petroleum gas, hydrogen, electricity, ethers, or any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits; and

(13) the term "Secretary" means the Secretary of Energy.

SEC. 302. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENTS.—Section 400AA of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amended—

(1) in subsection (a)(1)—

(A) by striking "passenger automobiles and light duty trucks" and inserting in lieu thereof "vehicles"; and

(B) by striking "alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles." and inserting in lieu thereof "alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under subsection (h).";

(2) by amending subsection (a)(3) to read as follows:

"(3)(A) To the extent practicable, the Secretary shall acquire both dedicated and dual fueled vehicles, and shall ensure that each type of alternative fueled vehicle is used by the Federal Government.

"(B) Vehicles acquired under this section shall be acquired from original equipment manufacturers. If such vehicles are not available from original equipment manufacturers, vehicles converted to use alternative fuels may be acquired if, after conversion, the original equipment manufacturer's warranty continues to apply to such vehicles, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion. This subparagraph shall not apply to vehicles acquired by the United States Postal Service pursuant to a contract entered into by the United States Postal Service before the date of enactment of this subparagraph and which terminates on or before December 31, 1997.

"(C) Alternative fueled vehicles, other than those described in subparagraph (B), may be acquired solely for the purposes of studies under subsection (b), whether or not original equipment manufacturer warranties still apply.

"(D) In deciding which types of alternative fueled vehicles to acquire in implementing this part, the Secretary shall consider as a factor—

"(i) which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent; and

"(ii) the source of the fuel to supply the vehicles, giving preference to vehicles that operate on alternative fuels derived from domestic sources.

"(E) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that operation on such alternative fuels is not feasible.

"(F) At least 50 percent of the alternative fuels used in vehicles acquired pursuant to this section shall be derived from domestic feedstocks. The Secretary shall issue regulations to implement this requirement. For purposes of this subparagraph, the term 'domestic' has the meaning given such term in section 301(5) of the Comprehensive National Energy Policy Act.

"(G) Vehicles acquired under this section shall be acquired from domestic manufacturers.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(4) Acquisitions of vehicles under this section shall, to the extent practicable, be coordinated with acquisitions of alternative fueled vehicles by State and local governments.";

(4) in subsection (b), by inserting after paragraph (2) the following new paragraphs:

"(3)(A) The Secretary, in cooperation with the Environmental Protection Agency and the Department of Transportation, shall collect data and conduct a study of heavy duty vehicles acquired under subsection (a), which shall at a minimum address—

"(i) the performance of such vehicles, including reliability, durability, and performance in cold weather and at high altitude;

"(ii) the fuel economy, safety, and emissions of such vehicles; and

"(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of conventionally fueled heavy duty vehicles.

"(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committees on Energy and Commerce and Government Operations of the House of Representatives, within one year after the first such vehicles are acquired, and annually thereafter.

"(4)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of heavy duty vehicles acquired under subsection (a) and any problems with such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge.

"(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce and the Committee on Government Operations of the House of Representatives, within one year after funds are appropriated for carrying out this paragraph.

"(5) Studies undertaken under this subsection shall be coordinated with relevant testing activities of the Environmental Protection Agency and the Department of Transportation.";

(5) in subsection (c)—

(A) by striking "alcohol or natural gas, alcohol or natural gas" and inserting in lieu thereof "alternative fuels, such fuels"; and

(B) by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel" in paragraph (1);

(6) in subsection (d)(2)(B), by striking "The Secretary" and inserting in lieu thereof "To

the extent that appropriations are available for such purposes, the Secretary";

(7) in subsection (g), by striking paragraphs (2) through (6) and inserting in lieu thereof the following:

"(2) the term 'alternative fuel' means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 80 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; and electricity; and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(3) the term 'alternative fueled vehicle' means a dedicated vehicle or a dual fueled vehicle;

"(4) the term 'dedicated vehicle' means—

"(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile,

that operates solely on alternative fuel;

"(5) the term 'dual fueled vehicle' means—

"(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile,

that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel; and

"(6) the term 'heavy duty vehicle' means a vehicle of greater than 8,500 pounds gross vehicle weight rating.";

(8) by inserting after subsection (g) the following new subsection:

"(h) MINIMUM FEDERAL FLEET REQUIREMENT.—(1)(A) The Federal Government shall acquire at least—

"(i) 5,000 light duty alternative fueled vehicles in fiscal year 1993;

"(ii) 7,500 light duty alternative fueled vehicles in fiscal year 1994; and

"(iii) 10,000 light duty alternative fueled vehicles in fiscal year 1995.

"(B) The Secretary shall allocate the acquisitions necessary to meet the requirements under subparagraph (A).

"(2)(A) Of the total number of vehicles acquired by a Federal fleet, at least—

"(i) 25 percent in fiscal year 1996;

"(ii) 33 percent in fiscal year 1997; and

"(iii) 50 percent in fiscal year 1998 and thereafter,

shall be alternative fueled vehicles.

"(B) The Secretary, in consultation with the Administrator of General Services where appropriate, may permit a Federal fleet to acquire a smaller percentage than is required in subparagraph (A), so long as the aggregate percentage acquired by all Federal fleets is at least equal to the required percentage.

"(C) For purposes of this paragraph, the term 'Federal fleet' means 50 or more light duty motor vehicles, located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1990 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by or assigned to any Federal executive department, military department, Government corporation, independent establishment, or executive agency, the United States Postal Service, the Congress, the courts of the United States, or the Executive Office of the President. Such term does not include—

"(i) motor vehicles held for lease or rental to the general public;

"(ii) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

"(iii) law enforcement vehicles;

"(iv) emergency vehicles;

"(v) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons; or

"(vi) nonroad vehicles, including farm and construction vehicles.

"(3) The General Services Administration, and any other Federal agency that procures motor vehicles for distribution to other Federal agencies may allocate the incremental cost of alternative fueled vehicles over the cost of comparable gasoline vehicles across the entire fleet of motor vehicles distributed by such agency."; and

(9) in subsection (i)(1), by striking "$3,000,000" and all that follows and inserting in lieu thereof "$60,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 through 1998, with amounts appropriated for fiscal years 1992 through 1998 to remain available until expended.".

(b) REPEAL OF TERMINATION DATE.—Section 4(b) of the Alternative Motor Fuels Act of 1988 is repealed.

SEC. 303. ASSURANCE OF ACQUISITION OF A VARIETY OF FUELING FACILITIES.

(a) ACQUISITION OF ALTERNATIVE FUELING FACILITIES.—The Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with applicable provisions of Federal law, that the maximum practicable number of a variety of alternative fueling facilities be acquired by purchase, lease, or contract, or through construction, or by other methods by the Federal Government or a joint venture in which the Federal Government is a participant. Such facilities may include facilities at commercial refueling stations and other locations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $31,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 through 1998, to remain available until expended.

SEC. 304. INCREASED FEDERAL FLEET REQUIREMENT.

If, after January 1, 1998, the Secretary determines that the goals of replacement fuel use described in section 502(b)(2), as modified under section 504, are not likely to be achieved—

(1) the requirement for the Federal Government to acquire 50 percent alternative fueled vehicles, as established under section 400AA(h) of the Energy Policy and Conservation Act, shall be increased to a requirement of 60 percent for fiscal year 2000, 70 percent for fiscal year 2001, and 75 percent for fiscal year 2002 and thereafter; and

(2) the minimum size of Federal fleets subject to the requirements of section 400AA(h) of the Energy Policy and Conservation Act shall be 10 light duty motor vehicles.

SEC. 305. USE OF ALCOHOL-ENHANCED GASOLINE IN FEDERAL MOTOR VEHICLES.

(a) PROCUREMENT BY CONTRACT.—Whenever any Federal agency enters into a contract for the procurement of fuel for Federal motor vehicles, the Federal agency shall procure alcohol-enhanced gasoline if such gasoline is reasonably available, costs not more than any other comparable available gasoline, and complies with applicable requirements under the Clean Air Act. For the purposes of this subsection, the cost of gasoline shall be the net cost to the Federal Government of such gasoline.

(b) PURCHASES BY FEDERAL AGENCIES.—Any Federal agency that purchases fuel for Federal motor vehicles shall issue guidelines to ensure the purchase of alcohol-enhanced gasoline if such gasoline is reasonably available, costs not more than any other comparable available gasoline, and complies with applicable requirements under the Clean Air Act. For the purposes of this subsection, the cost of gasoline shall be the net cost to the Federal Government of such gasoline.

(c) EXCEPTION.—The acquisition of alternative fuel shall not be subject to the requirements of subsections (a) and (b).

(d) DEFINITIONS.—For purposes of this section—

(1) the term "alcohol-enhanced gasoline" means gasoline that is blended with alcohol or ether; and

(2) the term "Federal motor vehicle" means a motor vehicle that is owned or leased by a Federal agency and is capable of operating on alcohol-enhanced gasoline.

(e) EFFECTIVE DATE.—This section shall apply to contracts entered into, and fuel purchases made, after the expiration of 6 months after the date of enactment of this Act.

SEC. 306. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the head of each agency or department determines otherwise, not less than 10 percent of the total combined amounts obligated for contracts and subcontracts by each agency under subsection (b) shall be expended with small business concerns or other organizations controlled by socially and economically disadvantaged individuals and women, including historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

(b) COVERED OBLIGATIONS.—The requirements of subsection (a) shall apply to the combined total for each agency or department of—

(1) the amounts obligated under titles I and III of this Act and the amendments made by titles I and III of this Act; and

(2) the amounts obligated for research under this Act and the amendments made by this Act.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632). However, for purposes of contracts and subcontracts requiring engineering services the applicable size standard shall be that established for military and aerospace equipment and military weapons.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

TITLE IV—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

SEC. 401. TRUCK COMMERCIAL APPLICATION PROGRAM.

(a) ALTERNATIVE FUELED TRUCKS.—Section 400BB(a) of the Energy Policy and Conservation Act (42 U.S.C. 6374a(a)) is amended by striking "alcohol and natural gas" and inserting in lieu thereof "alternative fuels".

(b) FUNDING.—Section 400BB(b)(1) of such Act (42 U.S.C. 6374a(b)(1)) is amended to read as follows: "(1) There are authorized to be appropriated to the Secretary for carrying out this section $4,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 through 1995, to remain available until expended.".

SEC. 402. CONFORMING AMENDMENTS.

Part J of title III of the Energy Policy and Conservation Act is amended—

(1) in section 400CC(a)—

(A) by striking "alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "alternative fuels"; and

(B) by striking "both buses capable of operating on alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "each of the various types of alternative fuel buses";

(2) in section 400DD(d), by striking "alcohols, natural gas, and other potential alternative motor" and inserting in lieu thereof "alternative"; and

(3) in section 400DD (d) and (e), by striking "motor" each place it appears.

SEC. 403. ALTERNATIVE MOTOR FUELS AMENDMENTS.

Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended—

(1) in section 501(1), by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel";

(2) in section 502(e)—

(A) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(B) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(3) in section 506(a)(4)—

(A) in subparagraph (A)—

(i) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels"; and

(B) in subparagraph (B)—

(i) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled"; and

(ii) by striking "energy automobile or natural gas dual energy automobile, as the case may be" and inserting in lieu thereof "fueled automobile"; and

(4) in section 506(b)(3)—

(A) in subparagraph (A)—

(i) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (i); and

(iii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (ii); and

(B) in subparagraph (B)—

(i) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(ii) by striking "alcohol" and inserting in lieu thereof "alternative fuels" in clauses (i) and (ii); and

(5) in section 513—

(A) in subsection (a)—

(i) by striking "ALCOHOL POWERED" and inserting in lieu thereof "DEDICATED";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (c) or in section 503(a)(3), if";

(iii) by striking "alcohol powered" and inserting in lieu thereof "dedicated";

(iv) by striking "content of the alcohol" and inserting in lieu thereof "content of the alternative fuel"; and

(v) by striking "gallon of alcohol" and inserting in lieu thereof "gallon of a liquid alternative fuel";

(B) in subsection (b)—

(i) by striking "ENERGY" and inserting in lieu thereof "FUELED";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (d) or in section 503(a)(3), if";

(iii) by striking "energy" and inserting in lieu thereof "fueled"; and

(iv) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in paragraph (2);

(C) in subsection (c)—

(i) by striking "NATURAL GAS POWERED" and inserting in lieu thereof "GASEOUS FUEL DEDICATED";

(ii) by striking "powered" and inserting in lieu thereof "dedicated";

(iii) by striking "natural gas" each place it appears in the first sentence and inserting in lieu thereof "gaseous fuel"; and

(iv) by adding at the end the following new sentence: "For purposes of this section, the Secretary shall determine the appropriate gallons equivalent measurement for gaseous fuels other than natural gas, and a gallon equivalent of such gaseous fuel shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.";

(D) in subsection (d)—

(i) by striking "NATURAL GAS DUAL ENERGY" and inserting in lieu thereof "GASEOUS FUEL DUAL FUELED";

(ii) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(iii) by striking "natural gas" each place it appears and inserting in lieu thereof "gaseous fuel";

(E) in subsection (e), by striking "alcohol powered automobile, dual energy automobile, natural gas powered automobile, or natural gas dual energy" and inserting in lieu thereof "dedicated automobile or dual fueled";

(F) in subsection (f)(2)(A)(i), by striking "alcohol powered automobiles, natural gas powered automobiles," and inserting in lieu thereof "alternative fueled automobiles";

(G) in subsection (g)—

(i) in paragraph (1)—

(I) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (A);

(II) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(III) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (B);

(IV) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(V) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (C); and

(VI) by striking "energy automobile or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (C); and

(ii) in paragraph (2)—

(I) by striking "energy passenger automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(II) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated" in subparagraph (B); and

(III) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(H) in subsection (h)(1)—

(i) by striking subparagraphs (D) and (E) and redesignating subparagraph (C) as subparagraph (D);

(ii) by striking subparagraphs (A) and (B) and inserting in lieu thereof the following new subparagraphs:

"(A) the term 'alternative fuel' means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 80 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; electricity; and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(B) the term 'alternative fueled automobile' means an automobile that—

"(i) is a dedicated automobile; or

"(ii) is a dual fueled automobile;

"(C) the term 'dedicated automobile' means an automobile that operates solely on alternative fuels; and"; and

(iii) in subparagraph (D), as so redesignated by clause (i) of this subpara- graph—

(I) by striking "dual energy" and inserting in lieu thereof "dual fueled";

(II) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in clauses (i), (ii), and (iii);

(III) by inserting "in the case of an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel," before "which, for model years" in clause (iii); and

(IV) by striking the semicolon at the end of clause (iv) and inserting in lieu thereof a period; and

(I) in subsection (h)(2)—

(i) by striking "paragraphs (1)(C) and (D)" and inserting in lieu thereof "paragraph (1)(D)" in subparagraph (A);

(ii) by striking "energy automobiles when operating on alcohol, and by natural gas dual energy automobiles when operating on natural gas" and inserting in lieu thereof "fueled automobiles when operating on alternative fuels" in subparagraph (A);

(iii) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (A);

(iv) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(v) by striking "energy" and inserting in lieu thereof "fueled" each place it appears in subparagraphs (B) and (C); and

(vi) by inserting "other than electric automobiles" after "automobiles" each place it appears in subparagraphs (B) and (C).

SEC. 404. VEHICULAR NATURAL GAS JURISDICTION.

(a) NATURAL GAS ACT AMENDMENTS.—(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended by inserting after subsection (c) the following new subsection:

"(d) The provisions of this Act shall not apply to any person solely by reason of, or with respect to, any sale or transportation of vehicular natural gas if such person is—

"(1) not otherwise a natural-gas company; or

"(2) subject to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of vehicular natural gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by inserting after paragraph (9) the following new paragraph:

"(10) 'Vehicular natural gas' means natural gas that is ultimately used as a fuel in a self-propelled vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation or sale of natural gas by any person who is not otherwise a public utility, within the meaning of State law—

(1) in closed containers; or

(2) otherwise to any person for use by such person as a fuel in a motor vehicle,

shall not be considered to be a transportation or sale of natural gas within the meaning of any State law, regulation, or order in effect before January 1, 1989. This subsection shall not apply to any State law, regulation, or order to the extent that such law, regulation, or order has as its primary purpose the protection of public safety.

(c) NONAPPLICABILITY OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79A(a)(4)) solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79J(b)(1)), a holding company registered under such Act solely by reason of the application of section 2(a)(7)(A) or (B) of such Act with respect to control of a gas utility company or subsidiary thereof, may acquire or retain, in any geographic area, any interest in a company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, transport, installation, servicing, or financing of equipment related to the sale for consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79B) such company is exempt from registration.

(4) For purposes of this subsection, terms that are defined under the Public Utility Holding Company Act of 1935 shall have the meaning given such terms in such Act.

(5) For purposes of this subsection, the term "vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a self-propelled vehicle.

SEC. 405. PUBLIC INFORMATION PROGRAM.

The Secretary, in consultation with appropriate Federal agencies and individuals and organizations with practical experience in the production and use of alternative fuels and alternative fueled vehicles, shall, for the purposes of promoting the use of alternative fuels and alternative fueled vehicles, establish a public information program on the benefits and costs of the use of alternative fuels in motor vehicles. Within 18 months after the date of enactment of this Act, the Secretary shall produce and make available an information package for consumers to assist them in choosing among alternative fuels and alternative fueled vehicles. Such information package shall provide relevant and objective information on motor vehicle characteristics and fuel characteristics as compared to gasoline, on a life cycle basis, including environmental performance, energy efficiency, domestic content, cost, maintenance requirements, reliability, and safety. Such information package shall also include information with respect to the conversion of conventional motor vehicles to alternative fueled vehicles. The Secretary shall include such other information as the Secretary determines is reasonable and necessary to help promote the use of alternative fuels in motor vehicles. Such information package shall be updated annually to reflect the most recent available information.

SEC. 406. LABELING REQUIREMENTS.

The Federal Trade Commission, in consultation with the Secretary, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, shall, within 18 months after the date of enactment of this Act, issue a notice of proposed rulemaking for a rule to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and alternative fueled vehicles, including requirements for appropriate information with respect to costs and benefits, so as to reasonably enable the consumer to make choices and comparisons. Required labeling under the rule shall be simple and, where appropriate, consolidated with other labels providing information to the consumer. In formulating the rule, the Federal Trade Commission shall give consideration to the problems associated with developing and publishing useful and timely cost and benefit information, taking into account lead time, costs, the frequency of changes in costs and benefits that may occur, and other relevant factors. The Commission shall obtain the views of affected industries, consumer organizations, Federal and State agencies, and others in formulating the rule. A final rule shall be issued within 1 year after the notice of proposed rulemaking is issued. Such rule shall be updated periodically to reflect the most recent available information.

SEC. 407. AVAILABILITY OF FUELING FACILITIES.

(a) IDENTIFICATION.—The Secretary, within one year after the date of enactment of this Act, shall, to the greatest extent practicable, identify a list of all private and government alternative fueling facilities that are or could be made available to the public, and shall publish such list in the Federal Register. Within one year after the publication of such list, the Secretary shall submit a report to the Congress containing recommendations on how and to what extent to make listed facilities available to the public.

(b) AVAILABILITY TO PUBLIC.—The Secretary shall, within 1 year after the date of enactment of this Act, issue regulations requiring any person regulated under State law as a natural gas utility, and any interstate pipeline under the meaning of the Natural Gas Act, to make their alternative fueling facilities available, under reasonable terms, to the public.

SEC. 408. DATA ACQUISITION PROGRAM.

(a) Not later than one year after the date of enactment of this Act, the Secretary, through the Energy Information Administration, and in cooperation with appropriate State, regional, and local authorities, shall establish a data collection program to be conducted in at least 5 geographically and climatically diverse regions of the United States for the purpose of collecting data which would be useful to persons seeking to manufacture, convert, sell, own, or operate alternative fueled vehicles or alternative fueling facilities. Such data shall include—

(1) identification of the number and types of motor vehicle trips made daily and miles driven per trip, including commuting, business, and recreational trips;

(2) the projections of the Secretary as to the most likely combination of alternative fueled vehicle use and other forms of transit, including rail and other forms of mass transit;

(3) cost, performance, environmental energy, and safety data on alternative fuels and alternative fueled vehicles; and

(4) other appropriate demographic information and consumer preferences.

(b) The Secretary shall consult with interested parties, including other appropriate Federal agencies, manufacturers, public utilities, owners and operators of fleets of light duty motor vehicles, and State or local governmental entities, to determine the types of data to be collected and analyzed under subsection (a).

SEC. 409. FEDERAL ENERGY REGULATORY COMMISSION AUTHORITY TO APPROVE RECOVERY OF CERTAIN EXPENSES IN ADVANCE.

(a) NATURAL GAS MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 4 of the Natural Gas Act, allow recovery of expenses, in advance, by natural-gas companies for research, development, and demonstration activities by the Gas Research Institute for projects on the use of natural gas, including fuels derived from natural gas, for transportation, and projects on the use of natural gas to control pollutants and to control emissions from the combustion of other fuels, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to each project, the Commission shall ensure that, the costs of such activities shall be provided, in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(b) ELECTRIC MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 205 of the Federal Power Act, allow recovery of expenses, in advance, by electric utilities for research, development, and demonstration activities by the Electric Power Research Institute for projects on electric motor vehicles, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to each project, the costs of such activities shall be provided, in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(c) REPEAL.—The second paragraph of the matter under the heading "FEDERAL ENERGY REGULATORY COMMISSION, SALARIES AND EXPENSES" in title III of the Energy and Water Development Appropriations Act, 1992, is repealed.

SEC. 410. STATE AND LOCAL INCENTIVES PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary shall, within one year after the

date of enactment of this Act, issue regulations establishing guidelines for comprehensive State alternative fuels and alternative fueled vehicle incentives and program plans designed to accelerate the introduction and use of such fuels and vehicles. Such guideline shall address the development, modification, and implementation of such State plans and shall describe those program elements, as described in paragraph (3), to be addressed in such plans.

(2) The Secretary, after consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall invite the Governor of each State to submit to the Secretary a State plan within one year after the effective date of the regulations issued under paragraph (1). Such plan shall include—

(A) provisions designed to result in scheduled progress toward, and achievement of, the goal of introducing substantial numbers of alternative fueled vehicles in such State by the year 2000; and

(B) a detailed description of the requirements, including the estimated cost of implementation, of such plan.

(3) Each proposed State plan, in order to be eligible for Federal assistance under this section, shall describe the manner in which coordination shall be achieved with Federal and local governmental entities in implementing such plan, and shall include an examination of—

(A) exemption from State sales tax or other State or local taxes or surcharges (other than such taxes or surcharges which are dedicated for transportation purposes) with respect to alternative fueled vehicles, alternative fuels, or alternative fueling facilities;

(B) the introduction of alternative fueled vehicles into State-owned or operated motor vehicle fleets;

(C) special parking at public buildings and airport and transportation facilities;

(D) programs of public education to promote the use of alternative fueled vehicles;

(E) the treatment of sales of alternative fuels for use in alternative fueled vehicles;

(F) methods by which State and local governments might facilitate—

(i) the availability of alternative fuels; and

(ii) the ability to recharge electric motor vehicles at public locations;

(G) allowing public utilities to include in rates the incremental cost of—

(i) new alternative fueled vehicles;

(ii) converting conventional vehicles to operate on alternative fuels; and

(iii) installing alternative fuel fueling facilities,

but only to the extent that the inclusion of such costs in rates would not create competitive disadvantages for other market participants, and taking into consideration the effect inclusion of such costs would have on rates, service, and reliability to other utility customers;

(H) such other programs and incentives as the State may describe;

(I) whether accomplishing any of the goals in this subsection would require amendment to State law or regulation, including traffic safety prohibitions;

(J) services provided by municipal, county, and regional transit authorities; and

(K) effects of such plan on programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 and amendments made by that Act.

(b) FEDERAL ASSISTANCE TO STATES.—(1) Upon request of the Governor of any State with a plan approved under this section, the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to alternative fueled vehicles;

(B) grants of Federal financial assistance for the purpose of assisting such State in the implementation of such plan or any part thereof; and

(C) grants of Federal financial assistance for the acquisition of alternative fueled vehicles.

(2) In determining whether to approve a State plan submitted under subsection (a), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this subsection, the Secretary shall take into account—

(A) the energy-related and environmental-related impacts, on a life cycle basis, of the introduction and use of alternative fueled vehicles included in the plan compared to conventional motor vehicles;

(B) the number of alternative fueled vehicles likely to be introduced by the year 2000 as a result of successful implementation of the plan; and

(C) such other factors as the Secretary considers appropriate.

(3) The Secretary, in consultation with the Administrator of General Services, shall provide assistance to States in procuring alternative fueled vehicles, including coordination with Federal procurements of such vehicles.

(4) The Secretary may not approve a State plan submitted under subsection (a) unless the State agrees to provide at least 20 percent of the cost of activities for which assistance is provided under paragraph (1).

(c) GENERAL PROVISIONS.—(1) In carrying out this section, the Secretary shall consult with the Secretary of Transportation on matters relating to transportation and with other appropriate Federal and State departments and agencies.

(2) The Secretary shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this section. Such report shall include—

(A) an estimate of the number of alternative fueled vehicles in use in each State;

(B) the degree of each State's participation in the program;

(C) a description of Federal, State, and local programs undertaken in the various States, whether pursuant to a State plan under this section or not, to provide incentives for introduction of alternative fueled vehicles;

(D) an estimate of the energy and environmental benefits of the program; and

(E) the recommendations of the Secretary, if any, for additional action by the Federal Government.

(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) GOVERNOR.—The term "Governor" means the chief executive of a State.

(2) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, $10,000,000 for each of the 5 fiscal years beginning after the date of enactment of this Act.

SEC. 411. ALTERNATIVE FUEL BUS PROGRAM.

(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary of Transportation, in consultation with the Secretary, may enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility of commercial application, including safety of specific vehicle design, of using alternative fuels for urban buses.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(3) Federal assistance provided under cooperative agreements and joint ventures entered into under paragraph (1) to demonstrate the feasibility of commercial application of using alternative fuels for urban buses shall be in addition to Federal assistance provided under any other law for such purpose.

(b) LIMITATIONS.—(1) The Secretary of Transportation may not enter into cooperative agreement or joint venture under subsection (a) with any municipal, county, or regional transit authority, unless such government body agrees to provide 20 percent of the costs of such demonstration.

(2) The Secretary of Transportation may grant such priority under this section to any entity that demonstrates that the use of alternative fuels for transportation would have a significant beneficial effect on the environment.

(c) SCHOOL BUSES.—The Secretary of Transportation may also provide, in accordance with such rules as he may prescribe, financial assistance to any agency, municipality, or political subdivision in an urban area referred to in subsection (a), of any State or the District of Columbia for the purpose of meeting the incremental costs of school buses that are dedicated vehicles and used regularly for such transportation during the school term. Such costs may include the purchase and installation of alternative fuel refueling facilities to be used for school bus refueling, and the conversion of school buses to dedicated vehicles. The Secretary of Transportation may provide such assistance directly to a person who is a contractor of such agency, municipality, or political subdivision, upon the request of the agency, municipality, or political subdivision, and who, under such contract, provides for such transportation.

(d) FUNDING AUTHORIZATION.—There are authorized to be appropriated not more than $30,000,000 for each of the fiscal years 1993, 1994, and 1995 for purposes of this section.

SEC. 412. CERTIFICATION OF TRAINING PROGRAMS.

The Secretary shall ensure that the Federal Government establishes and carries out a program for the certification of training programs for technicians who are responsible for motor vehicle installation of equipment that converts gasoline or diesel-fueled motor vehicles into dedicated vehicles or dual fueled vehicles, and for the maintenance of such converted motor vehicles. A training program shall not be certified under the program established under this section unless it provides technicians with instruction on the proper and safe installation procedures and techniques, adherence to specifications (including original equipment manufacturer specifications), motor vehicle operating procedures, emissions testing, and other appro-

priate mechanical concerns applicable to these motor vehicle conversions. The Secretary shall ensure that, in the development of the program required under this section, original equipment manufacturers, fuel suppliers, companies that convert conventional vehicles to use alternative fuels, and other affected persons are consulted.

SEC. 413. ALTERNATIVE FUEL USE IN NONROAD VEHICLES AND ENGINES.

(a) NONROAD VEHICLES AND ENGINES.—(1) The Secretary shall conduct a study to determine whether the use of alternative fuels in nonroad vehicles and engines would contribute substantially to reduced reliance on imported energy sources. Such study shall be completed, and the results thereof reported to Congress, within 2 years after the date of enactment of this Act.

(2) The study shall assess the potential of nonroad vehicles and engines to run on alternative fuels. Taking into account the nonroad vehicles and engines for which running on alternative fuels is feasible, the study shall assess the potential reduction in reliance on foreign energy sources that could be achieved if such vehicles were to run on alternative fuels.

(3) The report required under paragraph (1) may include the Secretary's recommendations for encouraging or requiring nonroad vehicles and engines which can feasibly be run on alternative fuels, to utilize such alternative fuels.

(b) DEFINITION OF NONROAD VEHICLES AND ENGINES.—Nonroad vehicles and engines, for purposes of this section, shall include nonroad vehicles and engines used for surface transportation or principally for industrial or commercial purposes, vehicles used for rail transportation, motor vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines at the discretion of the Secretary.

(c) DESIGNATION.—Upon completion of the study required pursuant to subsection (a) of this section, the Secretary may designate such vehicles and engines as qualifying for loans pursuant to section 415 of this title.

SEC. 414. REPORTS TO CONGRESS.

Within 6 months after the date of enactment of this Act, the Secretary shall—

(1) identify and report to Congress on purchasing policies of the Federal Government which inhibit or prevent the purchase by the Federal Government of alternative fueled vehicles; and

(2) report to Congress on Federal, State, and local traffic control measures and policies and how the use of alternative fueled vehicles could be promoted by granting such vehicles exemptions or preferential treatment under such measures.

SEC. 415. LOW INTEREST LOAN PROGRAM.

(a) ESTABLISHMENT.—Within 1 year after the date of enactment of this Act, the Secretary shall establish a program for making low interest loans, giving preference to small businesses that own or operate fleets, for—

(1) the conversion of motor vehicles to operation on alternative fuels;

(2) covering the incremental costs of the purchase of motor vehicles which operate on alternative fuels, when compared with purchase costs of comparable conventionally fueled motor vehicles; or

(3) covering the incremental costs of purchase of non-road vehicles and engines designated by the Secretary pursuant to section 413(c) of this title.

(b) LOAN TERMS.—The Secretary, to the extent practicable, shall establish reasonable terms for loans made under this subsection, with preference given to repayment schedules that enable such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the motor vehicle operates.

(c) CRITERIA.—In deciding who loans shall be made to under this subsection, the Secretary shall consider—

(1) the financial need of the applicant;

(2) the goal of assisting the greatest number of applicants; and

(3) the ability of an applicant to repay the loan, taking into account the fuel cost savings likely to accrue to the applicant.

(d) PRIORITIES.—Priority shall be given under this section to fleets where the use of alternative fuels would have a significant beneficial effect on energy security and the environment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, $25,000,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 416. COMMERCIAL APPLICATION FUNDING FOR ALTERNATIVE FUELED VEHICLES.

(a) MOTOR VEHICLE COMMERCIAL APPLICATION PROGRAM.—The Secretary shall carry out a program of commercial application of techniques related to improving alternative fueled vehicle technology, including the following areas:

(1) Fuel injection.

(2) Carburetion.

(3) Manifolding.

(4) Advanced combustion.

(5) Power optimization.

(6) Efficiency.

(7) Lubricants, detergents, and other additives.

(8) Engine and fuel system durability.

(9) Ignition, including fuel additives to assist ignition.

(10) Multifuel engines.

(11) Emissions control, including catalysts.

(12) Advanced storage systems.

(13) Advanced fueling technology.

(14) Fuel cells.

(15) Advanced cold starting systems.

(16) The incorporation of advanced materials in these areas.

(b) COOPERATIVE AGREEMENTS AND FINANCIAL ASSISTANCE.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, public entities or interested or affected private firms willing to provide 50 percent of the costs of programs under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $20,000,000 for each of the fiscal years 1992, 1993, and 1994 for carrying out this section.

SEC. 417. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of section 407(b), or any regulation issued under such subsection.

SEC. 418. ENFORCEMENT.

(a) Whoever violates section 417 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 417 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 417 after having been subjected to a civil penalty for a prior violation of section 417 shall be fined not more than $50,000 or imprisoned not more than six months, or both.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

SEC. 501. MANDATE FOR ALTERNATIVE FUEL PROVIDERS.

(a) IN GENERAL.—(1) The Secretary shall, before January 1, 1993, issue regulations requiring that, beginning January 1, 1994, any new light duty motor vehicle, or any other new motor vehicle weighing less than 26,000 pounds gross vehicle weight, initially owned, operated, leased, or otherwise controlled after December 31, 1993, by—

(A) a person whose principal business is producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity;

(B) a person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity; and

(C) a person—

(i) who produces, imports, or produces and imports in combination, an average of 50,000 barrels per day or more of petroleum; and

(ii) a substantial portion of whose business is producing alternative fuels,

shall be acquired or operated as provided in subsections (b) and (c).

(2)(A) Regulations issued under paragraph (1) may provide for the exemption from the requirements of paragraph (1) of any person described in paragraph (1)(A) or (B) with demonstrated gross annual revenues of less than $100,000 from such principal business for the 3 immediately preceding calendar years.

(B) Regulations issued under paragraph (1) shall provide for the exemption from the requirements of paragraph (1) of any person, in whole or in part, if such person demonstrates to the satisfaction of the Secretary that alternative fueled vehicles that meet the normal requirements of that person's principal business are not available for acquisition.

(C) Regulations issued under paragraph (1) shall provide for the exemption from the requirements of paragraph (1) of the acquisition of diesel fueled vehicles of greater than 8,500 pounds gross vehicle weight rating.

(b) MOTOR VEHICLES CAPABLE OF BEING CENTRALLY FUELED.—The regulations issued under subsection (a) shall provide that any motor vehicle described in subsection (a) that is centrally fueled or is capable of being centrally fueled shall be a dedicated vehicle.

(c) OTHER MOTOR VEHICLES.—(1) Except as provided in paragraph (2), the regulations issued under subsection (a) shall provide that any light duty motor vehicle described in subsection (a) that is not capable of being centrally fueled shall be operated on alternative fuel at least 50 percent of the time.

(2) In the case of electric motor vehicles owned by a person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity, the Secretary may establish different standards with respect to central fueling and the percentage of alternative fuel use required.

(d) OPTION FOR ELECTRIC UTILITIES.—The Secretary shall, within 1 year after the date of enactment of this Act, issue regulations requiring that, in the case of a person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity, the requirements of subsection (a)(1) shall not apply until after December 31, 1997, with respect to electric motor vehicles. Any person described in this subsection which plans to acquire electric motor vehicles to comply with the requirements of this section shall so notify the Secretary before January 1, 1994.

59-059 O—97 Vol. 138 (Pt. 14) 30

(e) ENFORCEMENT.—(1) A person who violates regulations issued under subsection (a) or (d) shall be subject to a civil penalty of not more than $10,000 per violation. Each month in which compliance has not been achieved shall be a separate violation.

(2) In determining the amount of a penalty to be assessed under this section, the Secretary or the court, as appropriate, shall take into consideration, in addition to other factors justice may require, the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

(f) REPORT TO CONGRESS.—The Secretary shall, before January 1, 1997, submit a report to the Congress providing detailed information on actions taken to carry out this section, and the progress made and problems encountered thereunder.

SEC. 502. REPLACEMENT FUEL SUPPLY AND DEMAND PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use in light duty motor vehicles of domestic replacement fuels. Such program shall promote the replacement of petroleum motor fuels with replacement fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels that will have the greatest impact in reducing oil imports, improving the health of our Nation's economy and reducing greenhouse gas emissions.

(b) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (a), the Secretary, before October 1, 1993, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—

(1) estimate the domestic and nondomestic production capacity for replacement fuels and alternative fueled vehicles needed to implement this section;

(2) determine the technical and economic feasibility of achieving the goals of producing sufficient replacement fuels to replace, on an energy equivalent basis—

(A) at least 10 percent by the year 2000; and

(B) at least 30 percent by the year 2010,

of the projected consumption of motor fuel in the United States for each such year, with at least one half of such replacement fuels being domestic fuels;

(3) determine the most suitable means and methods of developing and encouraging the production, distribution, and use of replacement fuels and alternative fueled vehicles in a manner that would meet the program goals described in subsection (a);

(4) identify ways to encourage the development of reliable replacement fuels and alternative fueled vehicle industries in the United States, and the technical, economic, and institutional barriers to such development; and

(5) determine the greenhouse gas emission implications of increasing the use of replacement fuels, including an estimate of the maximum feasible reduction in such emissions from the use of replacement fuels.

The Secretary shall publish in the Federal Register the results of actions taken under this subsection, and provide for an opportunity for public comment.

SEC. 503. REPLACEMENT FUEL DEMAND ESTIMATES AND SUPPLY INFORMATION.

(a) ESTIMATES.—Not later than October 1, 1993, and annually thereafter, the Secretary, in consultation with the Administrator, the Secretary of Transportation, and other appropriate State and Federal officials, shall estimate for the following calendar year—

(1) the number of each type of alternative fueled vehicle likely to be in use in the United States;

(2) the probable geographic distribution of such vehicles;

(3) the amount and distribution of each type of replacement fuel; and

(4) the greenhouse gas emissions likely to result from replacement fuel use.

(b) INFORMATION.—Beginning on October 1, 1994, the Secretary shall annually require—

(1) fuel providers to report to the Secretary on the amount of each type of replacement fuel that such provider—

(A) has provided in the previous calendar year; and

(B) plans to provide for the following calendar year;

(2) suppliers of alternative fueled vehicles to report to the Secretary on the number of each type of alternative fueled vehicle that such supplier—

(A) has made available in the previous calendar year; and

(B) plans to make available for the following calendar year; and

(3) such fuel providers and suppliers to provide the Secretary information necessary to determine the greenhouse gas emissions of the replacement fuels used, taking into account the entire fuel cycle.

(c) PROTECTION OF INFORMATION.—Information provided to the Secretary under subsection (b) shall be subject to applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 504. MODIFICATION OF GOALS; ADDITIONAL RULEMAKING AUTHORITY.

(a) EXAMINATION OF GOALS.—Within 3 years after the date of enactment of this Act, and periodically thereafter, the Secretary shall examine the goals established under section 502(b)(2), in the context of the program goals stated in section 502(a), to determine if the goals under section 502(b)(2), including the applicable percentage requirements and dates, should be modified under this section. The Secretary shall publish in the Federal Register the results of each examination under this subsection and provide an opportunity for public comment.

(b) MODIFICATION OF GOALS.—If, after analysis of information obtained in connection with carrying out subsection (a) or section 502, or other information, and taking into account the determination of technical and economic feasibility made under section 502(b)(2), the Secretary determines that goals described in section 502(b)(2), including the percentage requirements or dates, are not achievable, the Secretary, in consultation with appropriate Federal agencies, shall, by rule, establish goals that are achievable, for purposes of this title. The modification of goals under this section may include changing the target dates specified in section 502(b)(2).

(c) ADDITIONAL RULEMAKING AUTHORITY.—If the Secretary determines that the achievement of goals described in section 502(b)(2) would result in a significant and correctable failure to meet the program goals described in section 502(a), the Secretary shall issue such additional regulations as are necessary to remedy such failure.

SEC. 505. VOLUNTARY SUPPLY COMMITMENTS.

The Secretary shall, by January 1, 1996, and thereafter, undertake to obtain voluntary commitments in geographically diverse regions of the United States—

(1) from fuel providers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) from owners of fleets of 10 or more motor vehicles to acquire and use alternative fueled vehicles and alternative fuels; and

(3) from suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services,

in sufficient volume to achieve the goals described in section 502(b)(2) or established under section 504. The Secretary shall periodically report to the Congress on the results of efforts under this section. All voluntary commitments obtained pursuant to this section shall be available to the public, except to the extent provided in applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 506. TECHNICAL AND POLICY ANALYSIS.

(a) REQUIREMENT.—Not later than March 1, 1995, and March 1, 1997, the Secretary shall prepare and transmit to the President and the Congress a technical and policy analysis under this section. The Secretary shall utilize the analytical capability and authorities of the Energy Information Administration and such other offices of the Department of Energy as the Secretary considers appropriate.

(b) PURPOSES.—The technical and policy analysis prepared under this section shall be based on the best available data and information obtainable by the Secretary under section 503, or otherwise, and on experience under this title and other provisions of law in the development and use of replacement fuels and alternative fueled vehicles, and shall evaluate—

(1) progress made in achieving the goals described in section 502(b)(2), as modified under section 504;

(2) the actual and potential role of replacement fuels and alternative fueled vehicles in significantly reducing United States reliance on imported oil to the extent of the goals referred to in paragraph (1); and

(3) the actual and potential availability of various domestic replacement fuels and dedicated vehicles and dual fueled vehicles.

(c) PUBLICATION.—The Secretary shall publish a proposed version of each analysis under this section in the Federal Register for public comment before transmittal to the President and the Congress. Public comment received in response to such publication shall be preserved for use in rulemaking proceedings under section 507.

SEC. 507. FLEET REQUIREMENT PROGRAM.

(a) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than April 1, 1998, the Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(1) evaluating the progress toward achieving the goals of replacement fuel use described in section 502(b)(2), as modified under section 504;

(2) identifying the problems associated with achieving those goals;

(3) assessing the adequacy and practicability of those goals; and

(4) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of pro-

posed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

(b) PROPOSED RULE.—Before May 1, 1999, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (e), and shall provide for a public comment period, with hearings, of not less than 90 days.

(c) DETERMINATION.—(1) Not later than January 1, 2000, the Secretary shall, through the rule required under subsection (e), determine whether a fleet requirement program is necessary under this section. Such a program shall be considered necessary if the Secretary finds that—

(A) the goal of replacement fuel use described in section 502(b)(2)(B), as modified under section 504, is not expected to be actually achieved by 2010, or such other date as is established under section 504, by voluntary means or pursuant to this title or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 502(b)(2)(A), as modified under section 504; and

(B) such goal is practicable and actually achievable within periods specified in section 502(b)(2), as modified under section 504, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals.

(2) The rule under subsection (e) shall also modify the goal described in section 502(b)(2)(B) and establish a revised goal pursuant to section 504 if the Secretary determines, based on the proceeding required under subsection (a), that the goal in effect at the time of that proceeding is inadequate or impracticable, and not expected to be achievable. Such goal as modified and established shall be applicable in making the findings described in paragraph (1). If the Secretary modifies the goal under this paragraph, he may also modify the percentages stated in subsection (e)(1) and the minimum percentage stated in subsection (e)(2) shall be not less than 10 percent.

(d) EXPLANATION OF DETERMINATION THAT FLEET REQUIREMENT PROGRAM IS NOT NECESSARY.—If the Secretary determines, based on findings under subsection (c), that a fleet requirement program under this section is not necessary, the Secretary shall, by January 1, 2000, publish such determination in the Federal Register as a final agency action, including an explanation of the findings on which such determination is made and the basis for the determination.

(e) FLEET REQUIREMENT PROGRAM.—(1) If the Secretary determines under subsection (c) that a fleet requirement program is necessary, the Secretary shall, by January 1, 2000, by rule require that, except as provided in paragraph (2), of the total number of new light duty motor vehicles acquired for a non-Federal fleet—

(A) 20 percent of the motor vehicles acquired in model year 2002;

(B) 40 percent of the motor vehicles acquired in model year 2003;

(C) 60 percent of the motor vehicles acquired in model year 2004; and

(D) 70 percent of the motor vehicles acquired in model year 2005 and thereafter, shall be alternative fueled vehicles.

(2) With respect to model years 2003 and thereafter, and so long as the goal described in section 502(b)(2)(B), as modified under section 504, will be achieved, the Secretary may—

(A) revise the percentage requirements under paragraph (1) downward, except that under no circumstances shall the percentage requirement for a model year be less than 20 percent; and

(B) extend the time under paragraph (1) for up to 2 model years.

(3) Nothing in this section shall be construed as requiring any fleet to acquire alternative fueled vehicles or alternative fuels that do not meet the normal business requirements and practices and needs of that fleet.

(4) A vehicle operating only on gasoline that complies with applicable requirements of the Clean Air Act shall not be considered an alternative fueled vehicle under this subsection, except that the Secretary, as part of the rule under this subsection, may determine that such vehicle should be treated as an alternative fueled vehicle for purposes of this section, for fleets subject to part C of title II of the Clean Air Act, taking into consideration the impact on energy security and the goals stated in section 502(a).

(f) EXTENSION OF DEADLINES.—The Secretary may, by notice published in the Federal Register, extend the deadlines established under subsections (c), (d), and (e) for an additional 90 days if the Secretary is unable to meet such deadlines. Such extension shall not be reviewable.

(g) EXEMPTIONS.—The rule issued under subsection (e) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, of any fleet from the requirements of subsection (e), in whole or in part, if it is demonstrated to the satisfaction of the Secretary that—

(1) alternative fueled vehicles that meet the normal requirements and practices of the principal business of the fleet owner are not reasonably available for acquisition;

(2) alternative fuels that meet the normal requirements and practices of the principal business of the fleet owner are not available in the area in which the vehicles are to be operated; or

(3) in the case of local government entities, the application of such requirements would pose an unreasonable financial hardship.

(h) SUBSTITUTION.—The rule issued under subsection (e) shall permit a fleet owner to substitute, or enter into an agreement with another party to substitute, an equal number of alternative fueled vehicles not subject to the requirements of subsection (a), including vehicles purchased before the effective date of such rule, for vehicles otherwise subject to subsection (a). Such substitute vehicles shall be counted toward meeting the requirement established under subsection (e). Such substitute vehicles may include vehicles converted to alternative fueled vehicles in accordance with applicable law, except that such substitute vehicles may not be conversions of or replacements for diesel fueled vehicles. Nothing in this title or the amendments made by this title shall require a fleet owner to acquire conversion vehicles.

(i) MINIMUM FLEET SIZE.—(1) Except as provided in paragraph (2), fleet requirements established under this section shall apply to fleets of 10 or more motor vehicles.

(2) So long as the goal described in section 502(b)(2)(B), as modified under section 504, will be achieved, the Secretary may increase the minimum fleet size to which the fleet requirement program under this section applies, except that under no circumstances shall such minimum fleet size be greater than 100.

(j) INCLUSION OF LAW ENFORCEMENT VEHICLES AND URBAN BUSES.—(1) If the Secretary determines, by rule, that the inclusion of fleets of law enforcement motor vehicles in the fleet requirement program established under this section would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, and the Secretary finds that such inclusion would not hinder the use of the motor vehicles for law enforcement purposes, the Secretary may include such fleets in such program. The Secretary may only initiate one rulemaking under this paragraph.

(2) If the Secretary determines, by rule, that the inclusion of new urban buses, as defined by the Administrator under title II of the Clean Air Act, in the fleet requirement program established under this section would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, the Secretary may include such buses in such program, if the Secretary finds that such application will be consistent with energy security goals and the needs and objectives of encouraging and facilitating the greater use of such buses by the public, taking into consideration the impact of such application on public transit entities. The Secretary may only initiate one rulemaking under this paragraph.

(3) Rulemakings under paragraph (1) or (2) shall be separate from a rulemaking under subsection (e), but may not occur unless a rulemaking is carried out under subsection (e).

(k) CONSIDERATION OF FACTORS.—In carrying out this section, the Secretary shall take into consideration energy security, costs, safety, lead time requirements, vehicle miles traveled annually, effect on greenhouse gases, technological feasibility, energy requirements, economic impacts, including impacts on workers and the impact on consumers and fleets, the availability of alternative fuels and alternative fueled vehicles, and other relevant factors.

(l) CONSULTATION AND PARTICIPATION OF OTHER FEDERAL AGENCIES.—In carrying out this section and section 506, the Secretary shall consult with the Secretary of Transportation, the Administrator, and other appropriate Federal agencies. The Secretary shall provide for the participation of the Secretary of Transportation and the Administrator in the development and issuance of the rule under this section, including the public process concerning such rule.

SEC. 508. SECRETARY'S RECOMMENDATIONS TO CONGRESS.

(a) RECOMMENDATIONS TO REQUIRE AVAILABILITY OR ACQUISITION.—If the Secretary determines, under section 507(d), that a fleet requirement program under section 507 is not necessary, the Secretary shall so notify the Congress. If the Secretary so notifies the Congress, the Secretary shall, within 2 years after such notification and by rule, prepare and submit to the Congress recommendations for requirements or incentives for—

(1) fuel providers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services; and

(3) motor vehicle drivers to use replacement fuels,

to the extent necessary to achieve such goals of replacement fuel use and to ensure that the availability of alternative fuels and of alternative fueled vehicles are consistent with each other.

(b) FAIR AND EQUITABLE APPLICATION.—In carrying out this section, the Secretary shall recommend the imposition of requirements proportionately on all appropriate fuel providers and purchasers of motor fuels and suppliers and purchasers of motor vehicles in a fair and equitable manner.

SEC. 509. EFFECT ON OTHER LAWS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to alter, affect, or modify the provisions of the Clean Air Act, or regulations issued thereunder.

(b) COMPLIANCE BY ALTERNATIVE FUELED VEHICLES.—Alternative fueled vehicles, whether dedicated vehicles or dual fueled vehicles, and the alternative fuels for operating such vehicles, shall comply with requirements of the Clean Air Act applicable to such vehicles and fuels.

SEC. 510. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of section 503(b) or 507, or any regulation issued under such sections.

SEC. 511. ENFORCEMENT.

(a) Whoever violates section 510 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 510 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 510 after having been subjected to a civil penalty for a prior violation of section 510 shall be fined not more than $50,000 or imprisoned not more than six months, or both.

SEC. 512. POWERS OF THE SECRETARY.

For the purpose of carrying out title III, title IV, this title, and title VI, the Secretary, or the duly designated agent of the Secretary, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary of Transportation is authorized to do under section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(b)(1)).

SEC. 513. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this title $10,000,000 for each of the fiscal years 1992 through 1996, and such sums as may be necessary for fiscal years 1997 through 2000.

TITLE VI—ELECTRIC MOTOR VEHICLES

SEC. 601. DEFINITIONS.

For the purposes of this title—

(1) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electrical energy used to power an electric motor vehicle;

(2) the term "comparable conventionally fueled motor vehicle" means a motor vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity the same or similar to an electric motor vehicle, as determined by the Secretary;

(3) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power;

(4) the term "price differential" means—

(A) in the case of a purchased motor vehicle, the difference between the manufacturer's suggested retail price of such motor vehicle and the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle; and

(B) in the case of a leased motor vehicle, the difference between the monthly lease payment of such motor vehicle and the monthly lease payment of a comparable conventionally fueled motor vehicle;

(5) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States; and

(6) the term "user" means a person or entity that purchases or leases an electric motor vehicle.

Subtitle A—Electric Motor Vehicle Commercial Demonstration Program

SEC. 611. APPLICATIONS.

(a) The Secretary shall request proposals to demonstrate electric motor vehicles or electric motor vehicles and associated equipment in one or more metropolitan areas. The initial request for proposals shall be issued within 18 months after the date of enactment of this Act.

(b) Requests for proposals under this section shall require the proposals to include a description of the proposer, the manufacturer, the proposed users, the metropolitan area or areas, the number of motor vehicles to be demonstrated and their type, characteristics, and life-cycle costs, the price differential, the proposed discount payment, the contributions of State or local governments and other parties to the demonstration project, the domestic content of the motor vehicles, and any other information the Secretary requires to make selections under section 612.

SEC. 612. SELECTION OF PROPOSERS.

(a) After consulting with the Secretary of Transportation, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, and within 240 days after a request for proposals has been made under section 611, the Secretary may select one or more proposals to receive financial support pursuant to section 613.

(b)(1) No one project selected under this section shall receive more than 25 percent of the funds made available under section 615.

(2) A demonstration project may include electric vehicles in more than one metropolitan area and in more than one State.

(c) In determining whether to select a proposal the Secretary shall consider—

(1) the ability of the manufacturer, directly, indirectly, or in combination with the proposer, to develop, assist in the demonstration of, manufacture, distribute, sell, service, and ensure the continued availability of parts for, electric motor vehicles that are proposed to be included in the demonstration project;

(2) the geographic and climatic diversity of the metropolitan area or areas in which the demonstration project is to be undertaken, when considered in combination with other proposals or other selected demonstration projects;

(3) the suitability of the motor vehicles for their intended use;

(4) the environmental effects of the use of the proposed motor vehicles;

(5) the long-term technical and competitive viability of the electric motor vehicles;

(6) the price differential and the proposed discount payment;

(7) the extent of involvement of State or local government and other parties in the demonstration project, and whether such involvement will permit a reduction of the Federal cost share per vehicle or will otherwise be used to leverage the Federal contribution to be provided among a greater number of electric vehicles;

(8) the proportion of domestic content of the electric motor vehicles;

(9) the safety of the electric motor vehicles; and

(10) other criteria as the Secretary considers appropriate.

(d) The Secretary shall require that—

(1) the electric motor vehicles will be used primarily in the metropolitan area or areas identified in the proposal;

(2) as a part of the demonstration project the user or users of the electric motor vehicles will provide to the proposer and the manufacturer information regarding the operation, maintenance, and usability of the electric motor vehicles for 5 years after purchase or lease;

(3) the proposer shall provide such information regarding the operation, maintenance, and use of the electric motor vehicles as the Secretary may request during the period of the demonstration project; and

(4) in the case of automobiles or light duty trucks, the number of electric vehicles to be included in the demonstration project shall be no less than 100 vehicles, except that the Secretary may select a demonstration project with fewer than 100 vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity of the proposals selected and that an adequate demonstration to accelerate the development and use of electric vehicles can be undertaken with fewer than 100 electric vehicles.

SEC. 613. DISCOUNTS TO USERS.

(a) The Secretary shall provide a discount payment to a proposer reimbursing the proposer for a discount provided to users if the proposer certifies to the Secretary, in such form and at such time as may be required by the Secretary, that—

(1) electric motor vehicles have been purchased or leased by a user in accordance with the requirements of this subtitle; and

(2) the proposer has provided to the user a discount in accordance with this subtitle.

(b) Not later than 30 days after receipt from the proposer of certification which the Secretary determines satisfies the requirements of subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment.

(c) The discount payment shall be—

(1) no greater than the price differential;

(2) no greater than the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle; and

(3) used by the proposer solely to reimburse the user for the purchase or lease of an electric motor vehicle.

(d) No discount payment shall be provided under this section if the actual purchase price of an electric motor vehicle, adjusted to reflect the discount payment and any additional reduction that may result from contributions provided by other parties, is more than 10 percent less than the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle.

SEC. 614. REPORTS TO CONGRESS.

(a) PROGRESS REPORTS.—The Secretary shall annually report to Congress on the progress being made, through demonstration projects supported under this subtitle, to accelerate the development and use of electric motor vehicles.

(b) REPORT ON ENCOURAGING THE PURCHASE AND USE OF ELECTRIC VEHICLES.—Within 18

months after the date of enactment of this Act, the Secretary shall submit to the Congress and the President a report on methods for encouraging the purchase and use of electric vehicles. Such report shall focus on the potential cost of purchasing and maintaining electric vehicles, including the initial cost of the batteries and the cost of replacement batteries, and shall identify methods for reducing, subsidizing, or sharing such costs. Such report shall also include recommendations for legislative and administrative measures to support and encourage the purchase and use of electric vehicles.

SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle $50,000,000 for the 10 fiscal year period beginning with the first full fiscal year after the date of enactment of this Act.

SEC. 616. TECHNOLOGY TRANSFER PROGRAM.

(a) The Secretary shall conduct a program designed to accelerate wider application of advanced electric vehicle technology, including advanced battery technologies.

(b) The Secretary, in carrying out the program authorized by subsection (a), shall—

(1) undertake an inventory and assessment of advanced electric vehicle technologies and their commercial capability; and

(2) develop a Federal-industry information exchange program to improve technology transfer, which may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

Subtitle B—Electric Motor Vehicle Infrastructure and Support Systems Development Program

SEC. 621. DEFINITIONS.

For purposes of this subtitle—

(1) the term "infrastructure and support systems" includes support and maintenance services and facilities, electricity delivery mechanisms and methods, regulatory treatment of investment in electric motor vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling, and disposal, that may be required to enable electric utilities, automobile manufacturers, and others to support the operation and maintenance of an electric motor vehicle and associated equipment; and

(2) the term "non-Federal person" means an entity not part of the Federal Government that is organized under the laws of the United States, including—

(A) a for-profit business;

(B) a private foundation;

(C) a nonprofit organization such as a university;

(D) a trade or professional society; or

(E) a unit of State or local government.

SEC. 622. GENERAL AUTHORITY.

(a) The Secretary shall undertake a program to enter into joint ventures with one or more eligible non-Federal persons for cost-shared research, development, or demonstration of an infrastructure and support systems program or system designed to support the use of electric motor vehicles.

(b) A non-Federal person shall be eligible to participate in a joint venture under this subtitle only if it demonstrates to the satisfaction of the Secretary that it will conduct a substantial portion of its activities under the joint venture in the United States using United States labor and materials.

(c) Activities under this subtitle shall be coordinated with activities under subtitle A.

SEC. 623. SOLICITATION OF JOINT VENTURES.

(a) Not later than 1 year after funds are appropriated for such purpose under this subtitle, the Secretary shall solicit proposals for joint ventures representing geographically and climatically diverse regions of the United States. Within 240 days after proposals have been solicited, the Secretary shall select proposals and thereafter enter into negotiations in order to obtain a final agreement where possible between the Secretary and the non-Federal person or persons submitting the proposal selected by the Secretary.

(b) The infrastructure and support systems programs for which joint ventures are selected under this section may be designed to address—

(1) the ability to service electric motor vehicles and to provide or service associated equipment;

(2) the installation of charging facilities;

(3) rates and cost recovery for electric utilities who invest in infrastructure capital-related expenditures;

(4) the conduct of information dissemination programs;

(5) the development of safety and health procedures and guidelines related to battery charging, watering, and emissions; and

(6) such other requirements as the Secretary considers necessary in order to address the infrastructure and support systems needed to support electric motor vehicles.

(c) The Secretary shall require at least 50 percent of the costs directly and specifically related to any selected proposal to be provided from non-Federal sources.

(d) In the case of joint ventures activities under this title and, in the case of any existing or future joint ventures related primarily to battery technology for electric motor vehicles under other provisions of law, where the knowledge resulting from research and development activities conducted pursuant to such joint ventures is for the benefit of the participating companies (particularly domestic companies) that provide financial resources to the program, the Secretary, for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under such joint ventures; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a participating company,

may, notwithstanding any other provision of law, provide appropriate protections against the dissemination of such information to the public, and the provisions of section 1905 of title 18, United States Code, shall apply to such information. Nothing in this subsection provides protections against the dissemination of such information to Congress. For purposes of this subsection, a "domestic company" means an entity which is substantially involved in the United States in the domestic production of motor vehicles for sale in the United States and has a substantial percentage of its production facilities in the United States.

SEC. 624. ELECTRIC UTILITY PARTICIPATION STUDY.

The Secretary, in consultation with appropriate Federal departments and agencies, representatives of State regulatory commissions and electric utilities, and such other persons as the Secretary considers appropriate, shall undertake or cause to have undertaken a study to determine the means by which electric utilities may invest in, own, sell, lease, service, or recharge batteries used to power electric motor vehicles.

SEC. 625. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle not to exceed $10,000,000 for each of the 5 fiscal years beginning after the date of enactment of this Act.

TITLE VII—ELECTRICITY

SEC. 701. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) in 1970, 24 percent of the fuel consumed in the United States was used to produce electricity; this figure rose to 36 percent in 1990 and is projected to rise to more than 41 percent by 2010;

(2) the energy efficiency and economic efficiency of the electric utility sector and the energy security of the Nation are best served by a regulatory structure providing for freer wholesale market entry by independent power producers;

(3) the Nation's environment is best served by the encouragement and further development of independent power producers, who account for 28 percent of new electric generation capacity made available in the last 5 years in conformity with the Clean Air Act new source performance standards;

(4) the protection of the public health, safety and welfare, preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require a program to—

(A) enhance the Nation's energy security by increasing the potential supplies and suppliers of electric power,

(B) allow for the broadest range of options for electric utilities that need new increments of electric power,

(C) build upon the established success of the cogeneration and small power production provisions of title II of the Public Utility Regulatory Policies Act of 1978,

(D) increase the reliability of electric supplies in order to bolster the Nation's reserves of electric power, which have dwindled substantially during the last decade,

(E) deliver electricity to consumers at the lowest reasonable price, and

(F) clarify existing Federal authority to ensure that essential transmission services will be available to facilitate independent power and other wholesale sales, while maintaining reliability of service and protecting other consumer interests.

(b) PURPOSES.—The purposes of this title are to—

(1) ensure an adequate and economical supply of electricity in the United States;

(2) encourage greater use of abundant domestic resources for generating electricity;

(3) facilitate power plant ownership by those best able to build power plants at the lowest reasonable cost;

(4) encourage conservation of the fuel and capital resources used to generate electricity; and

(5) clarify Federal authority to ensure that transmission service is provided on a nondiscriminatory basis.

Subtitle A—Public Utility Holding Company Act Amendments

SEC. 711. TREATMENT OF INDEPENDENT POWER PRODUCERS UNDER PUHCA.

Title I of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) is amended by adding the following new section after section 31 and by redesignating sections 32 and 33 as sections 33 and 34 respectively:

"SEC. 32. INDEPENDENT POWER PRODUCERS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) INDEPENDENT POWER PRODUCER.—The term 'independent power producer' means any person determined by the Federal En-

ergy Regulatory Commission, under rules promulgated by such Commission, to be engaged directly and exclusively in the business of owning or operating (or both owning and operating) all or part of one or more eligible facilities. No person shall be deemed to be an independent power producer under this section unless such person has applied to the Federal Energy Regulatory Commission for a determination under this paragraph. The Federal Energy Regulatory Commission shall notify the Securities and Exchange Commission whenever a determination is made under this paragraph that any person is an independent power producer.

"(2) ELIGIBLE FACILITY.—

"(A) WHOLESALE GENERATION FACILITIES.—Except as provided in subparagraph (B), the term 'eligible facility' means a facility, wherever located, that is used for the generation of electric energy exclusively for sale at wholesale. Such term includes interconnecting transmission facilities necessary to effect such sale at wholesale.

"(B) EXISTING RATE-BASED FACILITIES NOT ELIGIBLE.—No facility which is included (in whole or in part), as of the date of enactment of this section, in the rate base of a State regulated electric utility, shall be deemed to be an eligible facility notwithstanding any subsequent sale or lease of such facility by such State regulated electric utility.

"(b) EXEMPTIONS FOR INDEPENDENT POWER PRODUCERS.—An independent power producer (1) shall not be deemed to be an electric utility company under section 2(a)(3) of this Act, and (2) shall be exempt from all provisions of this Act other than the provisions of this section. The preceding sentence shall apply whether or not the independent power producer is a subsidiary company, an affiliate, or an associate company of a holding company.

"(c) COMPANIES EXEMPT UNDER SECTION 3.—Notwithstanding any other provision of this Act, a holding company that is exempt under section 3 shall be permitted, without condition or limitation under this Act, to acquire and maintain an interest in the business of one or more independent power producers.

"(d) REGISTERED HOLDING COMPANIES.—Notwithstanding any other provision of this Act, a registered holding company shall be permitted (without the need to apply for, or receive approval from, the Commission, and otherwise without condition under any other provision of this Act) to acquire and hold the securities, or interest in the business, of one or more independent power producers. Any interest in the business of one or more independent power producers by a registered holding company (regardless of where facilities owned or operated by such independent power producers are located) shall be considered to be—

"(1) consistent with the operation of an integrated public utility system; and

"(2) reasonably incidental, or economically necessary or appropriate, to the operation of an integrated public utility system: *Provided*, That—

"(A) the creation or maintenance of any relationship (including any service, sales, or construction contract) with, and

"(B) the issuance of securities to finance an acquisition of securities of, or the guarantee of securities of,

an independent power producer, by a registered holding company (or a subsidiary or affiliate company of a registered company) shall remain subject to section 6 of this Act. In determining whether to approve any action under subparagraphs (A) and (B), the Commission shall not find that the security is not reasonably adapted to the earning power or the security structure of the registered company, or that the transaction is an improper risk, unless the Commission first finds that the issuance of the security or the transaction would have a substantial adverse impact on the financial integrity of the registered company system; *And provided further*, That in determining whether to approve the issuance or sale of a security, or any other transactions by a registered company or its subsidiaries other than those with an independent power producer, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an independent power producer upon the registered holding company system unless the transaction, if approved, would have a substantial adverse impact on the financial integrity of the registered holding company system. The Commission may not make any determination or finding under subparagraph (A) or (B) until the Commission has promulgated regulations with respect to the actions which would be considered, for purposes of this subsection, to have a substantial adverse impact on the financial integrity of the registered holding company system. Such regulations shall ensure that the action has no adverse impact on any utility subsidiary or its customers, or on the ability of State commissions to protect such subsidiary or customers, and shall take into account the amount and type of capital invested in independent power producers, the ratio of such capital to the total capital invested in utility operations, the availability of books and records, and the financial and operating experience of the registered holding company and the independent power producer. The Commission shall promulgate regulations under this subsection within 6 months after the enactment of the Comprehensive National Energy Policy Act.

"(e) APPLICATION OF ACT TO OTHER ELIGIBLE FACILITIES.—After the date of the enactment of this section, in the case of any person engaged directly and exclusively in the business of owning or operating (or both owning and operating) all or part of one or more eligible facilities, an advisory letter from the Commission staff under this Act or an order issued by the Commission under this Act shall not be required for the purpose, or have the effect, of exempting such person from treatment as an electric utility company under section 2(a)(3) or exempting such person from any provision of this Act.

"(f) STATE AUTHORITIES.—Nothing in this section shall be construed to affect or limit in any way any authority of any State commission to review the financial structure of any independent power producer selling electric power to a State regulated electric utility, the rates and charges of which are subject to the jurisdiction of such State commission. Nothing in this section shall be construed to eliminate or reduce any existing State jurisdiction to define or regulate electric utilities.".

SEC. 712. OWNERSHIP OF INDEPENDENT POWER PRODUCERS AND QUALIFYING FACILITIES.

Section 3 of the Federal Power Act (16 U.S.C. 791a and following) is amended by adding the following after the semicolon at the end of paragraph (17)(C)(ii) and after the semicolon at the end of paragraph (18)(B)(ii): "the ownership by a person of one or more independent power producers shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of this clause;".

SEC. 713. AFFILIATE TRANSACTIONS; STATE AUTHORITIES.

(a) AFFILIATE TRANSACTIONS.—(1) Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g)(1) It shall be a violation of this Act for an independent power producer to sell electric energy to a public utility if the independent power producer is an affiliate, associate company, or subsidiary company of the public utility.

"(2) As used in this subsection the terms 'affiliate', 'associate company', and 'subsidiary company' shall have the same meaning as when used in the Public Utility Holding Company Act of 1935.

"(3) This subsection shall take effect with respect to the sale of electric energy the rates and charges for which are approved or fixed by the Commission, or which the Commission permits to take effect, under section 205 or 206 after the date of the enactment of this subsection.".

(b) BOOKS AND RECORDS.—Section 201 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) BOOKS AND RECORDS.—(1) Upon written order of a State Commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

"(A) an electric utility company subject to its regulatory authority under State law,

"(B) any independent power producer selling power at wholesale to such electric utility,

"(C) any subsidiary company, associate company, or affiliate of the electric utility company, and

"(D) any subsidiary company, associate company, or affiliate of the independent power producer which independent power producer sells power at wholesale to an electric utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric service.

"(2) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to issue an injunction compelling compliance with an order issued by the State commission under this subsection.

"(3) As used in this subsection the terms 'affiliate', 'associate company', 'electric utility company', and 'subsidiary company' shall have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

Subtitle B—Federal Power Act; Interstate Commerce in Electricity

SEC. 721. INTERCONNECTION.

Section 210 of the Federal Power Act is amended in subsection (a) by striking "geothermal power producer" and all that follows down through "qualifying small power producer," and inserting ", or any other person generating electric energy for sale for resale" in paragraph (1).

SEC. 722. AMENDMENTS TO SECTION 211 OF FEDERAL POWER ACT.

Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended as follows:

(1) The first sentence of subsection (a) is amended to read as follows: "Any electric utility, Federal power marketing agency, or any other person generating electric energy for sale or resale, may apply to the Commission for an order under this subsection requiring a transmitting utility to provide

transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant.".

(2) In the second sentence of subsection (a), strike "the Commission may" and all that follows and insert "the Commission shall issue such order if it finds that such order meets the requirements of section 212, would maintain the reliability of any electric utility system to which the order applies, would otherwise be in the public interest, and would—

"(1) conserve a significant amount of energy,

"(2) significantly promote the efficient use of facilities and resources,

"(3) promote competition in the wholesale power market,

"(4) enhance protection of the environment, or

"(5) prevent, arrest, or abate discriminatory practices that are subject to the jurisdiction of the Commission.".

(3) In subsection (b)—

(A) Strike out "other electric utility" and insert "transmitting utility" in both places such term appears.

(B) After "affected electric utility," insert "each affected transmitting utility,".

(C) Strike out "an evidentiary hearing" in the second sentence and insert "a hearing".

(4) In subsection (c)—

(A) Strike out paragraph (1).

(B) In paragraph (2) strike "which requires the electric" and insert "which requires the transmitting".

(C) In paragraph (3) strike "electric" and insert "electric utilities or transmitting".

(5) In subsection (d)—

(A) In the first sentence of paragraph (1), strike "electric" and insert "transmitting" in each place it appears.

(B) In the second sentence of paragraph (1) before "and each affected electric utility," insert "each affected transmitting utility,".

(C) In paragraph (3), strike "electric" and insert "transmitting".

(D) Strike the period in subparagraph (B) of paragraph (1) and insert ", or" and after subparagraph (B) insert the following new subparagraph:

"(C) the order to provide such transmission services requires enlargement of transmission capacity and the transmitting utility subject to the order has failed, after making a good faith effort, to obtain the necessary approvals under applicable Federal, State, and local environmental and siting laws.".

SEC. 723. TRANSMISSION SERVICES.

(a) AMENDMENTS TO SECTION 212.—Section 212 of the Federal Power Act is amended as follows:

(1) Strike subsections (a) and (b) and insert the following:

"(a) LIMITATIONS.—No order under section 211 or 213 shall require any transmitting utility to provide transmission services which will (1) unduly impair the reliability of any transmitting utility, public utility, or electric utility, affected by the order; (2) unduly impair the ability of any such utility to render adequate services to its customers; or (3) unduly economically disadvantage the customers of the transmitting utility subject to the order. Whenever the Commission finds that any proposed order under section 211 or 213 would have any effect referred to in the preceding sentence, the Commission shall issue an order requiring the transmitting utility to provide so much of the proposed wholesale transmission services as would not have any such effect.

"(b) CHARGES FOR WHOLESALE TRANSMISSION SERVICES.—(1) An order under section 211 or 213 shall require the transmitting utility subject to the order to provide wholesale transmission services at rates and charges which permit the recovery by such utility of all prudent costs incurred in connection with the transmission services and necessary associated services, including an appropriate share of the costs of any enlargement of transmission facilities (plus a reasonable rate of return on investment, as appropriate) as determined by the Commission. Orders under section 211 or 213 which provide for tariffs of general applicability shall include in such tariffs, rates, terms, and conditions for firm and nonfirm, and long and short-term transmission services. Such rates, terms, and conditions shall not be unjust, unreasonable, unduly discriminatory or preferential.

"(2) Rates, charges, terms, and conditions applicable to transmission service ordered under sections 211 or 213, to the extent practicable, based on the facts and circumstances present at the time, shall be designed to—

"(A) compensate native load customers for legitimate and verifiable economic costs of providing the transmission service,

"(B) provide the lowest reasonable transmission rates for the transmission service, and

"(C) prevent the collection of monopoly rents by the transmitting utility and promote the efficient transmission and generation of electricity.

Such rates, charges, terms, and conditions shall account for any benefits to the transmission system of providing the transmission service, and a reasonable balance among subparagraphs (A), (B), and (C).".

(2) Subsection (e) is amended to read as follows:

"(e) SAVINGS PROVISIONS.—(1) No provision of section 210, 211, 213, or 215 shall be treated as requiring any person to utilize the authority of section 210, 211, 213, or 215 in lieu of any other authority of law, or as limiting, impairing, or otherwise affecting any authority of the Commission under any other provision of law.

"(2) Sections 210, 211, 213, 214, and 215, and this section, shall not be construed to modify, impair, or supersede the operation of the antitrust laws. For purposes of this section, the term 'antitrust laws' has the meaning given in subsection (a) of the first sentence of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section relates to unfair methods of competition.".

(3) Add the following new subsections at the end thereof:

"(g) PROHIBITION ON MANDATORY RETAIL WHEELING.—No order issued under this Act shall require the mandatory transmission of electric energy directly to an ultimate consumer.

"(h) LAWS APPLICABLE TO FEDERAL COLUMBIA RIVER TRANSMISSION SYSTEM.—(1) The Commission shall have authority pursuant to section 210, section 211, this section, section 213, and section 214 to (A) order the Administrator of the Bonneville Power Administration to provide transmission service and (B) establish the terms and conditions of such service. In applying such sections to the Federal Columbia River Power System, the Commission shall assure that—

"(i) the provisions of otherwise applicable Federal laws shall continue in full force and effect and shall continue to be applicable to the system; and

"(ii) the rates for the transmission of electric power on the system shall be governed only by such otherwise applicable provisions of law and not by any provision of section 210, section 211, this section, section 213, or section 214, except that no rate for the transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential, as determined by the Commission.

"(2) Notwithstanding any other provision of this Act with respect to the procedures for the determination of terms and conditions for transmission service—

"(A) when the Administrator of the Bonneville Power Administration either (i) in response to a written request for specific transmission service terms and conditions does not offer the requested terms and conditions, or (ii) proposes to establish terms and conditions of general applicability for transmission service on the Federal Columbia River Transmission System, then the Administrator may provide opportunity for a hearing and, in so doing, shall—

"(I) give notice in the Federal Register and state in such notice the written explanation of the reasons why the specific terms and conditions for transmission services are not being offered or are being proposed;

"(II) adhere to the procedural requirements of paragraphs (1) through (3) of section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839(i) (1) through (3)), except that the hearing officer shall, unless the hearing officer becomes unavailable to the agency, make a recommended decision to the Administrator that states the hearing officer's findings and conclusions, and the reasons or basis thereof, on all material issues of fact, law, or discretion presented on the record; and

"(III) make a determination, setting forth the reasons for reaching any findings and conclusions which may differ from those of the hearing officer, based on the hearing record, consideration of the hearing officer's recommended decision, section 211 and this section, as amended by the Comprehensive National Energy Policy Act, and the provisions of law as preserved in this section; and

"(B) if application is made to the Commission under section 211 for transmission service under terms and conditions different than those offered by the Administrator, or following the denial of a request for transmission service by the Administrator, and such application is filed within 60 days of the Administrator's final determination and in accordance with Commission procedures, the Commission shall—

"(i) in the event the Administrator has conducted a hearing as herein provided for (I) accord parties to the Administrator's hearing the opportunity to offer for the Commission record materials excluded by the Administrator from the hearing record, (II) accord such parties the opportunity to submit for the Commission record comments on appropriate terms and conditions, (III) afford those parties the opportunity for a hearing if and to the extent that the Commission finds the Administrator's hearing record to be inadequate to support a decision by the Commission, and (IV) establish terms and conditions for or deny transmission service based on the Administrator's hearing record, the Commission record, section 211 and this section, as amended by the Comprehensive National Energy Policy Act, and the provisions of law as preserved in this section, or

"(ii) in the event the Administrator has not conducted a hearing as herein provided for, determine whether to issue an order for transmission service in accordance with sec-

tion 211 and this section, including providing the opportunity for a hearing.

"(3) Notwithstanding those provisions of section 313(b) of this Act (16 U.S.C. 825l) which designate the court in which review may be obtained, any party to a proceeding concerning transmission service sought to be furnished by the Administrator of the Bonneville Power Administration seeking review of an order issued by the Commission in such proceeding shall obtain a review of such order in the United States Court of Appeals for the Pacific Northwest, as that region is defined by section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)).

"(4) To the extent the Administrator of the Bonneville Power Administration cannot be required under section 211 or 213, as a result of the Administrator's other statutory mandates, either to (A) provide transmission service to an applicant which the Commission would otherwise order, or (B) provide such service under rates, terms, and conditions which the Commission would otherwise require, the applicant shall not be required to provide similar transmission services to the Administrator or to provide such services under similar rates, terms, and conditions.

"(5) The Commission shall not issue any order under section 210, section 211, this section, section 213, or section 214 requiring the Administrator of the Bonneville Power Administration to provide transmission service if such an order would impair the Administrator's ability to provide such transmission service to the Administrator's power and transmission customers in the Pacific Northwest, as that region is defined in section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)), as is needed to assure adequate and reliable service to loads in that region.

"(i) EQUITABILITY WITHIN TERRITORY RESTRICTED ELECTRIC SYSTEMS.—With respect to an electric utility which is prohibited by Federal law from being a source of power supply, either directly or through a distributor of its electric energy, outside an area set forth in such law, no order issued under section 211 may require such electric utility (or a distributor of such electric utility) to provide transmission services to another entity if the electric energy to be transmitted will be consumed within the area set forth in such Federal law, unless the order is in furtherance of a sale of electric energy to that electric utility: *Provided, however*, That the foregoing provision shall not apply to any area served at retail by an electric transmission system which was such a distributor on the date of enactment of this subsection and which before October 1, 1991, gave its notice of termination under its power supply contract with such electric utility.

"(j) SHAM TRANSACTIONS.—No order may be issued under section 211 or 213 to transmit electric energy if the applicant does not have a contractual right to purchase or sell such electric energy, or does not have a contractual right to, or an ownership interest in, a generation facility, or would not utilize transmission or distribution facilities owned or controlled by it to deliver such electric energy to retail consumers, or is not a State, political subdivision thereof, or any agency or instrumentality thereof, authorized by State law to generate, transmit, or distribute electric energy.".

(b) VOLUNTARY PROVISION OF TRANSMISSION SERVICES.—Title II of the Federal Power Act is amended by adding the following new section after section 212:

"SEC. 213. VOLUNTARY PROVISION OF TRANSMISSION SERVICES.

"(a) COVERED SALES.—For purposes of this section, a sale of electric energy shall be considered a 'covered sale of electric energy' if the sale is—

"(1) subject to the jurisdiction of the Commission; and

"(2) pursuant to rates and charges which are not based on the costs of providing such energy, including a reasonable rate of return,

except that no economy sale or sale which results from economic dispatch performed by a regional power pool arrangement, each as defined by the Commission, shall be treated as a covered sale of electric energy and no sale of electric energy by a qualifying small power production facility or qualifying cogenerator shall be treated as a covered sale of electric energy.

"(b) UTILITIES TO PROVIDE WHOLESALE TRANSMISSION SERVICES.—Whenever—

"(1) any order is issued permitting any transmitting utility or any affiliate thereof to make any covered sale of electric energy, or

"(2) any order is issued under section 203 permitting a transmitting utility or any affiliate thereof to merge or consolidate with any other public utility,

the Commission shall issue an order requiring each such transmitting utility (and each affiliate thereof which provides wholesale transmission service in a service area directly affected by the covered sale, merger, or consolidation, as determined by the Commission), to provide wholesale transmission services in accordance with this section and section 212. An order under this section shall include tariffs of general applicability for the transmission services to be provided and shall include such other terms and conditions as necessary pursuant to section 212.

"(c) SAVINGS CLAUSE.—Nothing in this section shall restrict or prevent any person from seeking interconnection pursuant to section 210 or transmission service pursuant to section 211.".

SEC. 724. INFORMATION REQUIREMENTS.

Part II of the Federal Power Act is amended by adding the following new section after section 213:

"SEC. 214. INFORMATION REQUIREMENTS.

"(a) REQUESTS FOR WHOLESALE TRANSMISSION SERVICES.—Whenever any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale requests a transmitting utility to provide wholesale transmission services and requests specific rates and charges, and other terms and conditions, unless the transmitting utility agrees to provide such services in accordance with such rates and charges and other conditions, the transmitting utility shall, within 30 days of its receipt of the request, provide such person with a written explanation of the reasons why such wholesale transmission services are not being offered in accordance with such rates and charges and other conditions.

"(b) TRANSMISSION CAPACITY AND CONSTRAINTS.—Not later than 1 year after the enactment of this section, the Commission shall promulgate a rule requiring that the information be submitted annually to the Commission by transmitting utilities regarding:

"(1) existing and planned transmission facilities;

"(2) forecasts of load growth (firm and nonfirm);

"(3) existing and planned transmission arrangements;

"(4) actual line losses;

"(5) reliability assessments; and

"(6) such other matters related to electric power transmission as the Commission finds necessary.

Such information shall be adequate to enable the Commission to carry out the purposes of this section and sections 210, and 211, and to inform potential transmission customers, State regulatory authorities, and the public of available transmission capacity and potential constraints.".

SEC. 725. SALES BY INDEPENDENT POWER PRODUCERS.

Part II of the Federal Power Act is amended by adding the following new section after section 214:

"SEC. 215. SALES BY INDEPENDENT POWER PRODUCERS.

"(a) UNLAWFUL AGREEMENTS.—The Commission shall determine, after notice and opportunity for hearing, whether any agreement for the sale of electric energy by an independent power producer would result in the granting of any undue preference or advantage or would result in any undue prejudice or disadvantage. Any such agreement that would have such an effect shall be unlawful.

"(b) DENIAL OF TRANSMISSION ACCESS.—It shall be treated as an undue prejudice or disadvantage for any transmitting utility which purchases electric energy from an independent power producer to unreasonably deny or restrict access by potential competing sellers to nondiscriminatory transmission services.

"(c) COMPETITIVE SALES.—No agreement for the sale of electric energy by an independent power producer which—

"(1) results from a competitive process established by a State regulatory authority, and

"(2) satisfies such requirements as the Commission may, by rule, establish to ensure that genuine competition exists,

shall be treated as unlawful under subsection (a) unless an aggrieved person establishes that such agreement would result in the granting of any undue preference or advantage or would result in any undue prejudice or disadvantage.

"(d) STATE AUTHORITIES.—Nothing in this section shall be construed to eliminate or reduce any existing State jurisdiction to define or regulate electric utilities.".

SEC. 726. PENALTIES.

(a) EXISTING PENALTIES NOT APPLICABLE TO TRANSMISSION PROVISIONS.—Sections 315 and 316 of the Federal Power Act are each amended by adding the following at the end thereof:

"(c) This subsection shall not apply in the case of any provision of section 211, 212, 213, 214, or 215 or any rule or order issued under any such provision.".

(b) PENALTIES APPLICABLE TO TRANSMISSION PROVISIONS.—Title III of the Federal Power Act is amended by inserting the following new section after section 316:

"SEC. 316A. ENFORCEMENT OF CERTAIN PROVISIONS.

"(a) GENERAL RULE.—It shall be unlawful for any person to violate any provision of section 211, 212, 213, 214, or 215 or any rule or order issued under any such provision.

"(b) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any person who knowingly violates any provision of section 211, 212, 213, 214, or 215 or any provision of any rule or order thereunder shall be subject to a civil penalty, which the Commission may assess, of not more than $25,000 for any one violation.

"(2) 'KNOWINGLY' DEFINED.—For purposes of paragraph (1), the term 'knowingly' means the having of—

"(A) actual knowledge; or

"(B) the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

"(3) EACH DAY SEPARATE VIOLATION.—For purposes of this paragraph, in the case of a continuing violation, each day of violation shall constitute a separate violation.

"(4) STATUTE OF LIMITATIONS.—No person shall be subject to any civil penalty under this paragraph with respect to any violation occurring more than 3 years before the date on which such person is provided notice of the proposed penalty under subparagraph (5). The preceding sentence shall not apply in any case in which an untrue statement of material fact was made to the Commission or a State or Federal agency by, or acquiesced to by, the violator with respect to the acts or omissions constituting such violation, or if there was omitted a material fact necessary in order to make any statement made by, or acquiesced to by, the violator with respect to such acts or omissions not misleading in light of the circumstances under which such statement was made.

"(5) ASSESSED BY COMMISSION.—Before assessing any civil penalty under this paragraph, the Commission shall provide to such person notice of the proposed penalty. Following receipt of notice of the proposed penalty by such person, the Commission shall, by order, assess such penalty.

"(6) JUDICIAL REVIEW.—If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under paragraph (5), the Commission shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.".

SEC. 727. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act is amended by adding the following at the end thereof:

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any electric utility or Federal power marketing agency which owns or operates electric power transmission facilities which are used for the sale of electric energy at wholesale.

"(24) WHOLESALE TRANSMISSION SERVICES.—The term 'wholesale transmission services' means the transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.

"(25) INDEPENDENT POWER PRODUCER.—The term 'independent power producer' shall have the meaning provided by section 32 of the Public Utility Holding Company Act of 1935.".

(b) CLARIFICATION OF TERMS.—Section 3(22) of the Federal Power Act is amended by inserting "(including any municipality)" after "State agency".

Subtitle C—State and Local Authorities

SEC. 731. STATE AUTHORITIES.

Nothing in this title or in any amendment made by this title shall be construed as affecting or intending to affect, or in any way to interfere with, the authority of any State or local government relating to environmental protection or the siting of facilities.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

SEC. 801. ENVIRONMENTAL PROTECTION AGENCY STANDARDS FOR DISPOSAL.

Section 121 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141) is amended by adding at the end the following new subsection:

"(d) REINSTATEMENT AND REISSUANCE OF EPA STANDARDS.—

"(1) REINSTATEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the generally applicable environmental standards for the disposal of high-level radioactive waste, spent nuclear fuel, and transuranic waste that were contained in subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on July 1, 1987, are reinstated.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to sections 191.15 and 191.16 of such subpart B.

"(2) REISSUANCE.—

"(A) PROPOSED.—The Administrator shall issue and publish in the Federal Register, not later than 3 months after the date of the enactment of this subsection, proposed revisions to the standards described in subsection (a). Such proposed revisions shall include—

"(i) proposed standards governing the matters contained in sections 191.15 and 191.16 of subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on July 1, 1987; and

"(ii) any other revisions that the Administrator considers to be appropriate.

"(B) FINAL.—The Administrator shall issue, not later than 9 months after the date of the issuance of the proposed revisions described in subparagraph (A), final revisions to the standards described in subsection (a).".

SEC. 802. INFLATION ADJUSTMENT FOR FEES.

Section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) is amended by adding at the end the following new paragraph:

"(7)(A) In the case of any fiscal year beginning after September 30, 1992, the fee amount specified in paragraphs (2) and (3) shall be increased by an amount equal to—

"(i) such fee amount; multiplied by

"(ii) the inflation adjustment determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the inflation adjustment for any fiscal year is the percentage (if any) by which—

"(i) the inflation index for the preceding fiscal year; exceeds

"(ii) the inflation index for fiscal year 1991.

"(C) For purposes of subparagraph (B), the inflation index for any fiscal year is the average of the Consumer Price Index (as published by the Department of Labor) for the 12 months in such fiscal year.".

SEC. 803. PLAN FOR TIMELY PAYMENT OF COSTS FOR DISPOSAL OF DEFENSE WASTE IN REPOSITORY.

Section 8(b)(2) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10107(b)(2)) is amended by adding at the end the following new sentence: "Not later than 12 months after the date of the enactment of the Energy Development and Environmental Protection Act, the Secretary shall submit to the Congress a plan for the payment in full by January 1, 2010, of all amounts obligated to be paid under such arrangements with respect to such waste.".

SEC. 804. SITE CHARACTERIZATION.

(a) FINDINGS.—The Congress makes the following findings:

(1) In 1987, Congress directed the Department of Energy to characterize the Yucca Mountain site to determine its suitability for the disposal of high-level radioactive waste and spent nuclear fuel.

(2) The State of Nevada has delayed, and could continue to delay for an unacceptable length of time, the processing of environmental permits required for the commencement of site characterization activities at Yucca Mountain.

(3) The Department of Energy will need at least 18 permits from the State of Nevada during the site characterization process.

(4) If the Department of Energy is to determine, in a timely fashion, whether the Yucca Mountain site is suitable for the disposal of high-level radioactive waste and spent nuclear fuel, the State permitting process must be expedited.

(b) PERMITS AND ENFORCEMENT.—Section 113 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133) is amended by adding at the end the following new subsection:

"(e) PERMITS AND ENFORCEMENT.—

"(1) PERMITS.—No State or local permit (including any permit based on Federal authority that has been delegated to a State or local government) shall be required in order for the Secretary to conduct site characterization activities at the Yucca Mountain site.

"(2) ENFORCEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State of Nevada may bring an action to enforce any Federal or State standard requirement, criteria, or limitation applicable to the conduct of site characterization activities at the Yucca Mountain site. Such an action may be brought only in the United States District Court for the District of Nevada.

"(B) REQUIREMENTS THAT RESULT IN PROHIBITION OF SITE CHARACTERIZATION.—A State standard, requirement, criteria, or limitation (including any State siting standard or requirement) that could effectively result in the prohibition of site characterization activities shall not apply unless each of the following conditions is met:

"(i) The State standard, requirement, criteria, or limitation is of general applicability and was adopted by formal means.

"(ii) The State standard, requirement, criteria, or limitation was adopted on the basis of hydrologic, geologic, or other relevant scientific considerations and was not adopted for the purpose of precluding site characterization activities for reasons unrelated to protection of human health and the environment.

"(C) NO NEW AUTHORITY.—The provisions of this subsection shall not be construed to grant to the State of Nevada any authority to enforce a Federal or State standard, requirement, criteria, or limitation that the State of Nevada did not have on the date of the enactment of the Comprehensive National Energy Policy Act.".

(c) CAPACITY OF REPOSITORY AT YUCCA MOUNTAIN.—

(1) IN GENERAL.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended by striking the second sentence and all that follows through the end of the subsection and inserting the following: "The Secretary shall determine, by rule, the volume of high-level radioactive waste and spent nuclear fuel that may be emplaced in any repository to be constructed at Yucca Mountain.".

(2) CONFORMING AMENDMENT.—The caption of section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended to read as follows:

"(d) COMMISSION AND DEPARTMENT ACTION.—".

SEC. 805. EXTENSION OF OFFICE OF THE NUCLEAR WASTE NEGOTIATOR.

Section 410 of the Nuclear Waste Policy Act of 1982 is amended by striking "5 years" and inserting "8 years".

TITLE IX—URANIUM ENRICHMENT CORPORATION

SEC. 901. ESTABLISHMENT OF THE URANIUM ENRICHMENT CORPORATION.

(a) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended—

(1) by inserting at its beginning after

"ATOMIC ENERGY ACT OF 1954"

the following:

"TABLE OF CONTENTS

"TITLE I—ATOMIC ENERGY";

and

(2) by adding at the end of the table of contents the following:

"TITLE II—URANIUM ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"Sec. 1201. Definitions.
"Sec. 1202. Purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"Sec. 1301. Establishment of the Corporation.
"Sec. 1302. Corporate offices.
"Sec. 1303. Powers of the Corporation.
"Sec. 1304. Board of Directors.
"Sec. 1305. Employees of the Corporation.
"Sec. 1306. Audits.
"Sec. 1307. Annual reports.
"Sec. 1308. Accounts.
"Sec. 1309. Obligations.
"Sec. 1310. Exemption from taxation and payments in lieu of taxes.
"Sec. 1311. Cooperation with other agencies.
"Sec. 1312. Applicability of certain Federal laws.
"Sec. 1313. Security.
"Sec. 1314. Control of information.
"Sec. 1315. Transition.
"Sec. 1316. Working Capital Account.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"Sec. 1401. Marketing and contracting authority.
"Sec. 1402. Pricing.
"Sec. 1403. Option to lease gaseous diffusion facilities of the Department.
"Sec. 1404. AVLIS.
"Sec. 1405. Assets, initial debt, and dividend policy.
"Sec. 1406. Patents and inventions.
"Sec. 1407. Liabilities.
"Sec. 1408. Uranium inventories.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"Sec. 1501. Strategic plan for privatization.
"Sec. 1502. Predeployment activities.
"Sec. 1503. Privatization.
"Sec. 1504. Restructuring of Corporation and Board.".

(b) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is further amended by adding at the end of title I the following new title:

"TITLE II—URANIUM ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"SEC. 1201. DEFINITIONS.

"As used in this title:

"(1) The term 'alternative technologies for uranium enrichment' means technologies to enrich uranium by methods other than the gaseous diffusion process.

"(2) The term 'AVLIS' means atomic vapor laser isotope separation technology.

"(3) The term 'Board' means the Board of Directors of the Corporation established under section 1305.

"(4) The term 'Corporation' means the Uranium Enrichment Corporation.

"(5) The term 'corrective actions' shall have the meaning given such term by the Administrator of the Environmental Protection Agency under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u)).

"(6) The term 'decontamination and decommissioning' means those activities, other than response actions or corrective actions, undertaken to decontaminate and decommission inactive uranium enrichment facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination, including depleted tailings.

"(7) The term 'Department' means the Department of Energy.

"(8) The term 'response actions' shall have the meaning given the term 'response' in section 101(25) of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

"(9) the term 'releases' shall have the meaning given the term 'release' in section 101(22) of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

"(10) The term 'Secretary' means the Secretary of Energy.

"(11) The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"SEC. 1202. PURPOSES.

"The Corporation is created for the following purposes:

"(1) To operate as a business enterprise on a profitable and efficient basis.

"(2) To maximize the long-term value of the Corporation to the Treasury of the United States and private investors.

"(3) To lease Department uranium enrichment facilities, as needed.

"(4) To acquire uranium for uranium enrichment, as needed.

"(5) To market and sell its enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) domestic and foreign persons, as provided in section 1303(6).

"(6) To conduct research and development as required to meet business objectives for the purposes of identifying, evaluating, improving, and testing alternative technologies for uranium enrichment.

"(7) To conduct the business as a self-financing corporation and eliminate the need for Federal Government appropriations or sources of Federal financing other than those provided in this title.

"(8) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(9) To comply with laws, and regulations promulgated thereunder, to protect the public health, safety, and the environment.

"(10) To continue at all times to meet the objectives of ensuring the Nation's common defense and security, including abiding by United States laws and policies concerning special nuclear materials and nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy.

"(11) To contribute to the recovery of the cost of decontamination and decommissioning of uranium enrichment facilities and costs under section 161 v.

"(12) To take all other lawful actions in furtherance of these purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"SEC. 1301. ESTABLISHMENT OF THE CORPORATION.

"(a) There is established a body corporate to be known as the Uranium Enrichment Corporation.

"(b) The Corporation shall be established as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this title.

"SEC. 1302. CORPORATE OFFICES.

"(a) Notwithstanding subsection (b), the Corporation shall incorporate under the jurisdiction of a State of its choosing, and shall be subject to service of process and papers and venue in civil actions, only in that jurisdiction.

"(b) The Corporation shall maintain an office in the District of Columbia and may establish offices in any other place it determines necessary or appropriate in the conduct of its business.

"SEC. 1303. POWERS OF THE CORPORATION.

"In order to accomplish its purposes, the Corporation—

"(1) shall, subject to its articles of incorporation and applicable Federal and State law, have all the powers of a private corporation unless otherwise stated in this title;

"(2) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"(3) may obtain from the Administrator of General Services the services the Administrator is authorized to provide agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

"(4) shall enrich uranium, acquire enriched uranium, or provide for uranium to be enriched by others;

"(5) may conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the Corporation considers necessary or advisable to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis;

"(6) may enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(A) persons licensed under section 53, 63, 103, or 104 of title I in accordance with the licenses held by those persons;

"(B) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123 of title I; or

"(C) persons otherwise authorized by law to enter into such transactions;

"(7) may enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I, for as long as the Corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(8) may enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 of title I or as otherwise authorized by law; and

"(9) shall sell to the Department as provided in this title, without regard to section 57 e. of title I, the amounts of uranium enrichment and related services that the Department determines from time to time are required for it to—

"(A) carry out Presidential directions and authorizations under section 91 of title I; and

"(B) conduct other Department programs.

"SEC. 1304. BOARD OF DIRECTORS.

"(a) The powers of the Corporation are vested in the Board of Directors.

"(b) The Board of Directors shall consist of eleven individuals, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among members of the Board.

"(c) Members of the Board shall be citizens of the United States. No member of the Board shall be an employee of the Corporation or have any direct financial relationship with the Corporation other than that of being a member of the Board.

"(d)(1) Except as provided in paragraph (2), members of the Board shall serve five-year terms or until the election of a new Board of Directors under section 1604, whichever comes first.

"(2) Of the members first appointed to the Board—

"(A) two shall be appointed for one-year terms;

"(B) two shall be appointed for two-year terms;

"(C) two shall be appointed for three-year terms; and

"(D) two shall be appointed for four-year terms.

"(e) Upon the occurrence of a vacancy on the Board, the President by and with the advice and consent of the Senate shall appoint an individual to fill such vacancy for the remainder of the applicable term. No member of the Board shall serve in more than two terms.

"(f) The Board shall meet at least ten times a year. Seven members of the Board shall constitute a quorum. A majority of the Board shall adopt and from time to time may amend bylaws for the operation of the Board.

"(g) The Board shall be responsible for general management of the Corporation and shall, subject to its articles of incorporation and bylaws, have the same authority, privileges, and responsibilities as the board of directors of a private corporation.

"(h) Members of the Board shall serve on a part-time basis and shall receive per diem, when engaged in the actual performance of Corporation duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"(i) Members of the Board, officers, and other management level employees of the Corporation shall, as a condition of continued service or employment, comply with the conflict of interest provisions described in part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 et seq.) in the same manner as persons who are supervisory employees of the Department are required to comply with such provisions.

"SEC. 1305. EMPLOYEES OF THE CORPORATION.

"(a) Officers and employees of the Corporation shall not be officers and employees of the United States.

"(b)(1) It is the purpose of this subsection to ensure that the establishment of the Corporation pursuant to this chapter shall not result in any adverse effects on the employment rights, wages, or benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(2) Any employer (including the Corporation) at a facility described in paragraph (1) shall abide by the terms of a collective bargaining agreement in effect on April 30, 1991, at such facility until—

"(A) the earlier of the date on which a new bargaining agreement is signed; or

"(B) the end of the 2-year period beginning on the date of the enactment of this title.

"(3) Except as specifically provided in this subsection, the Corporation is subject to the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

"SEC. 1306. AUDITS.

"(a)(1) The financial statements of the Corporation shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with auditing standards issued by the Comptroller General.

"(2) The Comptroller General may review any audit of the Corporation's financial statements conducted under paragraph (1). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

"(b)(1) The Comptroller General may audit the financial statements of the Corporation for any year in the manner provided in subsection (a)(1).

"(2) The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General.

"(c) All books, accounts, financial records, reports, files, papers, and other property belonging to or in use by the Corporation and its auditor that the Comptroller General considers necessary to the performance of any audit or review under this section shall be made available to the Comptroller General.

"(d) Activities the Comptroller General conducts under this section shall be in lieu of any other audit of the financial transactions of the Corporation the Comptroller General is required to make under chapter 91 of title 31, United States Code, or other law.

"SEC. 1307. ANNUAL REPORTS.

"(a) The Corporation shall prepare and submit an annual report of its activities to the President and the Congress. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends;

"(3) copies of audit reports prepared under section 1305 of this title;

"(4) the information required under regulations issued under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

"(5) an identification and assessment of any impairment of capital or ability of the Corporation to comply with this title.

"(b) The report shall be completed not later than 150 days following the close of each of the Corporation's fiscal years and shall accurately reflect the financial position of the Corporation at fiscal year end.

"SEC. 1308. ACCOUNTS.

"There is established in the Treasury of the United States a revolving fund, to be known as the 'Uranium Enrichment Corporation Fund', which shall be available to the Corporation without fiscal year limitation for carrying out its purposes, functions, and powers, and which shall not be subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

"SEC. 1309. OBLIGATIONS.

"(a)(1) The Corporation may issue and sell bonds, notes, and other evidences of indebtedness (collectively referred to in this title as 'bonds') except that the Corporation may not issue or sell bonds for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities.

"(2) The Corporation may pledge and use its revenues for payment of the principal of and interest on its bonds, for their purchase or redemption, and for other purposes incidental to these functions, including creation of reserve funds and other funds which may be similarly pledged and used.

"(3) The Corporation may enter into binding covenants with the holders and trustees of its bonds with respect to—

"(A) the establishment of reserve and other funds;

"(B) stipulations concerning the subsequent issuance of bonds; and

"(C) other matters not inconsistent with this title,

that the Corporation determines necessary or desirable to enhance the marketability of the bonds.

"(b) Bonds issued by the Corporation under this section shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"(c)(1) Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified in the bond and shall mature not more than 30 years after their date of issuance.

"(2) The Corporation may set the terms and conditions of bonds issued under this section, subject to disapproval of such terms and conditions by the Secretary of the Treasury within 15 days after the Secretary of the Treasury is notified of the following terms and conditions of the bonds:

"(A) Their forms and denominations.

"(B) The times, amounts, and prices at which they are sold.

"(C) Their rates of interest.

"(D) The terms at which they may be redeemed by the Corporation before maturity.

"(E) The priority of their claims on the Corporation's net revenues with respect to principal and interest payments.

"(F) Any other terms and conditions.

"(d) Section 9108(a) of title 31, United States Code, shall not apply to the Corporation.

"(e) The Corporation shall be considered an executive department of the United States for purposes of section 3(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(c)).

"(f) The Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1310. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.

"(a) In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation shall, beginning in fiscal year 1998, make payments to State and local governments as provided in this section. These payments shall be in lieu of any and all State and local taxes on the real and personal property of the Corporation. All property of the Corporation is expressly exempted from taxation in any manner or form by any State, county, or other local government entity including State, county, or other local government sales tax.

"(b) Beginning in fiscal year 1998, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making these deter-

minations, the Corporation shall be guided by the following criteria:

"(1) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(2) The payment made to any taxing authority for any period shall not be less than the payments which would have been made to the taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1404 of this title and which would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the date of enactment of this title.

"(c) Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable.

"(d) The determination by the Corporation of the amounts due under this section shall be final and conclusive.

"SEC. 1311. COOPERATION WITH OTHER AGENCIES.

"The Corporation may request to use on a reimbursable basis the available services, equipment, personnel, and facilities of agencies of the United States, and on a similar basis may cooperate with such agencies in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

"SEC. 1312. APPLICABILITY OF CERTAIN FEDERAL LAWS.

"(a) The Corporation shall conduct its activities in a manner consistent with the policies expressed in the following antitrust laws:

"(1) The Sherman Act (15 U.S.C. 1–7).

"(2) The Clayton Act (15 U.S.C. 12–27).

"(3) Sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9).

"(b) Except as specifically provided in this title, the Corporation is subject to Federal, State, and local laws to the same extent as a privately owned corporation.

"(c) The Corporation shall be subject to, and comply with, all Federal and State, interstate, and local environmental laws and requirements, both substantive and procedural, in the same manner, and to the same extent, as any person is subject to such laws and requirements. For purposes of enforcing any such law or substantive or procedural requirements (including any injunctive relief, administrative order, or civil or administrative penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation. For the purposes of this subsection, the term 'person' means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, or political subdivision of a State.

"(d) Notwithstanding sections 3(5), 4(b)(1), and 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5), 653(b)(1), and 668)), the Corporation shall be subject to, and comply with, such Act and all regulations and standards promulgated thereunder in the same manner, and to the same extent, as an employer is subject to such Act. For the purposes of enforcing such Act (including any injunctive relief, administrative order, or civil, administrative, or criminal penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation.

"(e) The Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.) and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall apply to the Corporation. All laborers and mechanics employed on the construction, alteration, or repair of projects funded, in whole or in part, by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with such Act of March 3, 1931. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Corporation is subject to the provisions of section 210 of the Energy Reorganization Act of 1974 to the same extent as an employer subject to such section.

"SEC. 1313. SECURITY.

"Any references to the term 'Commission' or to the Department in sections 161 k., 221 a., and 230 of title I shall be considered to include the Corporation.

"SEC. 1314. CONTROL OF INFORMATION.

"Section 552(d) of title 5, United States Code, shall apply to the Corporation, and the employees of the Corporation shall be considered employees of the Federal Government for the purposes of section 1905 of title 18, United States Code.

"SEC. 1315. TRANSITION.

"For the purpose of continuity of operations, maintenance, and authority, the Department shall detail, for up to 18 months after the date of enactment of this title, appropriate Department personnel as may be required in an acting capacity, until such time as a Board is confirmed and top officers of the Corporation are hired. The Corporation shall reimburse the Department and its contractors for the detail of such personnel.

"SEC. 1316. WORKING CAPITAL ACCOUNT.

"There shall be established within the Corporation a Working Capital Account in which the Corporation may retain all revenue necessary for legitimate business expenses related to carrying out its purposes.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"SEC. 1401. MARKETING AND CONTRACTING AUTHORITY.

"(a) The Corporation shall act as the exclusive marketing agent on behalf of the United States Government for entering into contracts for providing uranium enrichment and related services. The Department may not market uranium enrichment and related services after the date of the enactment of this title.

"(b) All contracts, agreements, and leases with the Department, including all uranium enrichment contracts and power purchase contracts, that have been executed by the Department before the date of enactment of this title and that relate to uranium enrichment and related services shall transfer to the Corporation, except that the rights and responsibilities of the Department under the settlement agreement with the Tennessee Valley Authority, filed on December 18, 1987, with the United States Claims Court, shall not transfer to the Corporation.

"SEC. 1402. PRICING.

"The Corporation shall charge prices to the Department for uranium enrichment services provided under section 1303(9) on a basis that will—

"(1) allow it to recover its costs, on a yearly basis, for providing products, materials, and services, including a proportionate share of depreciation and interest and the costs of decontamination and decommissioning of the Corporation's uranium enrichment facilities; and

"(2) provide for a reasonable profit.

"SEC. 1403. OPTION TO LEASE GASEOUS DIFFUSION FACILITIES OF THE DEPARTMENT.

"(a) The Corporation shall have the exclusive rights to an option to lease the gaseous diffusion uranium enrichment facilities and related property of the Department.

"(b) The Corporation and the Department shall set mutually agreeable terms for a lease under subsection (a), including specifying annual payments to the Department by the Corporation to be made. In setting the level of annual leasing payments, the Department and the Corporation shall take into account—

"(1) the need to maintain a viable Corporation;

"(2) the importance of maximizing revenue to the Treasury; and

"(3) the equitable treatment of utility ratepayers.

"(c) The option to lease under subsection (a) shall not include Department facilities necessary for the production of highly enriched uranium. The Secretary may grant to the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

"(d) The payment of any costs of response actions or corrective actions with respect to conditions existing before the date of enactment of this title, in connection with property of the Department leased under subsection (a), shall remain the sole responsibility of the Department.

"SEC. 1404. AVLIS.

"(a) The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Department. In setting the level of payments under a royalty agreement, the Department and the Corporation shall take into account—

"(1) the need to maintain a viable Corporation;

"(2) the importance of maximizing revenue to the Treasury; and

"(3) the equitable treatment of utility ratepayers.

"(b)(1) As requested by the Corporation, the President shall transfer without charge to the Corporation all of the Department's right, title, or interest in and to property owned by the Department, or by the United States but under control or custody of the Department, which is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS, including—

"(A) facilities, equipment, and materials for research, development and demonstration activities; and

"(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

"(2) Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Department shall not transfer under paragraph (1)(B).

"(3) The President's authority to transfer property under this subsection shall expire upon privatization under section 1603.

"(c) If requested by the Corporation, the Secretary shall provide, on a reimbursable basis, research and development of AVLIS.

"(d) The Corporation may not construct a commercial scale AVLIS production facility or engage in directly related preconstruction activities until after privatization under section 1603.

"(e) This section shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity through AVLIS. Selection of a site for the AVLIS facility shall be made on a competitive basis, taking into consideration economic performance, environmental compatibility, and use of any existing facilities.

"(f) The transfer of property, functions, and responsibilities to the Corporation under this title shall not include the transfer of liability in connection with—

"(1) the Gas Centrifuge Enrichment Project;

"(2) operations of the Department before the date of enactment of this title, including excess capacity operations; or

"(3) associated imputed interest related to paragraph (1) or (2).

"SEC. 1405. ASSETS, INITIAL DEBT, AND DIVIDEND POLICY.

"(a) The Secretary of the Treasury shall promptly transfer to the Corporation, without further appropriation, $364,000,000 in the form of a loan from balances in the Uranium Enrichment Special Fund receipt account. This amount shall be hereinafter in this title referred to as the 'Initial Debt'.

"(b) The Corporation shall pay to the Treasury within a 20-year period the amount of the Initial Debt, with interest on the unpaid balance from the date of transfer under subsection (a) at a rate equal to the average yield on 20-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title.

"(c) Proceeds from the leasing of the gaseous diffusion uranium enrichment facilities and related property under section 1403, royalty payments under section 1404(a), retirement of Initial Debt under subsection (b) of this section, collection of accounts receivable by the Department for its Uranium Enrichment Program as of the date of enactment of this title, dividends received under subsection (e) of this section, and any balance remaining in the Uranium Enrichment Special Fund after the transfer described in subsection (a), shall be paid into the general fund of the Treasury. These payments and the special assessment described under section 1702 shall contribute to recovery of costs under section 161 v. of title I.

"(d) Except as otherwise specifically provided in this title, the Corporation shall receive no appropriations, loans, or other financial assistance from the Federal Government.

"(e) Until privatization occurs under section 1603, the Corporation shall pay as dividends to the Treasury of the United States all net revenues remaining at the end of each fiscal year not required for operating expenses or for deposit into the Working Capital Account established pursuant to section 1316.

"SEC. 1406. PATENTS AND INVENTIONS.

"The Corporation may at any time apply to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when the patent has not been declared to be affected with the public interest under section 153 a. of title I and when use of the patent is within the Corporation's authority. An application shall constitute an application under section 153 c. of title I subject to section 153 c., d., e., f., g., and h. of title I.

"SEC. 1407. LIABILITIES.

"Any judgment entered against the Corporation imposing liability arising out of the operation of the uranium enrichment enterprise before the date of enactment of this title shall be considered a judgment against and shall be payable solely by the Department. With regard to any claim seeking to impose such liability, the United States shall be represented by the Department of Justice.

"SEC. 1408. URANIUM INVENTORIES.

"(a) The Secretary shall transfer to the Corporation without charge all raw and commercial grade enriched uranium inventories of the Department necessary for the fulfillment of contracts transfer under section 1401(b).

"(b) The Secretary, after making the transfer required under subsection (a), shall sell all remaining inventories of raw or commercial grade enriched uranium of the Department, that is not necessary to national security needs, to the Corporation or the private sector at a fair market price. Proceeds from sales under this subsection shall be deposited into the Uranium Enrichment Special Fund described in section 1405(c).

"(c) Within one year after the date of enactment of this title, the Secretary shall submit to Congress a report containing a plan for the conversion of inventories of highly enriched uranium to commercial grade enriched uranium for commercial use. Such plan shall include—

"(1) an estimation of the potential need of the United States for inventories of highly enriched uranium;

"(2) an analysis and summary of technological requirements and costs associated with converting highly enriched uranium to commercial grade enriched uranium, including the construction of facilities if necessary;

"(3) an estimation of potential net proceeds from the conversion and sale of highly enriched uranium; and

"(4) recommendations for implementing a plan to convert highly enriched uranium to commercial grade enriched uranium.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"SEC. 1501. STRATEGIC PLAN FOR PRIVATIZATION.

"(a) Within 120 days after the appointment of the Board under section 1304(b), the Corporation shall prepare a strategic plan for privatization through a competitive offering to the private sector of capital stock representing full ownership in the Corporation. The plan may include—

"(1) an evaluation of market conditions together with a marketing strategy;

"(2) an analysis of enrichment technologies and the potential need for a leasing agreement;

"(3) an identification of predeployment and capital requirements for the commercialization of alternative technologies for uranium enrichment;

"(4) an estimate of potential earnings from the offering of capital stock; and

"(5) a contingency plan for providing enriched uranium and related services in the event that AVLIS deployment is determined not to be economically viable.

"(b) The Corporation shall transmit copies of the strategic plan for privatization to the President and Congress upon completion.

"SEC. 1502. PREDEPLOYMENT ACTIVITIES.

"The Corporation may begin activities necessary to prepare AVLIS for commercialization including—

"(1) completion of preapplication activities with the Nuclear Regulatory Commission;

"(2) preparation of a transition plan to move AVLIS from the laboratory to the marketplace;

"(3) confirmation of technical performance;

"(4) validation of economic projections;

"(5) completion of feasibility and risk studies; and

"(6) initiation of preliminary plant design and engineering.

"SEC. 1503. PRIVATIZATION.

"(a) Pursuant to the strategic plan prepared under section 1501, the Corporation shall prepare and execute a competitive offering to the private sector of capital stock representing full ownership in the Corporation.

"(b) The offering described in subsection (a) shall be made through an open competitive bidding process established by regulation within one year after the date of enactment of this title, and shall, if successful, transfer to the private sector all rights, privileges, and assets of the Corporation.

"(c) The Director of the Office of Management and Budget shall review the strategic plan prepared under section 1501 and shall establish a secret minimum bid acceptable for the privatization of the Corporation under this section, based on the net present value of the Corporation. Privatization shall not occur unless a qualified bidder submits a bid equal to or higher than such minimum bid.

"(d) For purposes of subsection (c), the term 'qualified bidder' means a bidder that is not a foreign government and that meets the requirements of section 1604.

"(e) Privatization shall not occur under this section until after the expiration of 3 months after the submission to Congress by the Comptroller General of a report containing an audit certifying—

"(1) that the sale of the Corporation under a bid considered acceptable will not result in any ongoing obligation or undue cost to the Federal Government; and

"(2) that the purchase price of such bid represents at least the net present value of the Corporation.

The Comptroller General shall submit to Congress a report under this subsection within 3 months after a bid under this section has been accepted.

"(f) Proceeds from the sale of capital stock of the Corporation under this section shall be deposited in the Uranium Enrichment Special Fund described in section 1405(c).

"SEC. 1504. RESTRUCTURING OF CORPORATION AND BOARD.

"(a) Within 120 days after privatization under section 1503, the Corporation shall elect a new Board of Directors, select a new Chief Executive Officer, and propose revisions to its corporate charter.

"(b) At the end of 120 days following privatization under section 1503, chapter 23 of this title shall cease to apply to the Corporation.".

SEC. 902. CONFORMING AMENDMENTS AND REPEALERS.

(a) Section 9101(3) of title 31, United States Code is amended by adding at the end the following:

"(N) the Uranium Enrichment Corporation.".

(b) The Atomic Energy Act of 1954 (41 U.S.C. 2011–2296) is amended as follows:

(1) In section 41 a. (42 U.S.C. 2061(a)) by—

(A) striking "or",

(B) striking "pursuant to under this Act" and inserting "under this title" in its place, and

(C) striking the period at the end and inserting the following in its place: "; or (3) are owned by the Uranium Enrichment Corporation.";

(2) In section 53 c.(1) (42 U.S.C. 2073(c)(1)) by—

(A) striking "grant," and inserting "or grant" in its place; and

(B) striking "or through the provision of production or enrichment services" both places it appears;

(3) In section 161 v. (42 U.S.C. 2201(v)), by striking "(i) prices" and all that follows through "and (iii)" in the first proviso.

(4) In section 161 w. (42 U.S.C. 2201(w)) by striking the comma after "104 b." and inserting the following in its place: ", or for a facility licensed to enrich uranium under section 1602 of title II,".

(5) In section 274 c.(1) (42 U.S.C. 2021(c)(1)) by inserting "or any uranium enrichment facility" before the semicolon at the end.

(c) Section 306 of the Energy and Water Development Appropriation Act, 1988 (Public Law 100-202, 101 Stat. 1329-126) is repealed.

SEC. 903. RESTRICTIONS ON NUCLEAR EXPORTS.

(a) FURTHER RESTRICTIONS.—

(1) IN GENERAL.—Chapter 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 134. FURTHER RESTRICTIONS ON EXPORTS.—

"a. The Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

"(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

"(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

"(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

"b. As used in this section—

"(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

"(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U-235; and

"(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

"(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

"(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.".

(2) CLERICAL AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 11 the following new item:

"Sec. 134. Further restrictions on exports.".

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

(A) their location;

(B) whether they are irradiated;

(C) whether they have been used for the purpose stated in their export license; and

(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

(A) exports of highly enriched uranium to EURATOM; and

(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.

SEC. 904. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

SEC. 905. CITIZEN SUITS.

Any person affected by this title, or the amendments made by this title, shall have standing to sue to enforce its provisions. For purposes of this section, representatives of an established organization representing the interests of taxpayers shall be deemed to be a person affected.

TITLE X—REMEDIAL ACTION AT ACTIVE PROCESSING SITES

SEC. 1001. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the costs described in such subsection as are—

(A) determined by the Secretary to be attributable to byproduct material generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 1002 and, for uranium mill tailings only, shall not exceed an amount equal to $5.50 multiplied by the dry short tons of byproduct material located on the date of the enactment of this title at the site of the activities of such licensee described in subsection (a), and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $40,000,000, and may only be made for off-site disposal subject to the approval of the Governor of the State in which such active thorium site is located.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B), and (C) of this paragraph shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—

(i) DETERMINATION OF EXCESS.—The Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated pursuant to section 1003, when considered with the $5.50 per dry short ton limit on reimbursement, exceeds the amount reimbursable to the licensees under subsection (b)(2).

(ii) IN THE EVENT OF EXCESS.—If the Secretary determines under clause (i) that there is an excess, the Secretary may allow reimbursement in excess of $5.50 per dry short ton on a prorated basis at such sites where the costs reimbursable under subsection (b)(1) exceed the $5.50 per dry short ton limitation described in paragraph (2) of such subsection.

(3) BYPRODUCT LOCATION.—Notwithstanding the requirement of paragraph (2)(A) that byproduct material be located at the site on the date of enactment of this title, byproduct material moved from the site of the Edgemont Mill to a disposal site as the result of the decontamination, decommissioning, reclamation, and other remedial action of such mill shall be eligible for reimbursement to the extent eligible under paragraph (1).

SEC. 1002. REGULATIONS.

Within 180 days of the date of the enactment of this title, the Secretary shall issue regulations governing reimbursement under section 1001. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a request for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such request for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 1001.

SEC. 1003. AUTHORIZATION.

(a) IN GENERAL.—There are authorized to be appropriated for purposes of this title not more than $310,000,000, to be increased annually as provided in section 1001, based upon an inflation index to be determined by the Secretary.

(b) SOURCE.—Funds described in subsection (a) shall be provided from the Fund established under section 1701 of the Atomic Energy Act of 1954.

SEC. 1004. DEFINITIONS.

As used in this title—

(1) the term "active uranium or thorium processing site" means—

(A) any uranium or thorium processing site, including the mill, containing byproduct material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Nuclear Regulatory Commission or by a State as permitted under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) the term "byproduct material" has the meaning given such term in section 11e.(2) of the Atomic Energy Act of 1954, (42 U.S.C. 2014(e)(2)); and

(3) the term "decontamination, decommissioning, reclamation, and other remedial action" means work performed prior to or subsequent to the date of the enactment of this title which is necessary to comply with all applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.), or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

SEC. 1005. URANIUM PURCHASE REPORTS.

(a) REQUIREMENT.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary of Energy, acting through the Administrator of the Energy Information Administration, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) COUNTRY OF ORIGIN.—For the purposes of this section, the term "country of origin" means—

(1) with respect to uranium, that country where the uranium was mined;

(2) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(3) with respect to enrichment services, that country where the enrichment services were performed.

TITLE XI—URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES

SEC. 1101. URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as amended by title IX, is further amended by adding at the end of title II the following:

"CHAPTER 26—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"SEC. 1601. GASEOUS DIFFUSION FACILITIES.

"(a) The Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall, within one year after the date of enactment of this title, establish by regulation such standards as are necessary to govern the gaseous diffusion uranium enrichment facilities of the Department in order to protect the public health and safety, minimize danger to life and property, and prevent releases or substantial threats of releases to the environment. Such regulations shall take effect 6 months after issuance.

"(b)(1) The Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall report at least annually to Congress on the status of health, safety, and environmental conditions at the gaseous diffusion uranium enrichment facilities of the Department.

"(2) Such report shall include a determination regarding whether the gaseous diffusion uranium enrichment facilities of the Department are in compliance with the standards established under subsection (a) and all applicable laws.

"(c)(1) If the Corporation exercises the option to lease the gaseous diffusion uranium enrichment facilities of the Department under section 1403, the Nuclear Regulatory Commission shall establish a certification process to ensure that the Corporation complies with standards established under subsection (a).

"(2) The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1). The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

"(3) The requirement for a certificate of compliance under paragraph (1) shall be in lieu of any requirement for a license for any gaseous diffusion facility of the Department leased by the Corporation.

"(4)(A) The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review the operations of the Corporation with respect to any gaseous diffusion uranium enrichment facilities of the Department leased by the Corporation to ensure that public health and safety are adequately protected.

"(B) The Corporation and the Department shall cooperate fully with the Nuclear Regulatory Commission and the Environmental Protection Agency and shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with the ready access to the facilities, personnel, and information the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection. A contractor operating a Corporation facility for the Corporation shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with ready access to the facilities, personnel, and information of the contractor as the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection.

"(d) The gaseous diffusion uranium enrichment facilities of the Department may not be operated by the Corporation unless the Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, makes a determination of compliance under subsection (b) or approves a plan prepared by the Department for achieving compliance required under subsection (b).

"SEC. 1602. LICENSING OF AVLIS.

"Notwithstanding the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (Public Law 101-575; 104 Stat. 2835), Corporation facilities for the enrichment of uranium using AVLIS shall be subject to licensing in the same manner as production and utilization facilities under sections 103 and 104 b. of title I.

"SEC. 1603. LICENSING OF OTHER TECHNOLOGIES.

"(a) Corporation facilities using alternative technologies for uranium enrichment, other than AVLIS, shall be licensed under sections 53 and 63 of title I.

"(b) The Corporation shall provide for the costs of decontamination and decommissioning of any Corporation facilities described in subsection (a) in accordance with the requirements of the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990.

"SEC. 1604. REGULATION OF RESTRICTED DATA.

"The Corporation shall be subject to this Act with respect to the use of, or access to, Restricted Data to the same extent as any private corporation.

"CHAPTER 27—DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT AND ADMINISTRATION OF FUND.

"(a) There is established in the Treasury of the United States an account to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (referred to in this chapter as the 'Fund'). This account, and any amounts deposited in it, including any interest earned thereon, shall be available to the Secretary subject to appropriations for the exclusive purpose of carrying out this chapter.

"(b)(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) The Secretary of the Treasury shall invest amounts contained within the Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate for what the Department determines to be the needs of the Fund; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to these obligations.

"SEC. 1702. DEPOSITS.

"(a) The Fund shall consist of deposits in the amount of $500,000,000 per fiscal year (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

"(b) Deposits described in subsection (a) shall be from the following sources:

"(1) Sums collected pursuant to subsection (c).

"(2) Appropriations made pursuant to subsection (d).

"(c) The Secretary shall collect a special assessment from domestic utilities. The amount collected from each utility pursuant to this subsection for a fiscal year shall be in the same ratio to the amount required under subsection (a) to be deposited for such fiscal year as the total amount of separative work units such utility has purchased for the purpose of commercial electricity generation, before the date of enactment of this title, bears to the total amount of separative work units purchased from the Department of Energy, for all purposes before the date of enactment of this title. For purposes of this

subsection, a utility shall be considered to have purchased a separative work unit from the Department if such separative work unit was produced by the Department, but purchased by the utility from another source.

"(d) There are authorized to be appropriated to the Fund, for the period encompassing 15 years after the date of enactment of this title, such sums as are necessary to ensure that the amount required under subsection (a) is deposited for each fiscal year.

"(e) The collection of amounts under subsection (c) shall cease after the earlier of—

"(1) 15 years after the date of enactment of this title; or

"(2) the collection of $2,500,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) under such subsection.

"(f) Except as provided in subsection (e), deposits shall continue to be made into the Fund under subsection (d) for the period specified in such subsection.

"SEC. 1703. DEPARTMENT FACILITIES.

"(a) The National Academy of Sciences shall conduct a study and provide recommendations for reducing costs associated with decontamination and decommissioning, and shall report its findings to the Congress within 3 years after the date of enactment of this title. Such report shall include a determination of the decontamination and decommissioning required for each facility, shall identify alternative methods, using different technologies, shall include site-specific surveys of the actual contamination, and shall provide estimated costs of those activities.

"(b) The costs of all decontamination and decommissioning activities of the Department shall be paid from the Fund until such time as the Secretary certifies and the Congress concurs, by law, that such activities are complete.

"SEC. 1704. EMPLOYEE PROVISIONS.

"All laborers and mechanics employed by contractors or subcontractors in the performance of decontamination or decommissioning of uranium enrichment facilities of the Department shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

"SEC. 1705. REPORTS TO CONGRESS.

"Within 3 years after the date of enactment of this title, and once every 3 years thereafter, the Secretary shall report to the Congress on progress under this chapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this title.".

SEC. 1102. TABLE OF CONTENTS.

The table of contents for title II of the Atomic Energy Act of 1954, as added by section 901(a) of this Act, is amended by adding at the end the following:

"CHAPTER 26—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"Sec. 1601. Gaseous diffusion facilities.
"Sec. 1602. Licensing of AVLIS.
"Sec. 1603. Licensing of other technologies.
"Sec. 1604. Regulation of restricted data.

"CHAPTER 27—DECONTAMINATION AND DECOMMISSIONING

"Sec. 1701. Establishment and administration of Fund.
"Sec. 1702. Deposits.
"Sec. 1703. Cost containment.
"Sec. 1704. Employee provisions.
"Sec. 1705. Reports to Congress.

"TITLE I—ATOMIC ENERGY"

TITLE XII—RENEWABLE ENERGY

SEC. 1201. FINDINGS.

The Congress finds that the increased use of renewable energy—

(1) has the potential to meet 50 percent of the energy needs of the United States by the year 2030;

(2) would reduce impacts on human health, air quality, and ecosystems, and reduce the potential for global warming;

(3) would rely on secure domestic resources and improve the balance of trade by reducing energy imports; and

(4) would improve the international competitiveness of the domestic renewable energy industries and of the United States economy in general.

SEC. 1202. PURPOSES.

The purposes of this title are to promote—

(1) the near-term increase in electricity production from renewable energy resources;

(2) the greater use of renewable energy for nonelectricity uses, including liquid fuels;

(3) the further advances of renewable energy technologies; and

(4) exports of United States renewable technologies and services.

SEC. 1203. RENEWABLE ENERGY JOINT VENTURES.

(a) NATIONAL GOALS AND MULTIYEAR FUNDING FOR ALCOHOL FROM BIOMASS.—Section 4(a) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12003(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) ALCOHOL FROM BIOMASS.—(A) In general, the goal of the Alcohol From Biomass Program shall be to advance research and development to a point where alcohol from biomass technology is cost-competitive with conventional hydrocarbon transportation fuels, and to promote the integration of this technology into the transportation fuel sector of the economy.

"(B)(i) Specific goals for producing ethanol from biomass shall be to—

"(I) reduce the cost of alcohol to 70 cents per gallon by 1997;

"(II) improve the overall biomass carbohydrate conversion efficiency to 91 percent by 1997;

"(III) reduce the capital cost component of the cost of alcohol to 23 cents per gallon by 1997; and

"(IV) reduce the operating and maintenance component of the cost of alcohol to 47 cents per gallon by 1997.

"(ii) Specific goals for producing methanol from biomass shall be to—

"(I) reduce the cost of alcohol to 47 cents per gallon by 2000; and

"(II) reduce the capital component of the cost of alcohol to 28 cents per gallon by 1995, and to 16 cents per gallon by 2000.".

(b) JOINT VENTURES.—(1) Section 6(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005(c)) is amended by adding at the end the following new paragraphs:

"(6) DIRECT COMBUSTION OR GASIFICATION OF BIOMASS.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of technologies for the direct combustion or gasification of biomass to generate electricity in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for direct combustion or gasification of biomass, including waste wood, for electric power generation in commercial applications.

"(C) There are authorized to be appropriated to the Secretary $15,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(7) UTILITY-SCALE PHOTOVOLTAIC JOINT VENTURES.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for a utility-scale photovoltaic project of at least 10 megawatts in the aggregate.

"(B) In general, the goals of joint ventures under this paragraph shall include—

"(i) the integration of photovoltaics in transmission and delivery systems;

"(ii) the development of cost-saving adjuncts to utility delivery such as sub-station upgrades, peak power, and large-scale voltage line augmentation; and

"(iii) the incorporation of new photovoltaic innovations into standard utility rate-making practices.

"(C) Joint ventures supported under this paragraph may include participants that are considered to be end-users of the technology such as rural electric cooperatives, public utilities, investor-owned utilities, and independent power producers.

"(D) In selecting joint ventures for support under this paragraph, the Secretary shall consider giving preference to proposals for projects that would be located in States where State law would allow inclusion of the project in the rate base or would otherwise allow for favorable financial regulatory treatment or return on investment.

"(E) There are authorized to be appropriated to the Secretary not to exceed $27,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(8) ALCOHOL FROM CELLULOSIC BIOMASS TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to several joint ventures in order to develop commercial scale alcohol from biomass technology using available biomass feedstocks such as waste paper, agricultural residues, materials contained in industrial waste streams, wood, wood waste, and herbaceous crops. In carrying out this paragraph, the Secretary shall attempt to select projects in different regions of the United States.

"(B) The purpose of joint ventures supported under this paragraph shall be to develop and demonstrate critical enabling technologies and to provide new technologies to industry to improve the efficiency of operations as well as create new industries that have substantial prospects for encouraging energy independence.

"(C) There are authorized to be appropriated to the Secretary $80,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(9) OIL DISPLACEMENT BY SOLAR WATER HEATING.—(A) The Secretary shall solicit proposals for and provide financial assistance for joint venture for the commercialization of solar water heating technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for solar water heating for commercial application in water heating and process heat uses that have substantial prospects for displacing the consumption of oil.

"(C) There are authorized to be appropriated to the Secretary $9,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(10) OIL DISPLACEMENT BY PHOTOVOLTAIC AND WIND ENERGY SYSTEMS.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture each for the commercialization of photovoltaic and wind energy systems, respectively, in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for photovoltaic and wind energy systems for commercial application in electric power generation uses that have substantial prospects for displacing the consumption of oil.

"(C) There are authorized to be appropriated to the Secretary $15,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(11) HIGH TEMPERATURE SUPERCONDUCTING ELECTRICITY TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture to commercialize high temperature superconducting electricity technologies in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to commercialize one or more products, such as motors, generators, transmission lines, transformers, and magnetic energy storage systems, based on high temperature superconducting technologies. Such products shall be of sufficient operational capability to demonstrate the increased energy efficiency of high temperature superconducting technologies in commercial products.

"(C) Such products shall be based on the critical enabling technologies of high temperature superconducting materials and gas-phase cooling systems operating at temperatures above 20 Kelvin (−423F).

"(D) There are authorized to be appropriated to the Secretary not to exceed $15,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(12) OIL DISPLACEMENT BY FUEL CELL TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to joint ventures for the commercialization of fuel cell technology for electric power generation and transportation applications in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells that have substantial prospects for displacing the consumption of oil.

"(C) There are authorized to be appropriated to the Secretary—

"(i) $9,000,000 for the period encompassing fiscal years 1993 through 1995 for electric power generation application; and

"(ii) $9,000,000 for the period encompassing fiscal years 1993 through 1995 for transportation application,

to carry out this paragraph.

"(13) SOURCE REDUCTION TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of source reduction technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the development of source reduction technologies.

"(C) There are authorized to be appropriated to the Secretary $6,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(14) AUTHORIZATIONS DERIVED FROM OTHER FUNDS.—All amounts authorized to be appropriated by paragraphs (6) through (13) shall be derived from sums authorized under section 2111(e) of the Comprehensive National Energy Policy Act.".

(2) Section 6(d)(1) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005(d)(1)) is amended by striking "or (5)" and inserting in lieu thereof "(5), (6), (7), (8), (9), (10), (11), (12), or (13)".

SEC. 1204. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified renewable energy facility during the incentive period, the Secretary of Energy (hereinafter in this title referred to as the "Secretary") shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e). Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—For purposes of this section, a qualified renewable energy facility is a facility which generates electric energy for sale in, or affecting, interstate commerce using solar, wind, biomass, or geothermal energy, except that—

(1) the burning of municipal solid waste shall not be treated as using biomass energy; and

(2) geothermal energy shall not include energy produced from a dry steam geothermal reservoir which has—

(A) no mobile liquid in its natural state;

(B) steam quality of 95 percent water; and

(C) an enthalpy for the total produced fluid greater than or equal to 1200 Btu/lb (British thermal units per pound).

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electricity generated from a qualified renewable energy facility first used during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section.

(d) PAYMENT PERIOD.—A qualified renewable energy facility may receive payments under this section for a 10-fiscal year period. Such period shall begin with the fiscal year in which electricity generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Incentive payments made by the Secretary under this section to the owner or operator of any qualified renewable energy facility shall be based on the number of kilowatt hours of electricity generated by the facility through the use of solar, wind, biomass, or geothermal energy during the payment period referred to in subsection (d). For any facility, the amount of such payment shall be determined in accordance with the following table, adjusted as provided in paragraph (2):

AMOUNT OF INCENTIVE PAYMENT

Fiscal year in which facility is first used	Amount of payment (in dollars/kilowatt hour)
First through fifth years after enactment	$0.025
Sixth year after enactment	$0.022
Seventh year after enactment	$0.019
Eighth year after enactment	$0.016
Ninth year after enactment	$0.013
Tenth year after enactment	$0.01

(2) ADJUSTMENTS.—The amount of the payment made to any person under this subsection as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 1993 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 1993 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any facility after the expiration of the 20-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period.

(g) FACILITIES RECEIVING OTHER ASSISTANCE.—No person shall be eligible to receive a payment under this section for energy generated at a facility for which an energy tax credit was received under the Internal Revenue Code of 1986.

(h) ALLOCATION OF FUNDS.—If funds made available for payments under this section are inadequate in any fiscal year to make the full payments authorized by this section for that year for energy generated by qualified renewable energy facilities, payments shall be made first for energy generated by those facilities which received payments under this section in prior fiscal years before any payments are made to facilities which were not eligible to receive payments in such prior fiscal years.

SEC. 1205. RENEWABLE ENERGY EXPORT TECHNOLOGY TRAINING.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, shall establish a program for the training of individuals from developing countries, at a location or locations in the United States, in the operation and maintenance of renewable energy and energy efficient equipment in accordance with this subsection. The Secretary and the Administrator of the Agency for International Development shall, within one year after the date of enactment of this Act, enter into a written agreement to carry out this program.

(b) PURPOSE.—The purpose of the program established under this section shall be to train individuals, including engineers and other professionals, in the system design, operation, and maintenance of renewable energy and energy efficient equipment manufactured in the United States, including equipment for water pumping, heating and purification, and the production of electric power in remote areas.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $6,000,000 for each of the fiscal years 1994, 1995, and 1996, to carry out this section.

SEC. 1206. AUTHORITY FOR STATES TO UNDERTAKE FEASIBILITY STUDIES.

Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively, and by inserting after paragraph (11) the following new paragraph:

"(12) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;".

SEC. 1207. RENEWABLE ENERGY ADVANCEMENT AWARDS.

(a) AUTHORITY.—The Secretary shall make Renewable Energy Advancement Awards in recognition of developments that advance the practical application of biomass, geothermal, hydroelectric, photovoltaic, solar thermal, ocean thermal, and wind technologies to consumer, utility, or industrial uses, in accordance with this section. Except as provided in subsection (g), Renewal Energy Advancement Awards shall include a cash award.

(b) ADVISORY PANEL.—

(1) APPOINTMENT.—Within 6 months after the date of enactment of this Act, the Secretary shall appoint an advisory panel.

(2) FUNCTIONS.—The advisory panel appointed under paragraph (1) shall—

(A) develop selection criteria under subsection (c); and

(B) make recommendations annually to the Secretary on who should receive an award under this section.

(3) MEMBERSHIP.—The advisory panel shall consist of the Secretary of Commerce and a balanced representation from the scientific, utilities, industrial, financial, environmental, and State energy official communities.

(4) TRAVEL EXPENSES.—Each member of the advisory panel shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) ADMINISTRATIVE ASSISTANCE.—The Secretary shall provide the advisory panel with such staff, office space, and other administrative assistance as it may require.

(c) SELECTION CRITERIA.—The advisory panel appointed under subsection (b) shall develop criteria to be applied in the selection of award recipients under this section. Such criteria shall include the following:

(1) The degree to which the development increases the usefulness of a renewable energy technology.

(2) The degree to which the development will have a significant impact, by benefitting a large number of people, by reducing the costs of an important industrial process or commercial product or service, or otherwise.

(3) The uniqueness and ingenuity of the development.

(4) Whether the application has significant export potential.

(5) The environmental soundness of the development.

(d) SELECTION.—Beginning in fiscal year 1994, and annually thereafter for a period of 10 years, the Secretary shall select 3 to 6 developments described in subsection (a) that are worthy of receiving an award under this section, and shall make such awards. The Secretary shall adopt the recommendations of the advisory panel under subsection (b)(2)(B) unless a recommendation does not conform to the selection criteria developed under subsection (c).

(e) ELIGIBILITY.—Awards may be made under this section only to individuals who are United States nationals or permanent resident aliens, or to non-Federal organizations that are organized under the laws of the United States or the laws of a State of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $50,000 for each of the fiscal years 1994 through 2003 for carrying out this section.

(g) AWARDS MADE IN ABSENCE OF APPROPRIATIONS.—The Secretary shall make honorary awards under this section if sufficient funds are not appropriated for financial awards in any fiscal year.

SEC. 1208. STUDY OF EXPORT PROMOTION PRACTICES.

Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) is amended by adding at the end the following new paragraph:

"(3) The interagency working group, through a subworking group that is chaired by a representative of an agency or department with expertise in foreign trade barriers and that has a member who is a representative of the Department of Energy, shall conduct a study of subsidies, incentives, and policies that other countries use to promote exports of their own renewable energy technologies and products. Such study shall also identify other countries' trade barriers to the import of renewable energy technologies and products produced in the United States. The interagency working group shall report to the appropriate committees of the House of Representatives and the Senate the results of such study within 18 months after the date of enactment of the Comprehensive National Energy Policy Act.".

SEC. 1209. STUDY OF TAX AND RATE TREATMENT OF RENEWABLE ENERGY PROJECTS.

(a) The Secretary, in conjunction with State utility regulators, shall undertake a study to determine if conventional taxation and ratemaking procedures result in an economic bias for or against renewable energy power plants compared to conventional power plants.

(b) Within 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study undertaken under subsection (a).

SEC. 1210. STUDY OF RICE MILLING ENERGY BY-PRODUCT MARKETING.

The Department of Energy shall conduct a study to facilitate the marketing of energy by-products from rice milling.

SEC. 1211. INTERAGENCY WORKING GROUP.

(a) PURPOSES.—Section 256(d)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)(2)) is amended to read as follows:

"(2) The purposes of the interagency working group are—

"(A) to promote the export of renewable energy and energy efficient products and technologies produced in the United States;

"(B) to inform other countries of the benefits of the policies that promote the use of renewable energy and energy efficient technology; and

"(C) to foster rural and urban economic development and energy self-sufficiency through the use of reliable and economical renewable energy and energy efficiency resource technologies.".

(b) DEFINITIONS.—Section 256(g) of such Act (42 U.S.C. 6276(g)) is amended to read as follows:

"(g) For purposes of this section—

"(1) the term 'renewable energy' also includes energy efficiency to the extent it is part of a renewable energy system or technology;

"(2) the term 'developing countries' includes, but is not limited to, Eastern Europe, the successor states of the former Soviet Union, and the Baltic states; and

"(3) the term 'energy efficiency resource' means a resource by which energy is saved through improvements in the efficiency of energy production, transportation, or utilization.".

SEC. 1212. RENEWABLE ENERGY COMMERCIALIZATION.

(a) IN GENERAL.—(1) The Secretary shall, with funds available for such purpose, enter into not less than 10 agreements with private lenders to pay the Federal share of the interest on loans made to qualified borrowers for the purpose of financing the manufacture, construction, or acquisition of equipment that principally utilizes a renewable energy technology.

(2) The Secretary shall enter into such agreements—

(A) indirectly through appropriate State energy offices; or

(B) directly in the case of loans made with respect to equipment for Federal facilities.

(b) FEDERAL SHARE.—The amount of the Federal share of interest on a loan referred to in subsection (a)(1) shall be determined by the Secretary on the basis of—

(1) the need of the borrower for the assistance;

(2) the degree to which financing of the project will assist in the regional diversification and commercialization of renewable energy resources in the United States; and

(3) the achievement of the purposes and goals of this Act.

(c) LOAN TERMS.—The Secretary may enter into an agreement under subsection (a)(1) to pay the Federal share of interest on a loan that—

(1)(A) has a principal amount of at least $250,000 and less than $1,000,000 and a maturity of not less than 15 years; or

(B) has a principal amount of at least $1,000,000, and a maturity of not less than 20 years;

(2) has an interest rate—

(A) of no greater than four percent above the prime rate of lending by certain financial institutions, as determined by the Secretary; or

(B) that the Secretary determines to be reasonable; and

(3) contains such other terms and conditions that the Secretary determines is appropriate.

(d) REPORT.—Not later than two years after the date of enactment of this Act and annually thereafter, the Secretary shall report to the Congress on the projects funded under this section and the progress being made toward accomplishing the purpose of this section.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "qualified borrower" means—

(A) an organization involved in the production or sale, or both, of electricity, thermal energy, or other forms of energy using a renewable energy technology; or

(B) a manufacturer of renewable energy equipment planning to finance improve-

ments in, or expansion of, facilities for the manufacture of renewable energy technologies;

(2) the term "renewable energy technology" means any technology that produces, or uses as its principal energy source, biomass, geothermal, photovoltaic, wind, or solar thermal (including solar water heating and solar industrial process preheat) energy; and

(3) the term "Federal share" means that portion of the interest on a loan financed by a private lender which is paid by the Federal Government under this section.

SEC. 1213. DATA SYSTEM AND ENERGY TECHNOLOGY EVALUATION.

(a) FUNCTIONS OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce, in his or her role as a member of the interagency working group established under section 256 of the Energy Policy and Conservation Act (42 U.S.C. 6276) shall—

(1) develop a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, that will provide information on the specific energy technology needs of developing countries, and the technical and economic competitiveness of various renewable energy and energy efficient technologies;

(2) make such information available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary of Commerce considers necessary; and

(3) prepare and transmit to the Congress by not later than June 1, 1993, and biennially thereafter, a comprehensive report evaluating the full range of energy and environmental technologies necessary to meet the energy needs of developing countries while reducing the generation of carbon dioxide and other greenhouse gases, including—

(A) information on the specific energy needs of developing countries,

(B) an inventory of United States technologies and services to meet those needs,

(C) an update on the status of ongoing bilateral and multilateral programs which promote United States exports of renewable energy and energy efficient technology, and

(D) an evaluation of current programs (and recommendations for future programs) that develop and promote energy efficiency and sustainable use of indigenous renewable energy resources in developing countries to reduce the generation of greenhouse gases that may contribute to global climate change.

SEC. 1214. OUTREACH.

(a) UNITED STATES AND FOREIGN COMMERCIAL SERVICE ACTIVITIES.—The Secretary of Commerce may assign an officer or employee assigned to the United States and Foreign Commercial Service, who is experienced in renewable energy and energy efficient technology, to the offices of the United States and Foreign Commercial Service in the Pacific Rim and in the Caribbean Basin solely for the purpose of providing information concerning renewable energy and energy efficient technologies and industries of the United States to governments, industries, and others outside of the United States.

(b) TRADE MISSIONS.—The Secretary of Commerce may sponsor trade missions to help market renewable energy and energy efficient products in other countries.

(c) ACTIVITIES OF INTERAGENCY GROUP NOT AFFECTED.—Nothing in this section shall affect the activities of the interagency working group established under section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)).

TITLE XIII—COAL

SEC. 1301. COAL RESEARCH AND DEVELOPMENT RELATING TO COMMERCIAL APPLICATION PROGRAM.

(a) ESTABLISHMENT.—(1) The Secretary of Energy (hereinafter in this title (except as provided in section 1314) referred to as the "Secretary"), in consultation with the National Coal Council and other representatives of the public as the Secretary considers appropriate, shall conduct a program of research and development relating to commercial application within the Department of Energy for advanced coal-based technologies with the goals and objectives of—

(A) achieving the control of sulfur oxides, oxides of nitrogen, air toxics, solid and liquid wastes, greenhouse gases, or other emissions resulting from coal use or conversion at levels of proficiency greater than or equal to the most effective applicable currently available commercial technology;

(B) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(C) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels;

(D) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost-sharing participation; and

(E) ensuring the timely commercial application of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from the utilization of coal, and ensuring the availability for commercial use of such technologies by the year 2010.

(2) In selecting projects under this title, other than projects under section 1304, the Secretary shall seek to ensure that, relative to otherwise comparable generating units or products, a selected project will meet one or more of the following requirements:

(A) It will significantly reduce environmental emissions.

(B) It will significantly increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a significantly more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, more effectively meet the requirements in subparagraphs (A), (B), and (C).

(3) In administering the program authorized by this title, the Secretary shall establish accounting and project management controls that will be adequate to—

(A) control the costs of the project;

(B) ensure a high probability of success; and

(C) ensure compliance with this title.

(4)(A) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures and criteria for the recoupment of the Federal share of cost-shared projects authorized pursuant to this title. Such recoupment shall occur within a reasonable period of time following the date of completion of such project, but not longer than 20 years following such date.

(B) For each such project, the Secretary shall negotiate a schedule for recoupment taking into account the effect of recoupment on—

(i) the commercial competitiveness of the entity carrying out the project;

(ii) the profitability of the project; and

(iii) the commercial viability of the clean coal technology utilized.

(b) REPORT.—Within 240 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report which shall include each of the following:

(1) A detailed description of ongoing research and development activities relating to commercial application regarding advanced coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries.

(2) A listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the programs established under this section.

(3) Recommendations regarding the manner in which any ongoing clean coal commercial application program might be modified and extended in order to ensure the timely demonstrations of those advanced coal-based technologies described in subsection (a) of this section so as to ensure that the goals established under this section are achieved and that such demonstrated technologies are available for commercial use by the year 2010.

(4) A detailed plan for conducting the program of research and development relating to commercial application program to achieve the goals and objectives of subsection (a), which plan shall include a description of—

(A) the program elements and management structure to be utilized;

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and

(C) the dates at which further deadlines for additional cost-sharing demonstrations shall be established.

(c) ANNUAL REPORT.—Within 1 year after transmittal of the report described in subsection (b), and annually thereafter for a period of 5 years, the Secretary shall transmit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research and development activities relating to commercial application undertaken to carry out the programs conducted under this section.

(d) DEFINITION.—(1) As used in this title, the terms "advanced coal-based technologies" and "clean coal technologies" mean technologies that the Secretary expects to be commercially viable, within a reasonable period of time, under economic assumptions established by the Energy Information Administration, and—

(A) in the case of replacement, repowering, or new applications, the technologies are—

(i) capable of meeting applicable environmental performance standards for new power plants, or in the case of a repowering or replacement project, such environmental performance standards as would otherwise be applicable; and

(ii) except as provided in paragraph (2)(J), capable of achieving thermal conversion effi-

ciencies equal to or greater than 40 percent, or such higher percentage as the Secretary may require;

(B) in the case of emission control technologies, the technologies are state-of-the-art technologies at achieving the objective stated in subsection (a)(1)(A); and

(C) in the case of coal refining technologies, the technologies are capable of producing energy, fuels, and products which, on a complete energy system basis, will result in environmental emissions no greater than those produced by existing comparable energy systems utilized for the same purpose.

(2) Technologies that the terms defined in this subsection refer to include the following:

(A) Coal refining technologies capable of efficiently producing or utilizing the energy contained in coal and also utilizing the byproducts thereof.

(B) Advanced pressurized fluidized bed combustion technology.

(C) Direct and indirect coal-fired turbines.

(D) Advanced integrated gasification combined cycle.

(E) Magnetohydrodynamics.

(F) Molten carbonate and solid oxide fuel cells.

(G) Emission control technologies.

(H) Cofiring coal with noncoal fuels, including natural gas.

(I) Coalbed methane production and use technologies.

(J) Other coal-based technologies or processes or systems that are capable of achieving thermal conversion efficiencies equal to or greater than 50 percent.

SEC. 1302. COAL EXPORTS.

(a) PLAN.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall submit to the House of Representatives and the Senate, and to the appropriate committees of each House, a plan for expanding exports of coal mined in the United States.

(b) PLAN CONTENTS.—The plan submitted under subsection (a) shall include—

(1) a description of the location, size, and projected growth in potential export markets for coal mined in the United States;

(2) the identification by country of the foreign trade barriers to the export of coal mined in the United States, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and a plan for addressing any such trade barriers;

(4) an evaluation of existing infrastructure in the United States and any new infrastructure requirements in the United States to support an expansion of exports of coal mined in the United States, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) an assessment of environmental implications of coal exports and the identification of export opportunities for blending coal mined in the United States with coal indigenous to other countries to enhance energy efficiency and environmental performance.

SEC. 1303. CLEAN COAL TECHNOLOGY EXPORT PROMOTION AND INTERAGENCY COORDINATION.

(a) INTERAGENCY COORDINATION.—The Secretary of Commerce, in consultation with the Secretary and other appropriate Federal agencies, shall seek to facilitate and expand the export of clean coal technologies. As part of that consultation, the Secretaries shall place a high priority on the export of clean coal technologies to developing countries and countries making the transition from nonmarket to market economies.

(b) CONSULTATION.—In carrying out this section, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall consult with representatives from the United States coal industry, representatives of railroads and other transportation industries, organizations representing workers, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies that are developed, manufactured, or controlled by United States firms, and other appropriate interested members of the public.

(c) DUTIES.—The Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall—

(1) facilitate the establishment of technical training for the consideration, planning, construction, and operation of clean coal technologies by local users and international development personnel;

(2) facilitate the establishment of and, where practicable, cause to be established, consistent with the goals and objectives stated in section 1301(a), within existing departments and agencies financial assistance programs, including grants, loan guarantees, and no interest and low interest loans, to support prefeasibility and feasibility studies for projects that will utilize clean coal technologies and loan guarantee programs, grants, and no interest and low interest loans, designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and execute programs, including the establishment of financial incentives, to encourage and support private sector efforts in exports of clean coal technologies that are developed, manufactured, or controlled by United States firms;

(4) encourage the training and understanding of clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops, and other educational programs sponsored by United States firms;

(5) educate loan officers and other officers of international lending institutions, commercial and energy attaches of the United States, and such other personnel as the Secretary of Commerce, in cooperation with the Secretary and with other appropriate Federal agencies, deems appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technologies;

(6) develop policies and practices to be conducted by commercial and energy attaches of the United States, and such other personnel as the Secretary of Commerce, in cooperation with the Secretary and with other appropriate Federal agencies, deems appropriate, in order to promote the exports of clean coal technologies in those countries interested in or intending to utilize coal resources;

(7) augment budgets for trade and development programs supported by Federal agencies for the purpose of financially supporting prefeasibility or feasibility studies for projects that will utilize clean coal technologies;

(8) review ongoing clean coal technology projects and review and advise Federal agencies on the approval of planned clean coal technology projects, including those project proposals submitted in accordance with the programs authorized by section 1301 of this title, which are sponsored abroad by any Federal Government agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(9) coordinate the activities of the appropriate Federal agencies in order to ensure that Federal clean coal technology export promotion policies are implemented in a timely fashion;

(10) provide for the development of—

(A) an objective comparison of the environmental, energy, and economic performance of each clean coal technology relative to conventional technologies;

(B) a list of United States vendors of clean coal technologies; and

(C) answers to commonly asked questions about clean coal technologies,

and disseminate such information to potential customers abroad; and

(11) undertake such other actions or activities, consistent with existing law and regulations, as, in the judgment of the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, may be necessary to achieve the purposes of this section.

(d) DATA AND INFORMATION.—(1) The Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall be responsible for the development of a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, relating to the availability of clean coal technologies and the potential need for such technologies, particularly in developing countries and countries making the transition from nonmarket to market economies.

(2) The Secretary of Commerce, through a subworking group of an interagency export promotion coordinating committee focusing on clean coal technology exports and chaired by a representative of the Department of Energy, shall provide an assessment of 10 priority foreign markets for the export of clean coal technologies that are developed, manufactured, or controlled by United States firms. Such assessment shall include—

(A) an analysis of the financing requirements for clean coal technology projects and whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions,

(B) the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology projects,

(C) the priority of environmental considerations in the selection of such projects, and

(D) the technical competence of those entities likely to be involved in the planning and operation of such projects.

The Secretary of Commerce, in cooperation with the Secretary, shall make such information available to the House of Representatives and the Senate, and to the appropriate committees of each House of Congress, industry, Federal and international financing organizations, nongovernmental organizations, governments of countries where such clean coal technologies might be used, and such others as the Secretary of Commerce, in cooperation with the Secretary, considers appropriate.

(e) REPORT.—Within 180 days after the Secretary submits the report to the Congress as

required by section 409 of Public Law 101-549, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall provide to the House of Representatives and the Senate, and to the appropriate committees of each House of Congress, a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101-549. As a part of the plan required by this subsection, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of prefeasibility and feasibility studies and projects that would use a clean coal technology in developing countries and countries making the transition from nonmarket to market economies.

SEC. 1304. INNOVATIVE CLEAN COAL AND RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, shall establish a clean coal and renewable energy technology transfer program to carry out the purposes described in subsection (b). The Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this program.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) encourage the export of United States technologies to those countries that have determined a need to construct developmentally sound facilities to provide energy derived from coal or renewable energy resources;

(2) develop markets for United States technologies and, where appropriate, United States coal resources to be utilized in meeting the energy and environmental requirements of other countries;

(3) better ensure that United States participation in energy-related projects in other countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(4) provide for the accelerated utilization of United States technologies that will serve to introduce into other countries United States technologies intended to use coal or renewable energy resources in a cost-effective and environmentally acceptable manner; and

(5) establish a new financial mechanism to increase the involvement by the United States private sector in the financing of energy projects in developing countries and countries making the transition from nonmarket to market economies in cooperation with financing and assistance provided by the United States Government.

(c) PROGRAM REQUIREMENTS.—In order to carry out this section, the Administrator of the Agency for International Development, pursuant to the agreement required by subsection (a), and after consultation with the Trade and Development Program, and, where appropriate, in consultation with the Export-Import Bank of the United States, shall—

(1) support projects, in developing countries and in countries making the transition from nonmarket to market economies, which provide energy, in a cost-effective and environmentally-acceptable manner, using clean coal and renewable energy technology;

(2) select projects for purposes of this section only if such projects use United States technology and, where appropriate, coal resources of the United States;

(3) periodically review energy needs in countries assisted by the Agency for International Development, and explore export opportunities for the development of new energy-related projects in these countries, and keep the Congress informed of the results of these reviews;

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(5) coordinate the activities of all offices within the Agency for International Development, and work with the Agency for International Development country missions, in developing projects for purposes of this section that provide opportunities for United States firms, consistent with the Agency for International Development's primary mission to help these countries with traditional development projects;

(6) select clean coal technology projects for purposes of this section only if such projects use technologies and equipment selected by the Secretary under subsection (d);

(7) select projects for purposes of this section only after consultations with appropriate government officials of a host country, and, as appropriate, with representatives of foreign electric utilities or other foreign entities, to determine the interest in and support for a potential energy project;

(8) receive proposals from United States firms describing clean coal and renewable energy projects which, in the view of such firms, would be projects suitable for support under this section;

(9) pursuant to the agreement required by subsection (a), and after consultation with the Secretary, publish in the Commerce Business Daily a description of each clean coal or renewable energy project identified for support under this section;

(10) within one year after the date of enactment of this Act, and at least annually thereafter, pursuant to the agreement required by subsection (a), and after consultation with the Secretary, issue a request for proposals or an invitation for bids from United States firms for the development, construction, testing, and operation of a project or projects identified in the Commerce Business Daily or establish a procedure under which the host country will issue a request for proposals or invitation for bids from United States firms for the development, construction, testing, and operation of a project or projects identified in the Commerce Business Daily;

(11) ensure that the request for proposals and invitation for bids described in paragraph (10) provides an opportunity for United States firms to propose that such firm, either directly or indirectly, will provide a portion of the cost of the project;

(12) within 120 days after receipt of proposals or bids in response to a solicitation under paragraph (10), select one or more proposals or bids;

(13) in addition to any other considerations the Administrator of the Agency for International Development, in consultation with the Secretary, deems appropriate, make the following considerations in selecting a proposal or bid—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the furnished equipment to be included in the project is manufactured in the United States;

(C) the degree to which the United States firm has proposed to provide a portion of the cost of the project;

(D) the long-term technical and competitive viability of the United States technology, and the ability of the United States firm to compete in the development of additional projects using such technology in the host country and in other countries; and

(E) the extent to which the proposed project meets the objectives stated in section 1301(a); and

(14) ensure that any specific application of a clean coal technology project conforms with the requirements of subsection (d)(2).

(d) SELECTION OF CLEAN COAL TECHNOLOGIES.—(1) Within six months of the date of enactment of this Act and annually thereafter, the Secretary, in consultation with the Administrator of the Agency for International Development , shall prepare a list of United States clean coal technologies eligible to be used in clean coal projects supported by this section.

(2) In developing the list under paragraph (1), the Secretary, in consultation with the Administrator of the Agency for International Development, shall select technologies which will meet one or more of the following requirements:

(A) It will significantly reduce environmental emissions.

(B) It will significantly increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a significantly more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those technologies which, in the judgment of the Secretary, more effectively meet the requirements in subparagraphs (A), (B), and (C).

(e) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary, acting through the Agency for International Development, to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998. Grants or other assistance provided with such funds may be combined with financing offered by private financial entities or other entities.

(f) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(g) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development and consistent with the Agency for International Development procurement guidelines, shall ensure—

(1) the maximum percentage of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment, and

(2) the maximum participation of United States firms.

SEC. 1305. CONVENTIONAL COAL TECHNOLOGY TRANSFER.

If the Secretary, pursuant to the agreement under section 1304(a), determines that

the utilization of a clean coal technology is not practicable for a proposed project and that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the technology being used in a developing country or country making the transition from nonmarket to market economies, with significant indigenous coal resources, such technology shall, for purposes of sections 1303 and 1304, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section. In carrying out this section, the Secretary, pursuant to the agreement under section 1304(a), shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

SEC. 1306. COAL FIRED DIESEL ENGINES.

(a) PROGRAM.—The Secretary shall conduct a program of research and development relating to commercial application for utilizing coal-derived liquid or gaseous fuels, including ultra-clean coal-water slurries, in diesel engines. The program shall address—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) fuel delivery and storage systems requirements; and

(5) other infrastructure required to support commercial deployment.

(b) FUNDING.—The Secretary may provide financial assistance for a project under the program conducted under subsection (a), to the extent the Secretary finds that such project—

(1) offers promise for commercial application; and

(2) will receive at least 50 percent of project funds from non-Federal sources.

(c) JOINT VENTURES.—In carrying out the program conducted under subsection (a), the Secretary may enter into joint ventures to accelerate the development and commercialization of technologies described in subsection (a).

(d) CONSULTATION.—In carrying out research and development activities relating to commercial application under this section, the Secretary shall consult with the private sector.

SEC. 1307. CLEAN COAL, WASTE-TO-ENERGY.

(a) PROGRAM.—The Secretary shall establish a program of research and development relating to commercial application with respect to the use of solid waste combined with coal as a fuel source for clean coal combustion technologies. The program shall address—

(1) the feasibility of cofiring coal and used vehicle tires in fluidized bed combustion units;

(2) the combined gasification of coal and municipal sludge using integrated gasification combined cycle technology;

(3) the creation of fuel pellets combining coal and material reclaimed from solid waste;

(4) the feasibility of cofiring, in fluidized bed combustion units, waste methane from coal mines, including ventilation air, together with coal or coal wastes; and

(5) other sources of waste and coal mixtures in other applications that the Secretary considers appropriate.

(b) FUNDING.—The Secretary may provide financial assistance for a project under the program conducted under subsection (a), to the extent the Secretary finds that such project—

(1) offers promise for commercial application; and

(2) will receive at least 25 percent of project funds from non-Federal sources.

(c) JOINT VENTURES.—In carrying out the program conducted under subsection (a), the Secretary may enter into joint ventures to accelerate the development and commercialization of technologies described in subsection (a).

(d) CONSULTATION.—In carrying out research and development activities relating to commercial application under this section, the Secretary shall consult with the private sector.

SEC. 1308. NONFUEL USE OF COAL.

(a) PLAN.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to the Congress a plan for research and development relating to commercial application with respect to technologies for the nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) JOINT VENTURES.—As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for nonfuel uses of coal.

(c) PLAN CONTENTS.—The plan described in subsection (a) shall address and evaluate—

(1) the known and potential processes for using coal in the creation of products in the chemical, utility, fuel, and carbon-based materials industries;

(2) the costs, benefits, and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of coproduction of products from coal in conjunction with the production of electric power, thermal energy, and fuel;

(4) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(5) the steps that can be taken by the public and private sectors to bring about commercialization of technologies developed under the program recommended; and

(6) the past development, current status, and future potential of coal products and processes associated with nonfuel uses of coal.

(d) CONDUCT OF PROGRAM.—The Secretary shall conduct a program of research and development relating to commercial application under the plan described in subsection (a).

(e) FUNDING.—The Secretary may provide financial assistance for a project under the plan to the extent the Secretary finds that such project—

(1) offers promise for commercial application; and

(2) will receive at least 50 percent of project funds from non-Federal sources.

(f) CONSULTATION.—In preparing the plan and carrying out research and development activities relating to commercial application under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

SEC. 1309. COAL REFINERY PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the National Coal Council and such other representatives of the public and private sectors as the Secretary considers necessary, shall conduct a program of research and development relating to commercial application within the Department of Energy for clean coal technologies that are coal refining technologies which minimize the overall environmental impacts of coal utilization and meet the objectives of section 1301(a)(1). The program shall include technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals, and lignites to produce clean-burning transportation fuels, compliance boiler fuels, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, in conjunction with the generation of electricity or process heat, or the manufacture of a variety of products from coal. The goals of such program shall be the achievement of—

(1) the timely commercial application of technologies, including mild gasification, hydrocracking and other hydropyrolysis processes, and other energy production processes or systems to produce coal-derived fuels and coproducts, which achieve greater efficiency and economy in the conversion of coal to electrical energy and coproducts than currently available technology;

(2) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(3) reduction in the cost of producing such coal-derived fuels and coproducts;

(4) the control of emissions from the combustion of coal-derived fuels; and

(5) the availability for commercial use of such technologies by the year 2000.

(b) REPORT AND PLAN.—Within 120 days after the date of enactment of this Act, the Secretary shall transmit to the Congress a report which shall include—

(1) a detailed description of ongoing research and development activities relating to commercial application regarding coal refining technologies undertaken by the Department of Energy, other Federal or State government departments or agencies, and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals stated in subsection (a); and

(3) a detailed plan for conducting the research and development program relating to commercial application to achieve the goals stated in subsection (a), which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the coal refining technologies included in the plan.

(c) JOINT VENTURES.—Within 1 year after the transmittal of the report described in subsection (b), the Secretary shall solicit proposals from appropriate parties and may

thereafter enter into agreements to conduct joint ventures with such parties to undertake commercial scale demonstration projects of coal refining processes capable of producing boiler fuels, transportation fuels, including oxygenated hydrocarbons, or other useful coal-derived by-products, from high or low sulfur coals or lignites. In designing the solicitation under this subsection, and taking into consideration the goals stated in subsection (a), the Secretary—

(1) shall establish technology classes for the various coal refining processes;

(2) may enter into joint ventures for the construction of not more than one project per technology class, but in no event less than two projects in total;

(3) shall provide that any such joint venture obtain at least 50 percent of its direct costs from non-Federal sources; and

(4) shall require that any project have a reasonable prospect of commencing commercial operation by January 1, 2000.

(d) ANNUAL REPORT.—Within 1 year after the date of enactment of this Act, and annually thereafter for a period of 5 years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of coal refining technologies and the research and development activities relating to commercial application undertaken to carry out the program under this section.

SEC. 1310. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.

(a) DEFINITION.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials.

(b) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal, and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, that may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for action to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in—

(A) bridge and highway construction;

(B) stabilizing wastes;

(C) procurement by departments and agencies of the Federal Government and State and local governments; and

(D) federally funded or federally subsidized procurement by the private sector.

SEC. 1311. CALCULATION OF AVOIDED COST.

Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) requires a State regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98-473 as an incremental cost of alternative electric energy.

SEC. 1312. COALBED METHANE RECOVERY.

(a) STUDY OF BARRIERS.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study of technical, economic, financial, legal, regulatory, institutional, or other barriers to coalbed methane recovery, and of policy options for eliminating such barriers. Within two years after the date of enactment of this Act, the Secretary shall submit a report to the Congress detailing the results of such study.

(b) STUDY OF ENVIRONMENTAL AND SAFETY ASPECTS.—The Secretary, in consultation with the Director of the Bureau of Mines and the Administrator of the Environmental Protection Agency, shall conduct a study of the environmental and safety aspects of flaring coalbed methane liberated from coal mines. Within two years after the date of enactment of this Act, the Secretary shall submit a report to the Congress detailing the results of such study.

(c) INFORMATION DISSEMINATION.—Beginning one year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall disseminate to the public information on state-of-the-art coalbed methane recovery techniques, including information on costs and benefits.

(d) COMMERCIALIZATION PROGRAM.—The Secretary shall establish a coalbed methane recovery commercial application program, which shall include a joint venture program, emphasizing gas enrichment technology, with at least 50 percent of the costs thereof being provided by the private sector. Such program shall address—

(1) gas enrichment technologies for enriching medium-quality methane recovered from coal mines to pipeline quality;

(2) technologies to use mine ventilation air in nearby power generation facilities, including gas turbines, internal combustion engines, or other coal fired powerplants;

(3) technologies for cofiring methane recovered from mines, including methane from ventilation systems and degasification systems, together with coal in conventional or clean coal technology boilers; and

(4) other technologies for producing and using methane from coal mines that the Secretary considers appropriate.

SEC. 1313. COALBED METHANE EMISSION CREDITS.

(a) FINDINGS.—The Congress finds that the recovery of coalbed methane gas in conjunction with coal mining operations will have a beneficial effect in promoting energy efficiency, promoting wise use of energy resources, and reducing greenhouse gas emissions and should, therefore, be encouraged by developing a coalbed methane emissions baseline, and assuring credit for such recovery in the future.

(b) COALBED METHANE REPORTING.—Following promulgation of regulations under subsection (c), any owner or operator of an underground coal mine producing more than 100,000 tons of coal in any calendar year after 1987 may, for such calendar year and any calendar year thereafter in which coal is produced from such mine, report to the Secretary the aggregate annual volume of coalbed methane gas recovered, flared, vented, or otherwise emitted into the environment during that year. Such annual report shall specify the volume of such gas which was flared, used as fuel on site, or sold into a natural gas pipeline.

(c) REGULATIONS.—Within 9 months after the date of enactment of this section, the Secretary, in consultation with the Director of the Bureau of Mines and the Administrator of the Environmental Protection Agency, shall establish by regulation the methods and procedures to be used by persons reporting under subsection (b) to measure the annual volume of coalbed methane gas recovered, flared, vented or otherwise emitted into the environment. To the maximum extent practicable, the Secretary should seek to rely on existing monitoring and estimation methods and procedures (including but not limited to techniques developed for compliance with the Coal Mine Health and Safety Act of 1969) and place priority on selecting techniques which maximize accuracy and minimize the cost to the operator.

(d) CREDITS.—For purposes of any greenhouse gas reduction program under any future law which provides credits for reductions in coalbed methane gas emissions, each person submitting annual reports to the Secretary under subsection (b) regarding the aggregate annual volume of coalbed methane gas recovered, flared, or vented, or otherwise emitted into the environment may receive credits for reductions in coalbed methane gas emissions achieved by such person after calendar year 1987 and reported under subsection (b). No credit for recovery of coalbed methane gas from any coalbed shall be valid until mining commences in such coalbed.

(e) DOE REPORTS.—Using data submitted under this section and data obtained from the Bureau of Mines, the Secretary shall publish annual reports containing the Secretary's estimate for each coal mine of the aggregate annual volume of coalbed methane gas recovered, flared, vented, or otherwise emitted into the environment.

SEC. 1314. OWNERSHIP OF COALBED METHANE.

(a) FEDERAL LANDS AND MINERAL RIGHTS.—In the case of any deposit of coalbed methane where the United States is the owner of the surface estate or where the United States has transferred the surface estate but reserved the subsurface mineral estate, the Secretary of the Interior (hereinafter referred to in this section as the "Secretary") shall act in lieu of the State Board under this section and shall have all powers and authorities necessary to take such action.

(b) AFFECTED STATES.—Not later than 180 days after the date of enactment of this Act, the Secretary, with the participation of the Secretary of Energy, shall publish in the Federal Register a list of States—

(1) in which the Secretary, with the participation of the Secretary of Energy, determines that disputes, uncertainty, or litigation exist, regarding the ownership of coalbed methane gas;

(2) in which the Secretary, with the participation of the Secretary of Energy, determines that development of significant deposits of coalbed methane gas is being impeded by such existing disputes, uncertainty, or litigation regarding ownership of such coalbed methane;

(3) which do not have in effect a statutory or regulatory procedure or existing case law permitting and encouraging the development of coalbed methane gas within that State; and

(4) which do not have extensive development of coalbed methane gas.

The Secretary, with the participation of the Secretary of Energy, shall revise such list of Affected States from time to time. Based on new case law or legislation enacted in the State after the enactment of this Act, any Affected State may petition the Secretary, with the participation of the Secretary of

Energy, for a revision to remove the State from the list. Until the Secretary, with the participation of the Secretary of Energy, publishes a different list, the States of West Virginia, Pennsylvania, Kentucky, Ohio, Tennessee, Indiana, and Illinois shall be the Affected States, effective on the date of the enactment of this Act. States which have current development of coalbed methane gas and shall not be included on the Secretary's list of Affected States are Colorado, Montana, New Mexico, Wyoming, Utah, Virginia, Washington, Mississippi, and Alabama.

(c) STATE AGENCIES FOR AFFECTED STATES.—(1) In order to provide for the expeditious and economical development of deposits of coalbed methane gas in Affected States, within 360 days after a State becomes an Affected State, each such Affected State shall establish or designate one or more State agencies or instrumentalities to administer the provisions of this section. Such agencies or instrumentalities shall hereinafter in this section be referred to as the "State Board" for the Affected State. The State shall authorize the State Board to have such powers and duties and to promulgate such regulations as may be necessary to carry out this section in that State. A person concerned with preserving the integrity of workable coal seams who is knowledgeable in underground coal mining methods and a person knowledgeable in oil and gas development activities shall be appointed to the State Board.

(2) If an Affected State has not established or designated a State Board as provided in this subsection within the 360-day period specified in paragraph (1), the Secretary, with the participation of the Secretary of Energy, shall be treated as the State Board for such State for purposes of this section. In any such case, the Secretary, with the participation of the Secretary of Energy, shall have such powers and duties and shall promulgate such regulations as may be necessary to carry out this section in that State.

(3) In implementing this section, the State Board or the Secretary, with the participation of the Secretary of Energy, as the case may be, shall—

(A) consider existing and future coal mining plans,

(B) preserve the mineability of coal seams, and

(C) provide for the prevention of waste and maximization of recovery of coal and coalbed methane gas in a manner which will protect the rights of all entities owning an interest in such coalbed methane resource.

(d) SPACING.—Except where State law in an Affected State contains existing spacing requirements regarding the minimum distance between coalbed methane wells and the minimum distance of a coalbed methane well from a property line, the State Board for each Affected State shall establish such requirements within 90 days after the date on which the State Board is established or designated.

(e) SPACING UNITS.—Applications to establish spacing units for the drilling and operation of coalbed methane gas wells may be filed by any entity claiming a coalbed methane ownership interest within a proposed spacing unit. Upon receipt and approval of an application, the State Board shall issue an order establishing the boundaries of the coalbed methane spacing unit. Spacing units shall generally be uniform in size.

(f) DEVELOPMENT UNDER POOLING ARRANGEMENT.—Following issuance of an order establishing a spacing unit under subsection (e), and pursuant to an application for pooling filed by the entity claiming a coalbed methane ownership interest and proposing to drill a coalbed methane gas well, the State Board shall hold a hearing to consider the application for pooling and shall, if the criteria of this section are met, issue an order allowing the proposed pooling of acreage within the designated spacing unit for purposes of drilling and production of coalbed methane from the spacing unit. The pooling order shall not be issued before notice or a reasonable and diligent effort to provide notice has been made to each entity which may claim an ownership interest in the coalbed methane gas within such spacing unit and each such entity has been offered an opportunity to appear before the State Board at the hearing. Upon issuance of a pooling order, each owner or claimant of an ownership interest shall be allowed to make one of the following elections:

(1) An election to sell or lease its coalbed methane ownership interest to the unit operator at a rate determined by the State Board as set forth in the pooling order.

(2) An election to become a participating working interest owner by bearing a share of the risks and costs of drilling, completing, equipping, gathering, operating (including all disposal costs), plugging and abandoning the well, and receiving a share of production from the well.

(3) An election to share in the operation of the well as a nonparticipating working interest owner by relinquishing its working interest to participating working interest owners until the proceeds allocable to its share equal 300 percent of the share of such costs allocable to its interest. Thereafter, the nonparticipating working interest owner shall become a participating working interest owner.

The pooling order shall designate a unit operator who shall be authorized to drill and operate the spacing unit. The pooling order shall provide that any entity claiming an ownership interest in the coalbed methane within such spacing unit which does not make an election under the pooling order shall be deemed to have leased its coalbed methane interest to the unit operator under such terms and conditions as the pooling order may provide. No pooling order may be issued under this paragraph for any spacing unit if all entities claiming an ownership interest in the coalbed methane in the spacing unit have entered into a voluntary agreement providing for the drilling and operation of the coalbed methane gas well for the spacing unit.

(g) ESCROW ACCOUNT.—(1) Each pooling order issued under subsection (f) shall provide for the establishment of an escrow account into which the payment of costs and proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants as follows:

(A) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account its proportionate share of the costs allocable to the ownership interest claimed by each such participating working interest owner as set forth in the pooling order issued by the State Board.

(B) The unit operator shall deposit in the escrow account all proceeds attributable to the conflicting interests of lessees, plus all proceeds in excess of ongoing operational expenses (including reasonable overhead costs) attributable to conflicting working interests.

(2) The State Board shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within 30 days of receipt by the State Board of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane gas. Upon such final determination—

(A) each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(B) each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner (as determined by the election of the entity under the applicable pooling order);

(C) each entity leasing (or deemed to have leased) its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds (as set out in the applicable pooling order) attributable to the conflicting interests of lessees; and

(D) the unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner.

The State Board shall enact rules and regulations for the administration and protection of funds delivered to the escrow accounts.

(h) APPROVAL OF STATE BOARD.—No entity may drill any well for the production of coalbed methane gas from a coalbed in an Affected State unless the drilling of such well has been approved by the State Board for that State.

(i) CONSENT OF AFFECTED COAL OPERATOR.—No operator of a coalbed methane well may stimulate a coal seam or known coal bearing geologic strata without the written consent of each entity which is operating, or who at the time of application for a drilling permit, has by virtue of ownership or a coal lease, the right to operate, a coal mine in a coal seam situated—

(1) within a minimum horizontal distance—

(A) of 1,500 feet from the well; or

(B) as determined by the State Board, based on evaluation of the maximum length of fracture producible in the local strata; or

(2) within a minimum vertical distance—

(A) of 200 feet of the known coal bearing geologic strata to be stimulated; or

(B) as determined by the State Board, based on evaluation of the maximum height and depth of fracture producible in the local strata.

The consent required under this subsection shall in no way be deemed to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease in existence as of the effective date of this section between the coalbed methane operator and the coal operator, and the existence of such lease or contractual agreement and any extensions or renewals of such lease shall be deemed to fully meet the requirements of this section.

(j) NOTICE AND OBJECTION.—(1) The State Board shall not approve the drilling of any coalbed methane well unless the unit operator has notified each entity which is operating, or has the right to operate, a coal mine in any portion of the coalbed that would be affected by such well within the distances referred to in subsection (i). Any notified entity may object to the drilling of such well within 30 days after receipt of a notice. Upon receipt of a timely objection to the drilling of any coalbed methane gas well submitted

by a notified entity, the State Board may refuse to approve the drilling of the well based on any of the following:

(A) The proposed activity, due to its proximity to any coal mine opening, shaft, underground workings, or to any proposed extension of the coal mine, would adversely affect any operating, inactive or abandoned coal mine, including any coal mine already surveyed and platted but not yet being operated.

(B) The proposed activity would not conform with a coal operator's development plan for an existing or proposed operation.

(C) There would be an unreasonable interference from the proposed activity with present or future coal mining operations, including the ability to comply with other applicable laws and regulations.

(D) The presence of evidence indicating that the proposed drilling activities would be unsafe, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal.

(E) The proposed activity would unreasonably interfere with the safe recovery of coal, oil and gas.

(2) In the event the State Board does not approve the drilling of a coalbed methane well pursuant to paragraph (1), the State Board shall consider whether such drilling could be approved if the unit operator modifies the proposed activities to take into account any of the following:

(A) The proposed activity could instead be reasonably done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration surface topography.

(B) The proposed activity could instead be moved to a mined-out area, below the coal outcrop or to some other feasible area.

(C) The unit operator agrees to a drilling moratorium of not more than two years in order to permit completion of coal mining operations.

(D) The practicality of locating the proposed spacing unit or well on a uniform pattern with other spacing units or wells.

(k) PLUGGING.—All coalbed methane wells drilled after enactment of this Act that penetrate coal seams with remaining reserves shall provide for subsequent safe mining through the well in accordance with standards prescribed by the State Board for the State in which the well is located, in consultation with any Federal and State agencies having authority over coal mine safety.

(l) NOTICE AND OBJECTION BY OTHER PARTIES.—The State Board shall not approve the drilling of any coalbed methane well unless such well complies with the spacing and other requirements established by the State Board and each of the following:

(1) The unit operator of such well has notified, or has made a reasonable and diligent effort to notify, all entities claiming ownership of coalbed methane to be drained by such well and provided an opportunity to object in accordance with requirements established by the State Board.

(2) Where conflicting interests exist, an order under subsection (f) establishing pooling requirements has been issued.

The notification requirements of this subsection shall be additional to the notification referred to in subsection (j). The State Board shall establish the conditions under which entities claiming ownership of coalbed methane may object to the drilling of a coalbed methane well.

(m) VENTING FOR SAFETY.—Nothing in this section shall be construed to prevent or inhibit the entity which has the right to develop and mine coal in any mine from venting coalbed methane gas to ensure safe mine operations.

(n) DEFINITIONS.—As used in this section—

(1) The term "Affected State" means a State listed by the Secretary, with the participation of the Secretary of Energy, under subsection (b).

(2) The term "coalbed methane gas" means occluded natural gas produced (or which may be produced) from coalbeds and rock strata associated therewith.

(3) The term "unit operator" means the entity designated in a pooling order to develop a spacing unit by the drilling of one or more wells on the unit.

(4) The term "nonparticipating working interest owner" means a gas or oil owner of a tract included in a spacing unit which elects to share in the operation of the well on a carried basis by agreeing to have its proportionate share of the costs allocable to its interest charged against its share of production of the well in accordance with subsection (f)(3).

(5) The term "participating working interest owner" means a gas or oil owner which elects to bear a share of the risks and costs of drilling, completing, equipping, gathering, operating (including any and all disposal costs) plugging, and abandoning a well on a spacing unit and to receive a share of production from the well equal to the proportion which the acreage in the spacing unit it owns or holds under lease bears to the total acreage of the spacing unit.

SEC. 1315. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 1992 through 1998, to conduct no less than 2 additional solicitations similar in scope and amount of Federal costsharing as that provided by Public Law 101-121 for clean coal technology demonstrations to be conducted pursuant to this title.

SEC. 1316. ESTABLISHMENT OF DATA BASE AND STUDY OF TRANSPORTATION RATES.

(a) DATA BASE.—The Secretary shall review the information currently collected by the Federal Government and shall determine whether information on transportation rates for rail and pipeline transport of domestic coal, oil, and gas during the period of January 1, 1988, through December 31, 1997, is reasonably available. If he determines that such information is not reasonably available, the Secretary shall establish a data base containing, to the maximum extent practicable, information on all such rates. The confidentiality of contract rates shall be preserved. To obtain data pertaining to rail contract rates, the Secretary shall acquire such data in aggregate form from the Interstate Commerce Commission, under terms and conditions that maintain the confidentiality of such rates.

(b) STUDY.—The Secretary shall determine the extent to which any agency of the Federal Government is studying the rates and distribution patterns of domestic coal, oil, and gas to determine the impact of the Clean Air Act as amended by the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.", enacted November 15, 1990 (Public Law 101-549), and other Federal policies on such rates and distribution patterns. If the Secretary finds that no such study is underway, or that reports of the results of such study will not be available to the Congress providing the information specified in this subsection and subsection (a) by the dates established in subsection (c), the Secretary shall initiate such a study.

(c) REPORTS TO CONGRESS.—Within one year after the date of enactment of this Act, the Secretary shall report to the Congress on the determination he is required to make under subsection (b). Within three years after the date of enactment of this Act, the Secretary shall submit reports on any data base or study developed under this section. Any such reports shall be updated and resubmitted to the Congress within eight years after such date of enactment. If the Secretary has determined pursuant to subsection (b) that another study or studies will provide all or part of the information called for in this section, the Secretary shall transmit the results of that study by the dates established in this subsection, together with his comments.

(d) CONSULTATION WITH OTHER AGENCIES.—The Secretary shall consult with the Administrator of the Energy Information Administration and the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission in implementing this section.

SEC. 1317. EARLY BANKING OF EMISSIONS CREDITS FOR EFFICIENCY IMPROVEMENTS FROM THE APPLICATION OF CLEAN COAL TECHNOLOGIES.

(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations within 18 months after the date of enactment of this section to establish baseline emissions of carbon dioxide from existing utility sources that apply clean coal technologies. For purposes of the preceding sentence, baseline emissions for sources subject to title IV of the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.", enacted November 15, 1990 (Public Law 101-549), shall be based on data collected pursuant to section 821 of such Act.

(b) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations within 18 months after the date of enactment of this section to establish methodologies to measure efficiency improvements from the application of clean coal technologies to existing utility sources for the purpose of establishing credit for such improvements. Such regulations shall establish criteria to determine the heat rate of the unit, expressed in mmBtus per kilowatt hour, in the baseline year to be determined by the Administrator. Credits for any given year shall be determined as follows:

(1) If the kilowatt hours generated by the unit applying clean coal technology are greater than or equal to the kilowatt hours generated by the unit before such technologies are applied, credits shall be determined by calculating the tons of carbon dioxide emitted in the baseline year and subtracting from that amount the number determined by multiplying the tons of carbon dioxide emitted in the baseline year and the ratio of the heat rate of the unit after application of clean coal technologies to the heat rate of the unit prior to application of such technologies in the baseline year.

(2) If the kilowatt hours generated by the unit applying clean coal technologies in that year are less than the kilowatt hours generated in the baseline year, credits shall be determined by multiplying the tons of carbon dioxide emitted by the unit after application of such technologies and the ratio of the heat rate of the unit prior to application

of such technologies to the heat rate of the unit after application of such technologies and subtracting from that product the tons of carbon dioxide emitted by the unit in that year.

(c) Following the promulgation of regulations under subsections (a) and (b) any utility source may report to the Secretary baseline emissions and credits, including technology transfer incentive credits, for purposes of establishing credit for such efficiency improvements in any greenhouse gas reduction program enacted after the date of enactment of this Act.

SEC. 1318. METALLURGICAL COAL DEVELOPMENT.

(a) The Secretary shall establish a metallurgical coal utilization program (hereinafter in this section referred to as the "program") as provided under this section for the purpose of developing techniques that will lead to the greater and more efficient utilization of the Nation's metallurgical coal resources.

(b) The program referred to in subsection (a) shall include techniques and demonstration projects to facilitate the use of metallurgical coal—

(1) as a boiler fuel for the purpose of generating steam to produce electricity, including blending metallurgical coal with other coals in order to enhance its efficient application as a boiler fuel;

(2) as an ingredient in the manufacturing of steel; and

(3) as a source of pipeline quality coalbed methane.

(c) The Secretary shall take such actions as necessary to facilitate the transfer of technologies developed under this title to the private sector for commercial application.

(d) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

SEC. 1319. UTILIZATION OF COAL WASTES.

(a) COAL WASTE UTILIZATION PROGRAM.—The Secretary shall establish a coal waste utilization experimental program (hereinafter in this section referred to as the "program") as provided under this section for the purpose of developing techniques that will lead to the greater and more efficient utilization of coal from mining and processing wastes. Nothing in this section relates to coal ash.

(b) USE AS BOILER FUEL.—The program referred to in subsection (a) shall include techniques and demonstration projects to facilitate the use of coal from mining and processing wastes as a boiler fuel for the purpose of generating steam to produce electricity.

(c) GRANTS.—As part of the program authorized by this section the Secretary may award grants, or enter into contracts or cooperative agreements with public and private entities.

(d) TECHNOLOGY TRANSFER.—The Secretary shall take such actions as necessary to facilitate the transfer of technologies developed under this title to the private sector for commercial application.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE XIV—STRATEGIC PETROLEUM RESERVE

SEC. 1401. FILL OF THE REFINED PETROLEUM PRODUCT RESERVE.

Section 160(g) of the Energy Policy and Conservation Act (42 U.S.C. 6240(g)) is amended to read as follows:

"(g)(1) Beginning with fiscal year 1993 and continuing until the quantity of refined petroleum product in storage under this subsection is 50,000,000 barrels, the Secretary shall provide that 12 percent by volume of the petroleum product added to the Reserve during any fiscal year shall be refined petroleum product stored in a refined petroleum product reserve or reserves located in Petroleum Administration for Defense District 1A or 1B.

"(2) Through regulations and orders issued under this section, the Secretary shall provide that the refined petroleum product required to be stored in the Reserve under this subsection be limited to refined petroleum product determined to be appropriate by the Secretary.

"(3)(A) In carrying out the program established under this subsection, the Secretary may, using amounts in the Fund established under section 170, provide for the acquisition by lease or purchase of storage facilities.

"(B) In carrying out the program established under this subsection, the Secretary may not construct facilities for the storage of refined petroleum products.

"(4) Refined petroleum products stored under this subsection may be withdrawn from the Reserve—

"(A) as may be necessary to turn such products over because of changes in the physical characteristics of the product; or

"(B) on the basis of a finding made under section 161.".

SEC. 1402. ADDITIONAL AUTHORITY FOR DRAWDOWN.

(a) IN GENERAL.—Section 161(d) of the Energy Policy and Conservation Act (42 U.S.C. 6241(d)) is amended by inserting before the period the following: "or unless the President has found that such implementation would assist in relieving severe economic problems directly related to a significant increase in the price of petroleum product".

(b) CONFORMING AMENDMENTS.—(1) Section 159(e) of the Energy Policy and Conservation Act (42 U.S.C. 6239(e)) is amended by inserting before the period the following: "or to assist in relieving severe economic problems directly related to a significant increase in the price of petroleum product".

(2) Section 173(b)(1) of such Act (42 U.S.C. 6249b(b)(1)) is amended by inserting before the period the following: "or to assist in relieving severe economic problems directly related to a significant increase in the price of petroleum product".

SEC. 1403. INSULAR AREAS STUDY.

The Secretary shall undertake a study of the implications of the unique vulnerabilities of the insular areas associated with the United States to an oil supply disruption. The study shall outline how these insular areas shall gain access to vital oil supplies during times of national emergency. Such study shall be completed within 9 months from the date of enactment of this Act and shall be sent to the Congress.

TITLE XV—OCTANE DISPLAY AND DISCLOSURE

SEC. 1501. CERTIFICATION AND POSTING OF AUTOMOTIVE FUEL RATINGS.

(a) COVERAGE OF ALL LIQUID AUTOMOTIVE FUELS.—Section 201(6) of the Petroleum Marketing Practices Act (15 U.S.C. 2821(6)) is amended to read as follows:

"(6) The term 'automotive fuel' means liquid fuel of a type distributed for use as a fuel in any motor vehicle.".

(b) AUTOMOTIVE FUEL RATING.—Section 201 of such Act (15 U.S.C. 2821) is amended by adding at the end the following new paragraphs:

"(17) The term 'automotive fuel rating' means—

"(A) the octane rating of an automotive spark-ignition engine fuel; and

"(B) if provided for by the Federal Trade Commission by rule, the cetane rating of diesel fuel oils; or

"(C) another form of rating determined by the Federal Trade Commission, after consultation with the American Society for Testing and Materials (ASTM), to be more appropriate to carry out the purposes of this title with respect to the automotive fuel concerned.

"(18)(A) The term 'cetane rating' means a measure, as indicated by a cetane index or cetane number, of the ignition quality of diesel fuel oil and of the influence of the diesel fuel oil on combustion roughness.

"(B) The term 'cetane index' and the term 'cetane number' have the meanings determined in accordance with the test methods set forth in the American Society for Testing and Materials standard test methods—

"(i) designated D976 or D4737 in the case of cetane index; and

"(ii) designated D613 in the case of cetane number,

(as in effect on the date of the enactment of this Act) and shall apply to any grade or type of diesel fuel oils defined in the specification of the American Society for Testing and Materials entitled 'Standard Specification for Diesel Fuel Oils' designated D975 (as in effect on such date).".

(c) CONFORMING AMENDMENTS.—(1) Section 201 of such Act (15 U.S.C. 2821) is amended—

(A) in paragraph (1), by striking out "gasoline" and inserting in lieu thereof "fuel";

(B) in paragraph (2)—

(i) by striking out "Standard Specifications for Automotive Gasoline" and inserting in lieu thereof "Standard Specification for Automotive Spark-Ignition Engine Fuel"; and

(ii) by striking out "D 439" and inserting in lieu thereof "D4814";

(C) in paragraph (4)—

(i) by striking out "gasoline" the first place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'refiner' means any person engaged in the production or importation of automotive fuel.";

(E) in paragraph (11)—

(i) by striking out "octane" each place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(F) in paragraph (16), by striking out "gasoline" each place it appears and inserting in lieu thereof "automotive fuel".

(2) Section 202 of such Act (15 U.S.C. 2822) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (a) and (b), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(C) in subsection (c)—

(i) by striking out "gasoline" each place it appears (other than the second place it appears) and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) in subsection (d), by striking out "octane" and inserting in lieu thereof "automotive fuel";

(E) in subsection (e)—

(i) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(ii) by striking out "gasoline's" and inserting in lieu thereof "fuel's";

(F) in subsections (f), (g), and (h), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(G) in subsection (h), by striking out "octane requirement" each place it appears and inserting in lieu thereof "automotive fuel requirement"; and

(H) in the section heading, by striking out "OCTANE" and inserting in lieu thereof "AUTOMOTIVE FUEL RATING".

(3) Section 203 of such Act (15 U.S.C. 2823) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (b) and (c), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(C) in subsection (c)(3), by striking out "201(1)" and inserting in lieu thereof "201".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective at the end of the one-year period beginning on the date of the enactment of this Act.

(2) The Federal Trade Commission shall, within 270 days after the date of the enactment of this Act, prescribe rules for the purpose of implementing the amendments made in this section.

SEC. 1502. INCREASED AUTHORITY FOR ENFORCEMENT.

(a) STATE LAW.—Section 204 of the Petroleum Marketing Practices Act (15 U.S.C. 2824) is amended to read as follows:

"RELATIONSHIP OF THIS TITLE TO STATE LAW

"SEC. 204. (a) To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

"(b) A State or political subdivision thereof may provide for any investigative or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigative or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).".

(b) FTC ENFORCEMENT.—Section 203(e) of such Act is amended by striking out "; except that" in the second sentence and all that follows through the period and inserting in lieu thereof a period.

(c) EPA ENFORCEMENT.—Section 203(b)(1) of such Act is amended—

(1) in the matter preceding subparagraph (A), by striking out "shall";

(2) in subparagraph (A), by striking out "conduct" and inserting in lieu thereof "may conduct";

(3) in subparagraph (B), by striking out "certify" and inserting in lieu thereof "shall certify";

(4) in subparagraph (C), by striking out "notify" and inserting in lieu thereof "shall notify"; and

(5) in subparagraph (C), by striking out "discovered" and all that follows through "testing".

SEC. 1503. STUDIES.

(a) IN GENERAL.—For the purpose of making the findings, conclusions, and recommendations referred to in subsection (c)—

(1) the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall carry out a study to determine whether, and if so, how, the anti-knock characteristics of nonliquid fuels usable as a fuel for a motor vehicle (as defined in section 201(7) of the Petroleum Marketing Practices Act) can be determined; and

(2) the Federal Trade Commission, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a study—

(A) to determine the need for, and the desirability of, having a uniform national label on devices used to dispense automotive fuel to consumers that would consolidate information required by Federal law to be posted on such devices; and

(B) to determine the nature of such label if it is determined under subparagraph (A) that such a need exists.

(b) IMPLEMENTATION.—(1) In carrying out studies under this section, each agency shall—

(A) publish general notice of each of the studies in the Federal Register; and

(B) give interested parties an opportunity to participate in such studies through submission of written data, views, or arguments.

(2) In carrying out the study to determine the nature of a uniform national label under subsection (a)(2)(B), the Federal Trade Commission shall—

(A) weigh the consumer, environmental, and energy saving benefits of any element of such label against the necessity for a concise, practical, and cost-efficient label; and

(B) consider as a possible element of such label a statement suggesting consumers check the vehicle's owner's manual regarding octane requirements.

(c) REPORTS.—The Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Chairman of the Federal Trade Commission shall transmit to the Congress, within one year after the date of the enactment of this Act, the findings, conclusions, and recommendations made as a result of the studies carried out by such officers under this section, together with a description of the administrative and legislative actions needed to implement such recommendations.

TITLE XVI—GREENHOUSE WARMING—ENERGY IMPLICATIONS

SEC. 1601. INTERAGENCY COORDINATING COUNCIL.

Within 90 days after the date of enactment of this Act, the President shall establish an Interagency Coordinating Council, whose function shall be to coordinate the implementation of this title. Such Council shall be composed of the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, the Secretary of State, the Secretary of the Interior, and representatives of other appropriate Federal agencies.

SEC. 1602. REPORT ON NATIONAL ACADEMY OF SCIENCES RECOMMENDATIONS.

Within 1 year after the date of enactment of this Act, the President shall transmit a report to Congress that includes—

(1) an analysis of the 19 recommendations made in chapter 9 of the 1991 National Academy of Sciences report entitled "Policy Implications of Greenhouse Warming", including an analysis of the social costs and benefits of each such recommendation; and

(2) an assessment of the extent to which the United States is responding, compared with other nations, to such recommendations.

SEC. 1603. ENERGY INVENTORY AND FORECASTS.

(a) INVENTORY.—Within 1 year after the date of enactment of this Act, the Secretary of Energy (hereafter in this title referred to as the "Secretary") shall take inventory of opportunities to expand energy production and to improve the efficiency of energy production, distribution, and use for all fossil, renewable, nuclear, and efficiency options that the Secretary projects will be reliable and commercially available over the next 3 decades. Such inventory shall include—

(1) estimates of both annual and lifecycle costs, including reasonably foreseeable costs of environmental compliance;

(2) energy contributions at various cost thresholds; and

(3) supply and demand side options.

The Secretary shall update such inventory periodically as necessary.

(b) FORECAST ASSUMPTIONS.—In developing forecast assumptions for purposes of this section, the Secretary shall apply consistent standards with respect to—

(1) the specified maturity of the technology;

(2) consideration of market barriers; and

(3) expectations regarding costs over time.

(c) LIFECYCLE COSTS FOR EXISTING FACILITIES.—Estimates of lifecycle costs for existing facilities for purposes of this section shall not include investments already made, shall be based on remaining useful lifetimes, and shall provide for opportunities for plant upgrades and modernizations. All data shall be regularly updated and reviewed.

(d) BASECASE FORECASTS.—Within 1 year after the date of enactment of this Act, the Secretary shall develop basecase forecasts of national energy needs under low and high case assumptions of economic growth that bound the range of plausible outcomes. Such forecasts shall be made for both the short run (5 to 10 years) and the long run (20 to 30 years). Externalities shall not be included in the basecase analysis. Once the basecase forecasts have been constructed and tested, a reasonable representation of demand side efficiency improvements shall be incorporated to reflect growth and the replacement of aging facilities with more modern technologies.

(e) BASECASE COMPARISONS.—Within 1 year after the date of enactment of this Act, the Secretary shall compare alternative scenarios to the basecase developed under subsection (d), including the following:

(1) COST-MINIMIZING SCENARIO, LOW CASE.—Meets United States energy needs under the low forecast at the lowest lifecycle dollar cost.

(2) COST-MINIMIZING SCENARIO, HIGH CASE.—Meets United States energy needs under the high forecast at the lowest lifecycle dollar cost.

(3) COST-MINIMIZING LOW GREENHOUSE GAS EMISSIONS SCENARIO, LOW CASE.—Meets United States energy needs under the low forecast and also meets reduction goals for greenhouse gas emissions at the lowest lifecycle dollar cost.

(4) COST-MINIMIZING LOW GREENHOUSE GAS EMISSIONS SCENARIO, HIGH CASE.—Meets United States energy needs under the high forecast and also meets reduction goals for greenhouse gas emissions at the lowest lifecycle dollar cost.

The Secretary shall update comparisons under this subsection periodically as necessary.

(f) INVENTORY OF UNDEVELOPED OPPORTUNITIES.—Within 1 year after the date of enactment of this Act, the Secretary shall take inventory of United States undeveloped opportunities to expand energy production and to improve the efficiency of energy distribution and use. The Secretary shall update such inventory periodically as necessary.

(g) PUBLIC REVIEW AND COMMENT.—Not later than 90 days before the issuance of an initial inventory, forecast, or comparison under this section, the Secretary shall publish a proposed inventory, forecast, or comparison and provide for public review and comment for a period of at least 30 days. The Secretary shall also provide for public review and comment before the issuance of any update to an inventory, forecast, or comparison under this section.

SEC. 1604. ASSESSMENT OF ALTERNATIVE POLICY MECHANISMS FOR ADDRESSING GREENHOUSE GAS EMISSIONS.

Within 1 year after the date of enactment of this Act, the President shall transmit a report to the Congress containing a comparative assessment of alternative policy mechanisms for reducing greenhouse gas emissions. Such assessment shall, at a minimum, include an analysis, for both the short run (5 to 10 years) and the long run (20 to 30 years) of the social, economic, energy, environmental, and agricultural costs and benefits, and the practicality, of each of the following approaches:

(1) Various systems of emission caps, including caps for all greenhouse gases and all sources of greenhouse gases as well as caps for only carbon dioxide emissions from new major sources.

(2) Federal efficiency or greenhouse gas emission standards, including power plant efficiency standards, industrial process efficiency standards, automobile fuel economy standards, appliance efficiency standards, national building standards, and methane emission standards.

(3) Emissions trading, including—

(A) trading for all greenhouse gases and all greenhouse gas sources;

(B) trading only for specified source categories; and

(C) trading only for carbon dioxide emissions.

SEC. 1605. VOLUNTARY REDUCTIONS OF GREENHOUSE GASES.

(a) ESTABLISHMENT OF SYSTEM.—Within 18 months after the date of enactment of this Act, the Secretary, in consultation with the Interagency Coordinating Council established under section 1601, shall establish by rule a national accounting system for voluntary reductions of greenhouse gases. Such rule shall include—

(1) baseline greenhouse gas emission estimates, calculated, except as provided in subsection (d), as an annual average over the period of 1986 through 1990;

(2) opportunities for entities to receive official certification of net greenhouse gas emission reductions relative to the baseline for purposes of receiving credit against any future Federal requirements that may apply to greenhouse gas emissions;

(3) the establishment of equivalency measures for reductions applicable to different greenhouse gases, taking into account differential radiative activity and atmospheric lifetimes, or applicable to different time periods;

(4) accounting of any net reductions in greenhouse gas emissions achieved in other countries by United States entities;

(5) provisions to ensure that no emissions reduction be credited more than once;

(6) provisions to ensure that an entity's baseline includes all greenhouse gas emissions from all sources under the control of such entity;

(7) annual certification, only after the greenhouse gas reduction or the greenhouse gas fixation has occurred;

(8) provisions that ensure that reductions of greenhouse gas emissions which are specifically required under this title, or any other Federal law in effect as of the date of enactment of this Act, shall not be certified;

(9) provisions which permit a person to file with the Secretary for verification such documentation as the Secretary considers appropriate for the certification of greenhouse gas emission reductions generated by such person;

(10) a requirement for a report to be published by the Secretary annually describing the amount of greenhouse gas emission reductions certified in each calendar year; and

(11) authorization and guidelines for a State agency to certify greenhouse gas emission reductions if the person providing such reductions establishes to the satisfaction of such State agency that such reductions comply with the requirements of this section, with the Secretary having, for a 90-day period following the receipt of such certification, the authority to review such State certification prior to registration in the National Greenhouse Gas Reduction Registry established under subsection (f).

(b) VOLUNTARY REDUCTIONS TO RECEIVE CREDIT.—At a minimum, the rule issued under subsection (a) shall provide for the certification of voluntary greenhouse gas emission reductions, relative to the baseline, through—

(1) fuel-switching to fuels which produce less greenhouse gas emissions from major sources;

(2) carbon fixation through planting new forests, improving forest management practices, preserving old growth forests, or planting other vegetation, but not for cutting and replanting old growth forests;

(3) the manufacture of vehicles with reduced greenhouse gas emissions, based on the statistically expected lifetime and use of the vehicles sold;

(4) the manufacture of appliances with improved efficiency, based on the statistically expected lifetime and use of the appliances sold;

(5) energy conservation measures, other than those which are exclusively information or educational in nature, and other than appliance efficiency improvements certified under paragraph (4);

(6) methane recovery from municipal landfills, wastewater treatment facilities, and sewage sludge facilities;

(7) greenhouse gas emission reductions attributable solely to the construction or operation of cogeneration facilities that replace existing industrial boilers or other thermal power produced by cogeneration;

(8) the manufacture of dedicated alternative fueled vehicles which only use fuels which, on a life cycle basis, produce fewer greenhouse gas emissions than gasoline;

(9) greenhouse gas emission reductions attributable solely to powerplant heat rate improvements through the repowering or replacement of an existing powerplant;

(10) greenhouse gas emission reductions attributable solely to replacement of specific, identifiable, existing utility sources with renewable energy sources, under the meaning of title VII of this Act;

(11) the capture and destruction of chlorofluorocarbons in the United States and other nations; and

(12) such other actions and methods as the Secretary determines would result in net greenhouse gas emission reductions.

(c) FUEL-SWITCHING RULES.—For purposes of applying subsection (b)(1), the rule issued under subsection (a) shall establish procedures for calculating fuel use, in mmBtus, and the number of pounds of greenhouse gases emitted per mmBtu for the fuel or, in the case of a mix of fuels, the weighted average amount of greenhouse gases emitted per mmBtu. For purposes of determining the amount of greenhouse gases emitted per mmBtu for each fuel or mix of fuels, such rule shall take into account the application of technological controls which reduce the amount of greenhouse gases emitted from the combustion of such fuels. Greenhouse gas emission reductions may be certified under this section only for reductions measured by—

(1) calculating the difference between the number of pounds of greenhouse gases per mmBtu of the fuel or, in the case of a mix of fuels, the weighted average of the greenhouse gases amount of per mmBtu, in the baseline period and in the year in which the switch occurs; and

(2) multiplying the amount calculated under paragraph (1) by the total number of mmBtus consumed by the source in the year in which the switch occurs.

(d) BASE PERIOD.—For purposes of certifications under subsection (b)(2), the base period for calculations shall be the 30-year period immediately preceding the date of enactment of this Act.

(e) SEPARATE CERTIFICATION RULES.—The rule issued under subsection (a) shall separately provide for certification rules with respect to each of the 4 types of carbon fixation referred to in subsection (b)(2).

(f) NATIONAL GREENHOUSE GAS REDUCTION REGISTRY.—The rule issued under subsection (a) shall create a National Greenhouse Reduction Registry for the purpose of tracking greenhouse gas emission reductions. At a minimum, such rule shall require the identification of persons who have obtained certification of greenhouse gas emission reductions under this section, their addresses, amounts reduced and the source of the greenhouse gas emission reductions.

SEC. 1606. INTERNATIONAL ENERGY TECHNOLOGY TRANSFER.

(a) IN GENERAL.—The Secretary of Commerce, in cooperation with the Secretary and with other appropriate Federal agencies, shall facilitate and expand exports of domestic energy technologies which could substantially reduce greenhouse gases and other environmental pollutants, and increase energy efficiency in other countries.

(b) DUTIES.—The Secretary of Commerce, in cooperation with the Secretary and with other appropriate Federal agencies, shall—

(1) coordinate the establishment, within existing Federal departments and agencies, of technical and financial assistance programs, including grants, loan guarantees, no interest and low interest loans, and cooperative agreements, to support the reduction of greenhouse gases through exports of domestic energy technology;

(2) coordinate, using the National Trade Data Bank and Commercial Information Management System, the development of a comprehensive interagency data base and information dissemination system with respect to the availability, efficacy, and cost effectiveness of energy technologies to substantially reduce greenhouse gases; and

(3) report to the House of Representatives and the Senate and to appropriate commit-

tees of each House annually on actions taken to implement this section.

(d) FEDERAL PROGRAM.—(1) The Secretary, through the Agency for International Development, shall establish a program to support the reduction of greenhouse gases through the export of domestic energy technology. The Secretary and the Administrator of the Agency for International Development shall enter into a formal agreement to carry out this program.

(2) In order to carry out this section, the Administrator of the Agency for International Development, pursuant to the agreement under paragraph (1), and after consultation with the Trade and Development Program, and, where appropriate, in consultation with the Export-Import Bank of the United States, shall—

(A) support projects, in developing countries and in countries making the transition from nonmarket to market economies, which provide energy, in a cost-effective and environmentally acceptable manner, using technology which reduces greenhouse gases;

(B) select projects for purposes of this section only if such projects use United States technology and, where appropriate, coal resources of the United States;

(C) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(D) coordinate the activities of all offices within the Agency for International Development, and work with the Agency's country missions, in developing projects for purposes of this section that provide opportunities for United States firms consistent with the Agency's primary mission to help these countries with traditional development projects;

(E) select a project only if the energy technology to which the project applies is the most cost effective technological alternative, or equal to the most cost effective alternative, on the basis of life cycle cost per unit of energy produced, for substantially reducing greenhouse gases and other environmental pollutants, and increasing energy efficiency, in the country to which the energy technology is proposed to be transferred;

(F) select a project only if appropriate accounting and project management controls will be adequate to—

(i) control the costs of the project;

(ii) ensure a high probability of success; and

(iii) ensure compliance with this section;

(G) select a project only if the project would result in a significant reduction in greenhouse gases compared to the greenhouse gases that would otherwise have been produced;

(H) in selecting projects, consider the degree to which the United States firm has proposed to provide a portion of the cost of the project.

(2) Within six months of the date of enactment of this Act and annually thereafter, the Secretary of Energy, in consultation with the Administrator of Agency for International Development, will prepare a list of eligible technologies under this subsection. In preparing such list, the Secretary shall consider fuel cell powerplants, aeroderivative gas turbines and catalytic combustion technologies for aeroderivative gas turbines; ocean thermal energy conversion technology, or anaerobic digester and storage tanks, and other technologies.

(3) The Secretary, through the Agency for International Development, and consistent with the Agency for International Development procurement guidelines, shall ensure—

(A) that the maximum percentage of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the United States manufactured components of such equipment; and

(B) the maximum participation of United States firms.

(4) There are authorized to be appropriated to the Secretary, through the Agency for International Development, for carrying out this subsection $50,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1607. GLOBAL CLIMATE CHANGE RESPONSE FUND.

(a) ESTABLISHMENT OF THE FUND.—The Secretary of the Treasury shall establish a fund in the United States Treasury known as a "Global Climate Change Response Fund" which shall act as a mechanism for United States contributions to assist global efforts in adapting and responding to climate change.

(b) DEPOSITS TO THE FUND.—(1) Subject to paragraph (2), the Secretary of the Interior shall deposit 10 percent of all royalties received under the Outer Continental Shelf Lands Act into the Global Climate Change Response Fund. Nothing in this paragraph shall reduce any amounts required to be credited to the Land and Water Conservation Fund, pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 4601-11), to the Historic Preservation Fund, pursuant to the Historic Preservation Act (16 U.S.C. 470h), or distributed to coastal States under section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(2) No deposits to the Global Climate Change Response Fund shall be made until—

(A) the United States has signed the Framework Convention on Climate Change; and

(B) the United States has ratified that Convention.

(c) USE OF THE FUND.—Moneys deposited into the Fund shall be used, to the extent provided in appropriations Acts, by the President only to make contributions to any agreed-upon financial mechanism pursuant to the United Nations Framework Convention on Climate Change, including any protocol or agreement related thereto.

(d) TERMINATION.—This section shall cease to apply on September 30, 2003.

TITLE XVII—ADDITIONAL FEDERAL POWER ACT AMENDMENTS

SEC. 1701. ADDITIONAL FEDERAL POWER ACT AMENDMENTS.

(a) ANNUAL CHARGES FOR COSTS.—(1) Section 10(e)(1) of the Federal Power Act is amended by striking the semicolon after "Part" and inserting the following: ", including any reasonable costs incurred by fish and wildlife agencies and other natural and cultural resource agencies in connection with studies or other reviews carried out by such agencies for purposes of administering their responsibilities under this part;".

(2) Section 10(e)(1) is further amended by inserting after "as conditions may require:" the following proviso: "*Provided*, That, subject to annual appropriations Acts, the portion of such annual charges imposed by the Commission under this subsection to cover the reasonable costs of such agencies shall be available to such agencies (in addition to other funds appropriated for such purposes) solely for carrying out such studies and reviews and shall remain available until expended:".

(b) CLARIFICATION OF AUTHORITY REGARDING FISHWAYS.—Section 18 of the Federal Power Act is amended by adding the following after the first sentence thereof: "The term 'fishway' as defined by regulation by the Commission under this section shall not be construed to limit in any way the authority of the Secretary of Commerce or the Secretary of the Interior under this section to continue to prescribe fish passage downstream and upstream and the scope thereof for any migratory or nonmigratory fish. Within 1 year after the enactment of this sentence, the Commission shall, in administering this section, review the regulatory definition of fishway and, in consultation with such Secretaries, revise such definition to assure that no such limitation exists.".

(c) EXTENSION OF DEADLINE.—Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 4031 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

(d) EXTENSION OF DEADLINE.—Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 6221 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project until July 29, 1995.

TITLE XVIII—OIL PIPELINE REGULATORY REFORM

SEC. 1801. OIL PIPELINE RATEMAKING METHODOLOGY.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall issue a final rule which establishes a simplified and generally applicable ratemaking methodology for oil pipelines in accordance with section 1(5) of part I of the Interstate Commerce Act.

(b) EFFECTIVE DATE.—The final rule to be issued under subsection (a) may not take effect before the 365th day following the date of the issuance of the rule.

SEC. 1802. STREAMLINING OF COMMISSION PROCEDURES.

(a) RULEMAKING.—Not later than 18 months after the date of the enactment of this Act, the Commission shall issue a final rule to streamline procedures of the Commission relating to oil pipeline rates in order to avoid unnecessary regulatory costs and delays.

(b) SCOPE OF RULEMAKING.—Issues to be considered in the rulemaking preceding to be conducted under subsection (a) shall include the following:

(1) Identification of information to be filed with an oil pipeline tariff and the availability to the public of any analysis of such tariff filing performed by the Commission or its staff.

(2) Qualification for standing (including definitions of economic interest) of parties who protest oil pipeline tariff filings or file complaints thereto.

(3) The level of specificity required for a protest or complaint and guidelines for Commission action on the portion of the tariff or rate filing subject to protest or complaint.

(4) An opportunity for the oil pipeline to file a response for the record to an initial protest or complaint.

(5) Identification of specific circumstances under which Commission staff may initiate a protest.

(c) ADDITIONAL PROCEDURAL CHANGES.—In conducting the rulemaking proceeding to carry out subsection (a), the Commission shall identify and transmit to Congress any other procedural changes relating to oil pipeline rates which the Commission determines are necessary to avoid unnecessary regulatory costs and delays and for which additional legislative authority may be necessary.

(d) WITHDRAWAL OF TARIFFS AND COMPLAINTS.—

(1) WITHDRAWAL OF TARIFFS.—If an oil pipeline tariff which is filed under part I of the Interstate Commerce Act and which is subject to investigation is withdrawn—

(A) any proceeding with respect to such tariff shall be terminated;

(B) the previous tariff rate shall be reinstated; and

(C) any amounts collected under the withdrawn tariff rate which are in excess of the previous tariff rate shall be refunded.

(2) WITHDRAWAL OF COMPLAINTS.—If a complaint which is filed under section 13 of the Interstate Commerce Act with respect to an oil pipeline tariff is withdrawn, any proceeding with respect to such tariff shall be terminated.

(e) ALTERNATIVE DISPUTE RESOLUTION.—To the maximum extent practicable, the Commission shall establish appropriate alternative dispute resolution procedures, including required negotiations and voluntary arbitration, early in an oil pipeline rate proceeding as a preferred method to adjudication in resolving disputes relating to the rate. Any proposed rates derived from implementation of such procedures shall be considered by the Commission on an expedited basis for approval.

SEC. 1803. PROTECTION OF CERTAIN EXISTING RATES.

(a) RATES DEEMED JUST AND REASONABLE.—Except as provided in subsection (b)—

(1) any rate in effect for the 365-day period ending on the date of the enactment of this Act shall be deemed to be just and reasonable (within the meaning of section 1(5) of the Interstate Commerce Act); and

(2) any rate in effect on the 365th day preceding the date of such enactment shall be deemed to be just and reasonable (within the meaning of such section 1(5)) regardless of whether or not, with respect to such rate, a new rate has been filed with the Commission during such 365-day period;

if the rate so in effect has not been subject to protest, investigation, or complaint during such 365-day period.

(b) CHANGED CIRCUMSTANCES.—No person may file a complaint under section 13 of the Interstate Commerce Act against a rate deemed to be just and reasonable under subsection (a) unless evidence is presented to the Commission which establishes that a substantial change has occurred after the date of the enactment of this Act—

(1) in the economic circumstances of the oil pipeline which were a basis for the rate; or

(2) in the nature of the services provided which were a basis for the rate.

If the Commission determines pursuant to a proceeding instituted as a result of such complaint that the rate is not just and reasonable, the rate shall not be deemed to be just and reasonable. Any tariff reduction or refunds that may result as an outcome of such a complaint shall be prospective from the date of the filing of the complaint.

(c) LIMITATION REGARDING UNDULY DISCRIMINATORY OR PREFERENTIAL TARIFFS.—Nothing in this section shall prohibit any aggrieved person from filing a complaint under section 13 or section 15(1) of the Interstate Commerce Act challenging any tariff provision as unduly discriminatory or unduly preferential.

SEC. 1804. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission and, unless the context requires otherwise, includes the Oil Pipeline Board and any other office or component of the Commission to which the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)) are delegated.

(2) OIL PIPELINE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "oil pipeline" means any common carrier (within the meaning of the Interstate Commerce Act) which transports oil by pipeline subject to the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(B) EXCEPTION.—The term "oil pipeline" does not include the Trans-Alaska Pipeline authorized by the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) or any pipeline delivering oil directly or indirectly to the Trans-Alaska Pipeline.

(3) OIL.—The term "oil" has the same meaning as is given such term for purposes of the transfer of functions from the Interstate Commerce Commission to the Federal Energy Regulatory Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(4) RATE.—The term "rate" means all charges that an oil pipeline requires shippers to pay for transportation services.

[TITLE XIX—REVENUE PROVISIONS

[SEC. 1901. AMENDMENT OF 1986 CODE.

[Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

[Subtitle A—Energy Conservation and Production Incentives

[SEC. 1911. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

[(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

["(5) qualified transportation fringe."

[(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

["(f) QUALIFIED TRANSPORTATION FRINGE.—

["(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

["(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

["(B) Any transit pass.

["(C) Qualified parking.

["(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

["(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

["(B) $160 per month in the case of qualified parking.

["(3) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

["(4) DEFINITIONS.—For purposes of this subsection—

["(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

["(i) on mass transit facilities (whether or not publicly owned), or

["(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

["(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

["(i) the seating capacity of which is at least 6 adults (not including the driver), and

["(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

["(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

["(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

["(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

["(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

["(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

["(5) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

["(A) such dollar amount, multiplied by

["(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $1, such increase shall be rounded to the next lowest multiple of $1.

["(6) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

[(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

[SEC. 1912. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY REGULATED PUBLIC UTILITIES.

[(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

["SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY REGULATED PUBLIC UTILITIES.

["(a) EXCLUSION.—

["(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided by a regulated public utility to a customer for the purchase or installation of any energy conservation measure.

["(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(C), only 65 percent of such subsidy shall be excluded from gross income under paragraph (1).

["(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

["(c) ENERGY CONSERVATION MEASURE.—

["(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means—

["(A) any residential energy conservation measure with respect to a dwelling unit,

["(B) any commercial energy conservation measure with respect to dwelling units in a building containing 5 or more dwelling units, and

["(C) in the case of subsidies provided on or after January 1, 1994—

["(i) any commercial energy conservation measure with respect to property other than dwelling units, and

["(ii) any specially defined energy property.

["(2) OTHER DEFINITIONS.—For purposes of this subsection—

["(A) RESIDENTIAL ENERGY CONSERVATION MEASURE.—The term 'residential energy conservation measure' has the meaning given to such term by section 210(11) of the National Energy Conservation Policy Act (as in effect on the date of the enactment of this section).

["(B) COMMERCIAL ENERGY CONSERVATION MEASURE.—The term 'commercial energy conservation measure' means any installation or modification primarily designed to reduce the consumption of petroleum, natural gas, or electricity. Such term includes the items referred to in any subparagraph of section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986).

["(C) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' has the meaning given to such term by section 48(1)(5) of this title (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

["(D) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

["(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

[(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

["Sec. 136. Energy conservation subsidies provided by regulated public utilities.

["Sec. 137. Cross reference to other Acts."

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

[SEC. 1913. DEDUCTIONS RELATING TO CLEAN-FUEL VEHICLES.

[(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

["SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

["(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the cost of—

["(1) any qualified clean-fuel vehicle property, and

["(2) any qualified clean-fuel vehicle refueling property.

[The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

["(b) LIMITATIONS.—

["(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

["(A) IN GENERAL.—The cost which may be taken into account under subsection (a) with respect to any motor vehicle shall not exceed—

["(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

["(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

["(iii) $50,000 in the case of—

["(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

["(II) any bus which has a seating capacity of at least 20 adults (not including the driver).

["(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

["(i) 25 percent in the case of property placed in service in calendar year 2002,

["(ii) 50 percent in the case of property placed in service in calendar year 2003, and

["(iii) 75 percent in the case of property placed in service in calendar year 2004.

["(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

["(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

["(i) $100,000, over

["(ii) the aggregate amount taken into account under subsection (a) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

["(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

["(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a).

["(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

["(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

["(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel, but only to the extent such property is—

["(i) an engine (or modification thereof) which may use a clean-burning fuel, or

["(ii) used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

["(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel, but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which may use such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

["(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

["(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

["(B) in the case of property described in paragraph (1)(A), such property meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

["(3) ONLY INCREMENTAL COST TAKEN INTO ACCOUNT.—If a vehicle may be propelled by both a clean-burning fuel and any other fuel, only the incremental cost of permitting the use of the clean-burning fuel shall be taken into account.

["(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

["(1) such property is of a character subject to the allowance for depreciation,

["(2) the original use of such property begins with the taxpayer, and

["(3) such property is for the storage or dispensing of a clean-burning fuel (not including electricity) into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle.

["(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

["(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

["(A) natural gas,

["(B) liquefied natural gas,

["(C) liquefied petroleum gas,

["(D) hydrogen,

["(E) electricity, and

["(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

["(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

["(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

["(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

["(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction 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.

["(6) BASIS REDUCTION.—

["(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

["(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

["(f) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

[(b) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

["(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

[(c) CONFORMING AMENDMENTS.—

[(1) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

["(25) to the extent provided in section 179A(e)(6)(A)."

[(2) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

["Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

[SEC. 1914. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

[(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

["SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

["(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

["(1) 1.5 cents, multiplied by

["(2) the kilowatt hours of electricity—

["(A) produced by the taxpayer—

["(i) from qualified energy resources, and

["(ii) at a qualified facility during the 10-year period beginning on the date the facility was placed in service, and

["(B) sold by the taxpayer to an unrelated person during the taxable year.

["(b) LIMITATIONS AND ADJUSTMENTS.—

["(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

["(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

["(B) 3 cents.

["(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

["(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

["(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

["(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

["(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103, and

["(iii) the aggregate amount of subsidized energy financing under a Federal, State, or local program provided in connection with the project, and

["(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

["(c) DEFINITIONS.—For purposes of this section—

["(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

["(A) wind, and

["(B) closed-loop biomass.

["(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

["(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility originally placed in service by the taxpayer after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

["(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

["(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

["(A) the United States (within the meaning of section 638(1)), or

["(B) a possession of the United States (within the meaning of section 638(2)).

["(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

["(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for the preceding calendar year in accordance with this paragraph.

["(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for the calendar year 1992. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

["(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States.

["(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective interests in the gross sales from such facility.

["(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

["(5) 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."

[(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

["(8) the renewable electricity production credit under section 45(a)."

[(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act

of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

[''(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993.''

[(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

['' Sec. 45. Electricity produced from certain renewable resources.''

[(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

[SEC. 1915. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

[(a) DEPLETION.—

[(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: ''Effective with respect to taxable years beginning after December 31, 1992, and before January 1, 1998, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).''.

[(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

[''(F) DEPLETION.—

[''(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

[''(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, and before January 1, 1998, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c).''

[(b) INTANGIBLE DRILLING COSTS.—

[(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

[''(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—

[''(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, and before January 1, 1998, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

[''(ii) LIMITATION ON AGGREGATE BENEFIT.—The aggregate reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under subsection (a)(4).''

[(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: ''In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992, and before January 1, 1998.''.

[(c) CONFORMING AMENDMENTS.—

[(1) Subsection (h) of section 56 is amended by adding at the end thereof the following new paragraph:

[''(9) SUSPENSION.—No deduction shall be allowed under this subsection for any taxable year beginning after December 31, 1992, and before January 1, 1998.''

[(2) Clause (ii) of section 59(a)(2)(A) is amended by striking ''and the'' and inserting '', section 57(a)(2)(E), and the''.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

[SEC. 1916. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

[(a) IN GENERAL.—Subparagraph (B) of section 4681(b)(1) (relating to amount of tax) is amended to read as follows:

[''(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

['' Calendar year:	Base tax amount:
1992	$1.85
1993	2.75
1994	3.65
1995	4.55.''

[(b) CONFORMING AMENDMENTS.—

[(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

[(A) by striking ''15'' and inserting ''13.5'', and

[(B) by striking ''10'' and inserting ''9.6''.

[(2) FLOOR STOCK TAXES.—

[(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking ''1993, and 1994'' and inserting ''1993, 1994, and 1995, and July 1, 1992''.

[(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

[(i) by inserting ''or July 1'' after ''January 1'', and

[(ii) by inserting ''or December 31, respectively,'' after ''June 30''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

[SEC. 1917. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

[(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) is amended to read as follows:

['' In the case of:	The applicable percentage is: For sales or use during 1992	For sales or use during 1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2404	2.3	1.5''.

[(b) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS.—

[(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

[''(4) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS.—

[''(A) RATE OF TAX.—

[''(i) IN GENERAL.—In the case of—

[''(I) any use after June 30, 1992, and before January 1, 1994, of any substance to sterilize medical instruments, or

[''(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph be imposed).

[In the case of sales or use during:	The applicable percentage is:
1992	90.3
1993	60.7.

[''(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

[''(I) for use by the purchaser to sterilize medical instruments, or

[''(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

[''(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used after June 30, 1992, and before January 1, 1994, by any person to sterilize medical instruments, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

[''(i) the tax paid under this subchapter on such substance, or

[''(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.''

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after July 1, 1992.

[SEC. 1918. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

[(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

[(1) by striking ''Except as provided in subparagraph (B), the'' and inserting ''The'',

[(2) by striking subparagraph (B), and

[(3) by redesignating subparagraph (C) as subparagraph (B)

[(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on June 30, 1992.

[SEC. 1919. NUCLEAR DECOMMISSIONING FUNDS.

[(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking ''described in section 501(c)(21)(B)(ii)''.

[(b) REDUCTION IN RATE OF TAX.—Paragraph (2) of section 468A(e) is amended—

[(1) by striking ''at the rate equal to the highest rate of tax specified in section 11(b)'' in subparagraph (A) and inserting ''at the rate set forth in subparagraph (B)'', and

[(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

[''(B) RATE OF TAX.—For purposes of subparagraph (A), the rate set forth in this subparagraph is—

[''(i) 22 percent in the case of taxable years beginning in calendar year 1994 or 1995, and

[''(ii) 20 percent in the case of taxable years beginning after December 31, 1995.''

[(c) EFFECTIVE DATES.—

[(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

[(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1993. Section 15 of the Internal Revenue Code of 1986 shall not apply to any change in rate resulting from the amendment made by subsection (b).

[SEC. 1920. FACILITIES FOR PRODUCTION OF CERTAIN FUELS.

[Subsection (f) of section 29 is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (1)(B), a facility for production of qualified fuels referred to in subparagraph (B)(ii) or (C) of subsection (c)(1) shall be treated as placed in service before January 1, 1993, if such facility is placed in service before January 1, 1996, pursuant to a written binding contract in effect on December 31, 1992, and at all times thereafter before such facility is placed in service."

[SEC. 1921. TREATMENT UNDER LOCAL FURNISHING RULES OF CERTAIN ELECTRICITY TRANSMITTED OUTSIDE LOCAL AREA.

[(a) IN GENERAL.—Subsection (f) of section 142 (relating to local furnishing of electric energy or gas) is amended to read as follows:

["(f) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—For purposes of subsection (a)(8)—

["(1) IN GENERAL.—The local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

["(A) a city and 1 contiguous county, or

["(B) 2 contiguous counties.

["(2) TREATMENT OF CERTAIN ELECTRIC ENERGY TRANSMITTED OUTSIDE LOCAL AREA.—

["(A) IN GENERAL.—A facility shall not be treated as failing to meet the local furnishing requirement of subsection (a)(8) by reason of electricity transmitted pursuant to an order of the Federal Energy Regulatory Commission under section 211 or 213 of the Federal Power Act (as in effect on the date of the enactment of this paragraph) if the portion of the facility financed with tax-exempt bonds is not greater than the portion of the use of the facility which is in the local furnishing of electric energy (determined without regard to this paragraph).

["(B) SPECIAL RULE FOR EXISTING FACILITIES.—In the case of a facility financed with bonds issued before the date of an order referred to in subparagraph (A) which would (but for this subparagraph) cease to be tax-exempt by reason of subparagraph (A), such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if, to the extent necessary to comply with subparagraph (A)—

["(i) bonds are defeased not later than the 90th day after the date such order was issued, and

["(ii) bonds are redeemed not later than the earliest date on which such bonds may be redeemed."

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued before, on, or after the date of the enactment of this Act.

[Subtitle B—Other Revenue Provisions

[SEC. 1931. REPEAL OF EXEMPTION FROM COMMUNICATIONS TAX FOR NEWS SERVICES.

[(a) GENERAL RULE.—Subsection (b) of section 4253 (relating to exemption for news services) is hereby repealed.

[(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect on January 1, 1993.

[SEC. 1932. EXCEPTION FROM PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST FOR SMALL ISSUERS INCREASED TO $20,000,000.

[(a) IN GENERAL.—Subparagraphs (C) and (D) of section 265(b)(3) are each amended by striking "$10,000,000" each place it appears and inserting "$20,000,000".

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1992.

[SEC. 1933. CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

[(a) GENERAL RULE.—

[(1) Paragraph (1) of section 613(b) is amended—

[(A) by striking "and uranium" in subparagraph (A), and

[(B) in subparagraph (B)—

[(i) by striking "asbestos,",

[(ii) by striking "lead,", and

[(iii) by striking "mercury,".

[(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

[(3) Paragraph (4) of section 613(b) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

[(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

["(D) mercury, uranium, lead, and asbestos."

[(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended—

[(1) by striking "lead,", and

[(2) by striking "uranium,".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

[SEC. 1934. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

[(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to program to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1997".

[(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1997".

[(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

[SEC. 1935. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

[(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

["(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

["(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

["(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

["(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

["(B) such overpayment is refunded within 45 days after such claim is filed,

[no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

["(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

[(b) EFFECTIVE DATES.—

[(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

[(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992 regardless of the taxable period to which such refund relates.

[(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

[SEC. 1936. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

[(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

["(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

["(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

["(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

["(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

["(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.".

[(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

["(E) any requirement under section 6109(f) that—

["(i) a person include on his return the name, address, and TIN of another person, or

["(ii) a person furnish his TIN to another person."

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

[Subtitle C—Federal Tax Exemption for Uranium Enrichment Corporation; Limitation on Borrowing Authority

[SEC. 1941. FEDERAL TAX EXEMPTION; LIMITATION ON BORROWING AUTHORITY.

[(a) FEDERAL TAX EXEMPTION.—Subsection (l) of section 501 (relating to governmental corporations exempt from tax) is amended by adding at the end thereof the following:

["(4) The Uranium Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954.

Paragraph (4) shall cease to apply as of the first day on which any stock issued by the Uranium Enrichment Corporation is held by any person other than the Federal Government."

[(b) LIMITATION ON BORROWING AUTHORITY.—

[(1) Chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

["SUBCHAPTER III—RESTRICTION ON BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

["§3141. Limitation on borrowing authority of Uranium Enrichment Corporation

["The Uranium Enrichment Corporation established pursuant to section 1301 of the Atom Energy Act of 1954 may borrow (directly or indirectly) from the Treasury only to the extent, and in the manner, provided in section 1405 of such Act (as in effect on the date of the enactment of this section).".

[(2) The chapter analysis for chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following:

["SUBCHAPTER III—RESTRICTION ON BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

["3141. Limitation on borrowing authority of Uranium Enrichment Corporation.".]

TITLE XIX—REVENUE PROVISIONS

SEC. 1901. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 1911. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $145 per month in the case of qualified parking.

"(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified transportation fringe' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

"(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.

"(7) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2)).."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 1912. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided by a public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(B), only 80 percent of such subsidy shall be excluded from gross income under paragraph (1).

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—

"(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1994, with respect to property other than dwelling units.

The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).

"(2) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) DEFINITIONS.—For purposes of this subsection—

"(i) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(I) a recuperator,

"(II) a heat wheel,

"(III) a regenerator,

"(IV) a heat exchanger,

"(V) a waste heat boiler,

"(VI) a heat pipe,

"(VII) an automatic energy control system,

"(VIII) a turbulator,

"(IX) a preheater,

"(X) a combustible gas recovery system,

"(XI) an economizer,

"(XII) modifications to alumina electrolytic cells,

"(XIII) modifications to chlor-alkali electrolytic cells, or

"(XIV) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(ii) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(iii) PUBLIC UTILITY.—The term 'public utility' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

"(B) SPECIAL RULES.—

"(i) THIRD-PARTY CONTRACTORS.—If, in connection with the purchase or installation of an energy conservation measure for a customer of a public utility, such public utility provides a subsidy to a person other than the customer, such subsidy shall be excludable under subsection (a) from the gross income of such other person to the extent such subsidy would be so excludable from the gross income of the customer.

"(ii) STATE-SPONSORED PROGRAMS.—A payment by a public utility to a customer for the use of a tax benefit granted to the customer by a State pursuant to a State-sponsored energy conservation program shall be excludable under subsection (a) from the gross income of the customer to the extent such payment would be so excludable if provided as a subsidy by the public utility.

"(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by public utilities.

"Sec. 137. Cross reference to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 1913. TREATMENT OF CLEAN-FUEL VEHICLES.

(a) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of—

"(1) in the case of any qualified clean-fuel vehicle property—

"(A) except as provided in subparagraph (B), the cost of the property, or

"(B) in the case of a vehicle described in subsection (c)(1)(B) which may be propelled by both a clean-burning fuel and any other fuel, an amount equal to the greater of—

"(i) $1,200, or

"(ii) the incremental cost of permitting the use of the clean-burning fuel, plus

"(2) the cost of any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

"(A) IN GENERAL.—The cost which may be taken into account under subsection (a)(1) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver).

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(2) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a)(2) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a)(2).

"(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel—

"(i) if the property is an engine (or modification thereof) which may use a clean-burning fuel, or

"(ii) to the extent the property is used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(3) EXCEPTION FOR QUALIFIED ELECTRIC VEHICLES.—The term 'qualified clean-fuel vehicle property' does not include any qualified electric vehicle (as defined in section 30(c)).

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is—

"(A) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

"(B) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction 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.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(3) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(b) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

"(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 15 percent of the cost of any qualified electric vehicle placed in service by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2001, the credit otherwise allowable under subsection (a) shall be reduced by—

"(A) 25 percent in the case of property placed in service in calendar year 2002,

"(B) 50 percent in the case of property placed in service in calendar year 2003, and

"(C) 75 percent in the case of property placed in service in calendar year 2004.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over—

"(B) the tentative minimum tax for the taxable year.

"(c) QUALIFIED ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified electric vehicle' means any motor vehicle—

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current,

"(B) the original use of which commences with the taxpayer, and

"(C) which is acquired for use by the taxpayer and not for resale.

"(2) MOTOR VEHICLE.—For purposes of paragraph (1), the term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(d) SPECIAL RULES.—

"(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit.

"(2) 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.

"(3) 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.

"(e) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004".

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Credit for qualified electric vehicles."

(B) Section 1016(a), as amended by subsection (a)(3), is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 30(d)(1)."

(C) Section 53(d)(1)(B)(iii) is amended—

(i) by striking "section 29(b)(5)(B) or" and inserting "section 29(b)(6)(B),", and

(ii) by inserting ", or not allowed under section 30 solely by reason of the application of section 30(b)(2)(B)" before the period.

(D) Section 55(c)(2) is amended by striking "29(b)(5)," and inserting "29(b)(6), 30(b)(2),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 1914. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

"(iii) the aggregate amount of subsidized energy financing under a Federal, State, or local program provided in connection with the project, and

"(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility originally placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for such calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—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 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. For purposes of the preceding sentence, only contracts entered into after December 31, 1989, shall be taken into account.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a con-

solidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) 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."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

SEC. 1915. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) DEPLETION.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) DEPLETION.—

"(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) INTANGIBLE DRILLING COSTS.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—In the case of any oil or gas well—

"(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) LIMITATION ON BENEFIT.—The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.".

(c) CONFORMING AMENDMENTS.—

(1) Section 56 is amended by striking subsection (h).

(2) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

(3) Section 59(a)(2)(A)(ii) is amended by striking "and the alternative tax energy preference deduction under section 56(h)" and inserting "and section 57(a)(2)(E)".

(4) Section 59A(b)(1) is amended by striking "or the alternative tax energy preference deduction under section 56(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 1916. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ADDITIONAL BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical for any calendar year (determined without regard to this subparagraph) shall be increased by the amount determined under the following tables for such calendar year:

"(i) INITIALLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.18
1993	0.10
1994	1.00
1995 and each calendar year thereafter	1.45.

"(ii) NEWLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.48
1993	1.08
1994	0.65
1995 and each calendar year thereafter	1.45."

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "January 1 of 1991, 1992, 1993, and 1994" and inserting "January 1 of 1991 and 1992, October 1, 1992, and January 1 of 1993 and each calendar year thereafter".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or October 1" after "January 1", and

(ii) by inserting "or March 31 of the succeeding calendar year, respectively," after "such year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after October 1, 1992.

SEC. 1917. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) is amended to read as follows:

"In the case of:	The applicable percentage is: For sales or use during 1992	For sales or use during 1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2404	2.3	1.5".

(b) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use after September 30, 1992, and before January 1, 1994, of any substance to sterilize medical devices, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph be imposed):

"In the case of sales or use during:	The applicable percentage is:
1992	90.3
1993	60.7.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical devices, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used after September 30, 1992, and before January 1, 1994, by any person to sterilize medical devices, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after October 1, 1992.

SEC. 1918. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" in subparagraph (A) and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) OCEAN THERMAL ENERGY.—Subparagraph (A) of section 48(a)(3) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) equipment, placed in service after June 30, 1992, at either of 2 locations designated by the Secretary after consultation with the Secretary of Energy, which converts ocean thermal energy to usable energy,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

SEC. 1919. NUCLEAR DECOMMISSIONING FUNDS.

(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 1920. ALCOHOL FUELS.

(a) REDUCED RATE OF TAX ON GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by multiplying the otherwise applicable rate by a fraction the numerator of which is 10 and the denominator of which is—

"(A) 9 in the case of 10 percent gasohol,

"(B) 9.23 in the case of 7.7 percent gasohol, and

"(C) 9.43 in the case of 5.7 percent gasohol,

in the case of the removal or entry of any gasoline for use in producing gasohol at the time of such removal or sale. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or entry.".

(2) CONFORMING AMENDMENTS.—Section 4081(c) is amended—

(A) by striking "6.1 cents a gallon" in paragraph (2) and inserting "an otherwise applicable rate", and

(B) by striking paragraph (4) and inserting the following new paragraph:

"(4) OTHERWISE APPLICABLE RATE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) or entered after September 30, 1992.

(b) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation, or

"(ii) 50 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF THE ALCOHOL FUELS CREDIT NOT USED AGAINST NORMAL LIMITATION.—For purposes of subparagraph (A), the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to such alcohol fuels credit, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph), reduced by the portion of the credit under subsection (a) which is not so attributable."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1992.

(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply to—

(i) any credit which was determined in a taxable year, or

(ii) any credit which is carried back to a taxable year,

beginning on or before September 30, 1992.

SEC. 1921. DETERMINATION OF INDEPENDENT PRODUCERS.

(a) RETAILERS.—

(1) IN GENERAL.—Section 613A(d)(2) is amended—

(A) by inserting "and sales of natural gas by a regulated public utility" after "users", and

(B) by inserting "and sales of products derived from natural gas by a regulated public utility" after "Defense".

(2) DEFINITION.—Section 613A(d)(2) is amended by adding at the end thereof the following new sentence "For purposes of the first sentence, the term 'regulated public utility' means a utility described in section 7701(a)(33) at least 50 percent of the gross income of which is derived from sources described in subparagraphs (A), (B), and (C) of section 7701(a)(33).".

(b) REFINERS.—Section 613A(d)(4) (relating to certain refiners excluded) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engage in the refining of crude oil, subsection (c) shall not apply to such taxpayer during any taxable year if the aggregate average daily refinery runs of the taxpayer and such persons for the taxable year exceed 50,000 barrels.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1992.

SEC. 1922. TAX-EXEMPT FINANCING FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(12) environmental enhancements of hydroelectric generating facilities.".

(b) DEFINITION AND SPECIAL RULES FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Section 142 is amended by adding at the end the following new subsection:

"(j) ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'environmental enhancements of hydroelectric generating facilities' means property—

"(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

"(B) which—

"(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

"(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

"(2) USE OF PROCEEDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i).".

(2) FINANCED PROPERTY MUST BE GOVERNMENTALLY OWNED.—Subparagraph (A) of section 142(b)(1) (relating to certain facilities must be governmentally owned) is amended by striking "(2) or (3)" and inserting "(2), (3), or (12)".

(3) EXCLUSION FROM VOLUME CAP.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "or (2)" and inserting ", (2), or (12)", and

(B) by striking "and docks and wharves" and inserting ", docks and wharves, and environmental enhancements of hydroelectric generating facilities".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle B—Other Revenue Provisions

SEC. 1931. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

SEC. 1932. MODIFICATIONS TO TAX ON INSURANCE POLICIES ISSUED BY FOREIGN INSURERS.

(a) INCREASE IN TAX ON CERTAIN REINSURANCE CONTRACTS.—Paragraph (3) of section 4371 (relating to imposition of tax) is amended to read as follows:

"(3) REINSURANCE.—

"(A) 4 cents on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1).

"(B) 1 cent on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (2).".

(b) RETENTION OF EXISTING TAX RATE IN CERTAIN CASES; LIMITATION ON TREATY BENEFITS.—

(1) Section 4371 is amended by adding at the end thereof the following new subsection:

"(b) SPECIAL RULES.—

"(1) LOWER RATE ON CERTAIN REINSURANCE PREMIUMS.—Subparagraph (A) of subsection (a)(3) shall be applied with respect to any premium by substituting '1 cent' for '4 cents' if—

"(A) such premium is paid to a foreign insurer or reinsurer which is a resident of a foreign country,

"(B) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed by chapter 1, and

"(C) the risk with respect to which such premium is paid is not reinsured (directly or through a series of transactions) by a resident of another foreign country who does not meet the requirements of subparagraph (B).

"(2) APPLICATION OF RELIEF.—In applying paragraph (1) or any treaty, no person shall be relieved of the requirement to remit any tax imposed by this chapter on any premium unless the parties to the transaction satisfy such requirements as the Secretary may prescribe to ensure collection of tax due on any reinsurance of the risk with respect to which such premium was paid.

"(3) SECRETARIAL AUTHORITY.—

"(A) ENFORCEMENT PROCEDURES.—The Secretary may prescribe regulations setting forth such procedures as the Secretary may deem appropriate to ensure compliance with the requirements of paragraph (1).

"(B) WAIVER.—The Secretary may by regulations waive the requirements of paragraph (1)(C) in such circumstances and subject to such conditions as he may deem appropriate.".

(2) Section 4371 is amended by striking "There is hereby" and inserting the following:

"(a) GENERAL RULE.—There is hereby".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date of the enactment of this Act but only to the extent allocable to reinsurance for periods after December 31, 1992.

Subtitle C—Health Care of Coal Miners

SEC. 1941. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 1942. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) coal provides a significant portion of the energy used in the United States;

(2) the production, transportation and use of coal affects interstate and foreign commerce and the national public interest;

(3) a significant portion of the national work force has been employed in the production of coal for interstate and foreign commerce and in the national interest;

(4) the Government of the United States has regulated the coal industry, employment in the industry, and the provision of retirement benefits within the industry;

(5) the continued well-being and security of employees, retirees and their dependents within the coal industry are directly affected by the provision of health benefits to retirees and their dependents;

(6) for many decades, the provision of adequate health care for retirees has been an essential element in maintaining a stable and strong coal industry as an important component in a strong United States economy;

(7) an important element in the privately maintained benefit plans now experiencing financial difficulty has been the provision of health benefits for retirees of companies no longer in business; and

(8) withdrawals of contributing employers from privately maintained benefit plans under collective bargaining agreements derived from an agreement with the United States, covering retirees within the coal industry, result in substantially increased funding burdens for employers that continue to contribute to such plans, adversely affect labor-management relations and the stability and strength of the coal industry, and impair the provision of health care to retirees.

(b) ADDITIONAL FINDINGS.—The Congress further finds that—

(1) it is necessary to modify and reform the current private benefit plan structure for retirees within the coal industry in order to stabilize the provision of health care benefits to such retirees; and

(2) it is necessary to supplement the current private benefit plan structure with a benefit protection program that will assure continued funding and contain program costs.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this subtitle—

(1) to remedy problems that discourage the provision, funding, and delivery of health care to coal industry retirees;

(2) to provide reasonable protection for the health benefits of coal industry retirees;

(3) to require use of state-of-the-art cost containment and managed care measures as part of the overall package of health care delivery and financing; and

(4) to provide a financially self-sufficient program for the provision of retiree health benefits in the coal industry.

SEC. 1943. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. Coal industry health benefits.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A. Coal Industry Retiree Health Benefits Corporation.

"SUBCHAPTER B. Eligibility for and payment of benefits.

"SUBCHAPTER C. Other provisions.

"Subchapter A—Coal Industry Retiree Health Benefit Corporation

"Sec. 9701. Establishment of the Corporation.

"Sec. 9702. Directors of Corporation.

"Sec. 9703. Powers; tax status.

"Sec. 9704. Operation of Corporation.

"SEC. 9701. ESTABLISHMENT OF THE CORPORATION.

"There is hereby created the Coal Industry Retiree Health Benefit Corporation (hereafter in this chapter referred to as the 'Corporation'), which shall be a governmental body corporate under the direction of a board of directors. Within the limitations of law and regulation, the board of directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"SEC. 9702. DIRECTORS OF CORPORATION.

"(a) APPOINTMENT.—The board of directors of the Corporation shall consist of 5 persons, who shall be appointed by the Secretary of Labor. The board shall at all times have the following as members:

"(1) 2 persons from employers in the coal-mining industry (only 1 of whom shall be from an entity that is or was a settlor of a plan described in section 404(c));

"(2) 1 person from an organization that represents coal industry employees (and that is or was a settlor of a plan described in section 404(c));

"(3) 1 person from another labor organization representing employees (whether or not in the coal industry); and

"(4) 1 other person who shall serve as the chairman.

"(b) TERMS OF OFFICE, SUCCESSORS.—Each director shall be appointed for a term of 3 years, except for the initial term. The initial terms of the directors shall be as follows:

"Coal industry employee representative (section 404(c) settlor)	4 years
"Coal-mining industry employer (section 404(c) settlor)	3 years
Other employee representative	3 years
Other coal-mining industry employer	2 years
Chairman	1 year.

A vacancy on the board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term. A director may serve after the expiration of a term until a successor has taken office.

"(c) QUORUMS.—Vacancies on the board shall not impair the powers of the board to execute the functions of the Corporation so long as there are 3 members in office. The presence of 3 members shall constitute a quorum for the transaction of the business of the board.

"(d) INDEPENDENT AUDIT.—The Corporation shall annually employ an independent certified or licensed public accountant who shall examine and audit the books and financial transactions of the Corporation. The Corporation shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this chapter.

"(e) ADOPTION OF BYLAWS; AMENDMENT; ALTERATION; PUBLICATION IN THE FEDERAL REGISTER.—As soon as practicable, but not later than 180 days after the date of the enactment of this chapter, the board shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation. Thereafter, the board may alter, supplement or repeal any existing bylaw or rule, and may adopt additional bylaws and rules from time to time as may be necessary. Any bylaw or rule relating to the conduct or business of the Corporation shall be adopted in compliance with the Administrative Procedure Act, including the notice and comment provisions thereof.

"SEC. 9703. POWERS; TAX STATUS.

"(a) POWERS OF CORPORATION.—The Corporation shall have power—

"(1) to adopt, alter, and use a corporate seal;

"(2) to have succession until dissolved by Act of Congress;

"(3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter;

"(4) to make and perform contracts, agreements, and commitments;

"(5) to prescribe and impose fees and charges for services by the Corporation;

"(6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation, to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation;

"(7) to sue and be sued, complain and defend, in any State, Federal, or other court;

"(8) to acquire, take, hold, and own, and to deal with and dispose of any property;

"(9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and to appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents;

"(10) to borrow funds from the United States Treasury for startup and operating costs;

"(11) to collect delinquent accounts; and

"(12) to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this chapter.

"(b) EXEMPTION FROM TAXATION.—The Corporation, its property, its franchise, capital, reserves, surplus, and its income (including but not limited to, any income of any fund established under section 9704(f)), shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21, relating to the Federal Insurance Contributions Act and chapter 23, relating to the Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the Corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

"(c) CORPORATION AS AGENCY.—Notwithstanding section 1349 of title 28 or any other provision of law—

"(1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

"(2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

"(3) any civil or other action, case or controversy in a court of a State, or any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation to the United States district court for the district and division embracing the place where the same is pending, or if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

"(d) REPORT TO CONGRESS.—No later than 1 year after the effective date of this chapter, the Corporation shall present a report to Congress on its activities, including an evaluation of the economic impact of this chapter on small coal companies and an evaluation of the effectiveness of the Corporation in achieving its goals, and recommending any changes to this chapter as it considers beneficial, including any recommended changes in premiums considered warranted to minimize any undue economic impact on small coal companies. At such time, Congress shall review the activities and operations of the Corporation.

"SEC. 9704. OPERATION OF CORPORATION.

"(a) INVESTIGATORY AUTHORITY.—

"(1) The Corporation may make such investigations as it deems necessary to enforce any provision of this chapter or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(2) The Corporation shall keep strictly confidential all information received relating to—

"(A) trade secrets or financial or commercial information pertaining specifically to a given person, the disclosure of which could cause competitive injury to such person, or

"(B) personnel or medical data or similar data, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

unless the portions containing such matters, information, or data have been excised, but may use such information to the extent necessary to enforce the premium obligation imposed under subsection (g).

"(b) DISCOVERY POWERS VESTED IN BOARD OR DESIGNATED OFFICERS.—For the purpose of any investigation described in subsection (a), or any other proceeding under this chapter, the board or any officer designated by the board, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records which the Corporation deems relevant or material to the inquiry.

"(c) CONTEMPT.—In case of contumacy by, or refusal to obey, a subpoena issued to any person, the Corporation may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on (or where such person resides or carries on business) in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records. The court may issue an order requiring such person to appear before the Corporation, and to produce records or to give testimony related to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or may be found.

"(d) COOPERATION WITH GOVERNMENTAL AGENCIES.—In order to avoid unnecessary expense and duplication of functions among government agencies, the Corporation may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this chapter as is practicable and consistent with law. The Corporation may utilize the facilities or services of any department, agency or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency or establishment. The head of each department, agency or establishment of the United States shall cooperate with the Corporation and, to the extent permitted by law, provide such information and facilities as it may request for its assistance in the performance of its functions under this chapter.

"(e) CIVIL ACTIONS.—

"(1) Civil actions may be brought by the Corporation for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(2) Except as otherwise provided in this chapter, if an action is brought in a district court of the United States, it may be brought in the district where the Corporation is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(3) The district courts of the United States shall have jurisdiction of actions brought by the Corporation under this chapter without regard to the amount in controversy in any such action.

"(4)(A) An action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose; or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B) The applicable date specified in this subparagraph is the earliest date on which the Corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(C) For purposes of this paragraph, in an action by the Corporation to collect premiums due under this chapter, the cause of action shall be treated as having arisen no earlier than the date on which the premium was due.

"(5) In any action brought under this chapter, whether to collect premiums, penalties (in the amount determined by the Corporation, which shall be no greater than the greater of interest on the unpaid premium or 20 percent of the amount of the unpaid premium), or interest (at the rate determined by the Corporation) or for any other purpose, in which a judgment in favor of the Corporation is awarded, the court shall award the Corporation its costs and reasonable counsel fees.

"(f) ESTABLISHMENT OF COAL INDUSTRY RETIREE BENEFIT FUND.—

"(1) The Corporation shall establish a Coal Industry Retiree Benefit Fund (hereafter in this chapter referred to as the 'Fund'). Except as provided in paragraph (2), all amounts received by the Corporation shall be deposited in the Fund, and all expenditures made by the Corporation shall be made out of the Fund.

"(2) The Corporation shall transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury of the United States any portion of the premiums received under subsection (g) which are allocable to the portion of such premiums which are imposed to offset Federal revenue losses by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(3) Except as otherwise provided in this chapter, the balance of the Fund shall at any time consist of the aggregate at such time of the following items:

"(A) Cash on hand or on deposit.

"(B) Amounts invested in United States Government or agency securities.

"(g) IMPOSITION OF PREMIUM PAYMENT OBLIGATION.—

"(1)(A) There is hereby imposed on each person that produces bituminous coal for use or for sale the obligation to pay to the Corporation an hourly premium equal to—

"(i) in the case of bituminous coal produced in an eastern State, the rate for each hour worked in coal production work by such person's employees determined in accordance with the following:

"In the case of calendar year	The rate is:
1992	$1.18
1993	$1.18
1994	$1.19
1995	$1.19
1996 or thereafter	$1.20

, or

"(ii) in the case of bituminous coal produced in a western State, 15 cents on each hour worked in coal production work by such person's employees.

"(B)(i) There is hereby imposed on bituminous coal imported to the United States, for use or for sale, a per-ton premium obligation to be paid to the Corporation. Such premium is intended to be equivalent to the premium imposed on domestically produced bituminous coal.

"(ii) The amount of the per-ton premium shall be equal to 39 cents per ton.

"(iii) For purposes of this subparagraph, the term 'ton' means 2,000 pounds, and the term 'United States' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

"(C)(i) In addition to the amounts specified in subparagraphs (A) and (B), each last signatory operator and each other employer referred to in this subparagraph shall pay to the Corporation an annual per beneficiary premium. The amount of the annual per beneficiary premium shall be the product of the total number of orphan miners, spouses, surviving spouses, and dependents (determined under section 9711) attributable to such last signatory operator or employer and the per beneficiary premium as calculated in clause (iii).

"(ii) For purposes of this subparagraph, an orphan miner (and his spouse, surviving spouse and dependents) shall be attributable—

"(I) to an employer if his employment with such employer resulted in his eligibility under section 9711(b)(1)(E); or

"(II) to a last signatory operator meeting the conditions described in section 9723(6) with respect to such orphan miner.

"(iii)(I) The amount of the per beneficiary premium shall be determined in accordance with the following table:

"In the case of calendar year	The premium is:
1992	$1,215
1993	$2,532
1994	$2,745
1995	$2,973
1996	$3,216
1997 and thereafter	$3,479.

"(II) As of the date any per beneficiary premium obligation is due under this subparagraph, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator or employer shall be treated as such last signatory operator or employer, and shall be jointly and severally liable for such obligation.

"(iv) A last signatory operator shall have no liability under this subparagraph if—

"(I) as of November 5, 1990, and for all periods thereafter, such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the mining, production, preparation, marketing, sale, distribution, transportation, leasing or licensing of coal; and

"(II) such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, were, in the aggregate, involved in the production of fewer than 50,000 tons of coal during each of the 3 years immediately preceding the cessation of such involvement.

The limitation of liability set forth in the preceding sentence shall cease to apply at any time that a last signatory operator, or any persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, ceases to meet the conditions described in subclause (I).

"(v) The annual per beneficiary premium shall be payable in equal monthly installments, due by the tenth day of each month. In no event shall a last signatory operator be obligated to pay a per beneficiary premium for an individual for any month for which the last signatory operator has paid its required assessment for such individual under section 9713(d).

"(vi) A last signatory operator shall have no liability under this subparagraph if as of January 1, 1992, such last signatory operator and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the production, sale, distribution, transportation, or use in processes for producing products of the operator and such persons, of bituminous and sub-bituminous coal (other than the sale or leasing of any interest in coal reserves).

"(2)(A) In the event that a person required to make payments under paragraph (1) fails to do so, the Corporation shall assess liability against the person, based upon the Corporation's estimate of the person's liability.

"(B) No later than 90 days after the assessment of liability by the Corporation, the person may request administrative review of the Corporation's assessment, in accordance with procedures adopted by the Corporation.

"(C) Notwithstanding the pendency of administrative review of any assessment of liability, the person shall, no later than 30 days after the assessment of such liability, pay all amounts required by the assessment in accordance with any payment schedule applied by the Corporation. In the event a person fails to make such payments, all amounts owed by the person shall become immediately due and payable.

"(D) In the event the person that has made payments in accordance with subparagraph (C) is ultimately determined, in accordance with subparagraph (B), to have paid in excess of the amounts actually due, the person shall receive a refund of such excess amounts, with interest.

"(3) The Corporation shall report to the Congress before the close of any calendar year with respect to any adjustment in the amount of the premiums imposed under subparagraphs (A)(i) and (B) of paragraph (1) for the following calendar year which the Corporation determines necessary to enable the provision of benefits under section 9712. Any recommendation with respect to any adjustment shall reflect the reduction in Federal revenues by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(4) Premiums owed under subparagraphs (A) and (B) of paragraph (1) shall be due on the tenth day of each calendar month immediately following the month in which the coal is produced or imported, and shall be paid to the Corporation in accordance with forms and schedules promulgated by the Corporation.

"(5) The premium obligation imposed under this section shall take effect on July 1, 1992. Premiums paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(6) For purposes of this subsection—

"(A) the term 'bituminous coal' means coal classified as bituminous coal according to the publication of the American Society for Testing and Materials under the title 'Standard Classification of Coals by Rank' (ASTM D 388–91a), as in effect on the date of the enactment of this chapter; and

"(B) the term 'Eastern States' includes Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; and

"(C) the term 'Western States' includes Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

"Subchapter B—Eligibility for and Payment of Benefits

"Sec. 9711. Eligibility; orphan miners.

"Sec. 9712. Payment of benefits.

"Sec. 9713. Establishment of Coal Industry 1991 Benefit Fund.

"Sec. 9714. Obligation of last signatory operator to provide benefits to retirees.

"Sec. 9715. Transition benefits; premium nonpayment; transfers between 1991 Fund and Corporation.

"SEC. 9711. ELIGIBILITY; ORPHAN MINERS.

"(a) IN GENERAL.—Any person who is an orphan miner, as defined in subsection (b), or who meets the conditions set forth in subsection (c), shall be eligible to receive benefits provided by the Corporation pursuant to section 9712, except that no person shall be eligible to receive benefits from the Corporation because of a failure to receive benefits resulting from a temporary labor dispute.

"(b) ORPHAN MINER STATUS.—For purposes of this section—

"(1) An orphan miner is any person who—

"(A)(i) as of the date of enactment of this chapter, was eligible to receive benefits as a retiree from a plan described in section 9721(d) (or, but for the enactment of this chapter, would be eligible to receive benefits as a retiree from the plan described in section 9721(d)(2)(A)); and

"(ii) is not receiving benefits as a retiree from a plan described in section 9721(d) or from the plan established pursuant to section 9713;

"(B) is not described in subparagraph (A), but was eligible to receive benefits as a retiree from the plan established pursuant to section 9713 and is not receiving benefits from such plan;

"(C)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

"(ii) but for the enactment of this chapter, would be eligible to receive medical benefits as a retiree as of February 1, 1993, from the plan described in section 9721(d)(2)(B); and

"(iii) is not receiving medical benefits as a retiree from the plan described in section 9721(d)(2)(B) or from any other plan;

"(D)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

"(ii) as of February 1, 1993, had earned 20 years of credited service under such plan;

"(iii) is at any time after beginning to receive such pension not receiving retiree medical benefits equal to the benefits in effect at that time under the plans described in section 9712(b)(3); and

"(iv) meets the eligibility requirements for retiree medical benefits then in effect under such plans; or

"(E)(i) was eligible as a result of coal production work performed in the bituminous, sub-bituminous or lignite coal industry to receive retiree medical benefits from a health care plan that met the requirements of subparagraphs (D) and (E) of paragraph (2);

"(ii) initially ceased to receive retiree medical benefits on or after the date of enactment of this chapter, despite continued eligibility therefore;

'(iii) had been receiving such benefits from a plan that had been in existence for at least 3 years prior to the cessation of benefits; and

"(iv) was included in a category of retirees that had been eligible to receive benefits for at least 3 years prior to the cessation of benefits.

"(2) For purposes of paragraph (1)(E), the following rules shall apply:

"(A) Eligibility is continuing where benefits ceased incident to an employer's cessation of operations, but is not continuing where benefits ceased pursuant to a lawful termination or modification of a plan (under circumstances other than a cessation of operations).

"(B) In the case of any individual who has 20 years of credited service under a defined benefit pension plan maintained pursuant to the agreement described in section 9723(7), or who was otherwise eligible to receive retiree medical benefits from a single employer health care plan pursuant to a coal wage agreement, all health care plans in which such individual was a participant during a period of such credited service or during such period of eligibility shall be taken

into account in determining whether the 3-year tests have been met.

"(C) In the case of an employer that established a new health care plan as a replacement for a prior plan, such prior plan shall be taken into account in determining whether the 3-year tests have been met.

"(D) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of the plan to the Corporation within 180 days from the later of—

"(i) the date of establishment of the plan; or

"(ii) the date of enactment of this chapter.

"(E) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of any amendment or modification to the plan to the Corporation within 180 days from the later of—

"(i) the date of such amendment or modification; or

"(ii) the date of enactment of this chapter.

"(c) ELIGIBILITY OF SPOUSES AND DEPENDENTS.—

"(1) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual was eligible to receive benefits from a plan described in section 9721(d) as of the date of enactment of this chapter, and is not receiving benefits from that plan or from the plan established pursuant to section 9713.

"(2) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual is not described in paragraph (1), but was eligible to receive benefits from the plan established pursuant to section 9713 and is not receiving benefits from such plan.

"(3) In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(A) or (b)(1)(C) of this section, eligibility shall be based upon the rules set forth in the plans described in section 9721(d) as of the date of enactment of this chapter. In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(D), eligibility shall be based upon the rules set forth in individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation. In all other cases, eligibility shall be based upon the rules of the plan that was or would have been applicable to the orphan miner or deceased coal miner for the 3-year period preceding eligibility for benefits from the Corporation. The Corporation is authorized to promulgate regulations consistent with this paragraph establishing the eligibility of other spouses, surviving spouses and dependents of orphan miners or deceased coal miners for health benefits.

"(d) REENROLLMENT OF ORPHAN MINERS AND BENEFICIARIES.—The Corporation and the joint board of trustees of the plan established pursuant to section 9713 shall cooperate to review the eligibility of individuals under this section. Pending such review, any individual receiving benefits from a plan described in section 9721(d) as of the date of enactment of this chapter shall be presumed to meet the first part of the eligibility tests of subsections (b)(1)(A) and (c)(1). However, no individual shall be considered eligible to receive benefits provided by the Corporation unless a determination is made that such individual in fact met or meets all eligibility requirements necessary to receive benefits as required under subsection (b) or (c). No individual shall be eligible under subsection (b)(1)(A) or (c)(1) if such individual was finally determined to be ineligible to receive benefits from a plan described in section 9721(d) prior to the date of enactment of this chapter.

"SEC. 9712. PAYMENT OF BENEFITS.

"(a) IN GENERAL.—The Corporation shall provide medical benefits to orphan miners, their spouses, surviving spouses and dependents, who meet the eligibility requirements of section 9711, and shall provide coverage for death benefits to orphan miners eligible for such benefits. The board shall establish schedules of benefits applicable to classes of orphan miners, their spouses, surviving spouses and dependents, in accordance with this section. All benefit obligations of the Corporation shall be contingent upon the continued imposition of an hourly premium payment obligation as specified in section 9704(g)(1)(A).

"(b) BENEFIT LEVELS.—

"(1) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(A) or 9711(b)(1)(C) shall be entitled to benefit coverage that is substantially the same as (but not exceeding) the coverage provided by the plans described in section 9721(d) as of the date of enactment of this chapter, and shall be subject to all limitations of such coverage. Such orphan miner shall also be eligible for death benefits, which shall be equal to the death benefits provided as of the date of enactment of this chapter under the plan described in section 9721(c).

"(2) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(B) or 9711(b)(1)(E) shall be entitled to a level of benefits and benefit coverage that is substantially the same as (but not exceeding) the retiree benefit coverage applicable to him immediately preceding his eligibility for benefits from the Corporation, and shall be subject to all limitations of such coverage. Notwithstanding the foregoing, the following rules shall apply:

"(A) The level of benefits and benefit coverage provided under this paragraph shall not exceed that which is provided under paragraph (1) of this subsection.

"(B) In determining the retiree benefit coverage applicable to an orphan miner for purposes of this paragraph, the Corporation shall disregard any increases or decreases in benefits or benefit coverage that were in effect for fewer than 3 years preceding the orphan miner's eligibility for benefits from the Corporation, except that—

"(i) any death benefit applicable to an orphan miner as a result of 1991 amendments to the agreement described in section 9723(7) shall not be disregarded; and

"(ii) increases or decreases in benefits or benefit coverage that were the subject of a collective bargaining agreement shall not be disregarded.

"(3) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(D) shall be entitled to a level of benefits and benefit coverage equivalent to the level of benefits and benefit coverage, if any, provided under individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation, and shall be subject to all limitations of such coverage.

"(4) An individual eligible for benefits pursuant to section 9711(c) shall be entitled to medical benefit coverage that does not exceed the medical benefit coverage that is or would have been applicable to the coal miner through whom the individual claims eligibility, and the individual shall be subject to all limitations of such coverage.

"(5) The Corporation may make increases to its schedules of benefits that are desirable for efficiency of administration, except that such adjustments to benefits may not result in an increase in cost to the Corporation or an increase in any premium under section 9704(g).

"(c) MANDATORY MANAGED CARE.—The Corporation shall develop managed care rules which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules shall include, but not be limited to—

"(1) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(2) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(3) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(4) utilizing Medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(5) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(6) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(7) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) EFFECTIVE DATE.—Benefits shall be payable under this section as of July 1, 1992. Pursuant to section 9715, the Corporation shall pay the trustees of the plans described in section 9721(d) and the plan established pursuant to section 9713 for all benefit and administrative costs expended with respect to eligible orphan miners, spouses, surviving spouses and dependents, from the effective date to the date that such individuals are transferred to the Corporation.

"(e) ELECTIVE COVERAGE.—

"(1) An employer may elect to provide retirement health coverage to its employees by meeting the following conditions:

"(A) The employer must employ workers in the coal industry.

"(B) The employer agrees to pay an annual premium, as determined by the Corporation, sufficient to provide retirement health coverage to all of its employees who perform classified work as determined under the agreement described in section 9723(7), or any successor agreement, who have worked a total of 20 years, including both service with that employer, service for any other employer described in this subsection, and service for any other employer that is credited for purposes of eligibility by a plan described in section 404(c).

"(C) The employer is not currently obligated by a collective bargaining agreement to make contributions to the plan established pursuant to section 9713.

"(D) The employer's election, once made, is irrevocable.

"(2) Upon the retirement of an employee of an employer described in paragraph (1), with 20 or more years of service, upon such terms and conditions as established by the Corporation, such employee and his or her dependents shall receive benefits, upon such terms and conditions as determined by the Corporation.

"SEC. 9713. ESTABLISHMENT OF UNITED MINE WORKERS OF AMERICA 1991 BENEFIT FUND.

"(a) MERGER OF RETIREE BENEFIT PLANS.—

"(1) As soon as practicable after the enactment of this chapter, and in no event later than 60 days, the settlors of the plans described in section 9721(d) shall cause such plans to be merged, and shall appoint a joint board of trustees to manage the operation and administration of the merged plan. The merged plan shall be known as the United Mine Workers of America 1991 Benefit Fund (hereinafter referred to as the '1991 Fund'). The 1991 Fund shall be an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(2) The settlors shall design the structure and administration of the 1991 Fund. The settlors may at any time and for any reason change the number and identity of the members comprising the board of trustees of the 1991 Fund.

"(b) ELIGIBILITY.—

"(1) The following individuals shall be eligible to receive benefits from the 1991 Fund:

"(A) Any individual who, as of the date of enactment of this chapter, was eligible to receive benefits from the plan described in section 9721(d)(2)(A) (or who, but for the enactment of this chapter, would be eligible for benefits from such plan), and with respect to whom the last signatory operator is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement.

"(B) Any individual who retired from classified employment under an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement, and any spouse, surviving spouse or dependent of such retiree, with respect to whom the last signatory operator makes an election prior to February 1, 1993, to pay premiums to the 1991 Fund for such benefits and is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement. Any election made pursuant to this subparagraph must cover, at a minimum, all of the last signatory operator's retirees who retired from classified employment as of February 1, 1993.

"(2) No individual shall be eligible under subparagraph (A) of paragraph (1) unless the joint board of trustees of the 1991 Fund determines that such individual in fact met all eligibility requirements of the plan described in section 9721(d)(2)(A) as of the date of enactment of this chapter. Any individual who was finally determined to have been ineligible for benefits from a plan described in section 9721(d)(2)(A) prior to such date of enactment shall be ineligible under subparagraph (A) of paragraph (1).

"(c) BENEFITS.—

"(1) Except as otherwise provided in this subsection, health care benefits provided under the 1991 Fund shall be identical to the benefits provided under the plans described in section 9721(d). The 1991 Fund shall provide coverage for death benefits to retirees, equal to the death benefits provided under the plan described in section 9721(c).

"(2) The joint board of trustees of the 1991 Fund shall develop managed care rules, subject to section 9714(b), which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. The board of trustees shall permit any last signatory operator subject to section 9714 to utilize the managed care and cost containment rules and programs developed pursuant to this paragraph, at the election of such last signatory operator. Major elements of such rules shall include, but not be limited to—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(C) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(D) utilizing medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(G) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) ASSESSMENTS.—

"(1) As of November 30 of each plan year, the joint board of trustees of the 1991 Fund shall set a monthly assessment for each person required to pay assessments pursuant to paragraph (2). The monthly assessment for each such person shall be equal to 1/12 of the product of—

"(A) the projected cost of operating the 1991 Fund during the succeeding plan year (less any assets received from a plan described in section 9721(c) and any other surplus assets) divided by the number of participants and beneficiaries for the current plan year; and

"(B) the projected number of the 1991 Funds' eligible participants and beneficiaries attributable to such person, determined as of the nearest November 1.

In projecting the cost of operating the 1991 Fund, the board of trustees shall take into account the anticipated benefit experience and administrative expenses of the 1991 Fund as a whole, and amounts needed to eliminate any accumulated deficit. The monthly assessment determined under this paragraph shall be verified by an independent auditor, and shall continue in effect for each month of the succeeding plan year, except that the joint board of trustees shall determine a monthly assessment for any new contributor or other person for whom a monthly assessment has not been established, and a revised monthly assessment for any last signatory operator that makes the election described in subsection (b)(1)(B) and with respect to which new participants and beneficiaries become eligible for benefits. Any new monthly assessment or revised monthly assessment shall be based upon the number of projected participants and beneficiaries attributable to the contributor as of the date the new or revised assessment is made. Each person required to pay assessments pursuant to paragraph (2) shall continue to pay to the plans described in section 9721(d) the contributions required under the applicable coal wage agreement, until the first month for which the assessment described in this paragraph is set. In no event shall a person required to pay assessments pursuant to paragraph (2) be required to make any payment to the 1991 Fund for the same period for which a contribution to a plan described in section 9721(d) is required.

"(2) Each last signatory operator with respect to any person described in subsection (b)(1)(A), and each last signatory operator with respect to any person described in subsection (b)(1)(B) that has agreed to provide benefits coverage through the 1991 Fund, shall pay to the 1991 Fund for each month the assessment determined by the joint board of trustees pursuant to paragraph (1). The assessments paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(3) Either of the settlors shall have the right to audit the accounts, books and records, and operation of the 1991 Fund, at any time and for any reason, upon reasonable notice to the joint board of trustees. The joint board of trustees shall cooperate fully with the settlors in connection with any such audit and shall make available appropriate personnel and records deemed necessary by the auditors for inspection and copying at reasonable times and places.

"(4) Each last signatory operator obligated to pay assessments to the 1991 Fund pursuant to paragraph (2) shall be bound by all of the provisions of the plan and trust documents establishing and governing the 1991 Fund.

"(5) As of the date any assessment owed under this subsection is due, the persons described in section 9723(5) (B) or (C) with respect to any last signatory operator shall be treated as such last signatory operator and shall be jointly and severally liable for such assessment.

"(e) EXCLUSIVE OBLIGATION.—Except as provided in this chapter, no employer that was a signatory to the 1978 or any subsequent coal wage agreement and that had an obligation to provide health care benefits to coal mine retirees shall be obligated to provide benefits to individuals covered by the plans described in section 9721(d), or to make contributions to any plan described in section 9721(d), or to the 1991 Fund, with respect to work performed or coal mined after the date of enactment of this chapter, or to pay withdrawal liability to a plan described in section 9721(d) as a result of the change in the contribution obligation required by this chapter.

"SEC. 9714. OBLIGATION OF LAST SIGNATORY OPERATOR TO PROVIDE BENEFITS TO RETIREES.

"(a) DURATION OF OBLIGATION.—The last signatory operator of any individual receiving retiree health care benefits as of February 1, 1993 (including retiree, spouse, surviving spouse and dependent benefits) from an individual employer plan maintained pursuant to a coal wage agreement (or who has applied for such benefits as of February 1, 1993, and has met every eligibility requirement for such benefits as of such date) shall provide retiree health care benefits to such individual equal to the benefits required to be provided by such last signatory operator's individual employer plan as of January 1, 1992, as limited by any managed care or cost containment rules of the type described in sections 9712(c) and 9713(c)(2), and subject to subsection (b), for as long as the last signatory operator remains in business. The existence, level and duration of benefits provided to a last signatory operator's former employees (and their spouses, surviving spouses and dependents), other than those described in this subsection, who are or were covered by a coal wage agreement, shall only be as determined by and subject to collective bargaining or lawful unilateral action, except that this subsection shall not be construed

to impair the eligibility of any individual described in section 9711(b)(1)(D) for the benefit coverage described in section 9712(b)(3).

"(b) MANAGED CARE PROVIDER SYSTEM QUALITY CONTROL.—Any managed care provider system adopted by a last signatory operator as permitted under subsection (a), or by the joint board of trustees of the 1991 Fund, pursuant to section 9713(c)(2), shall be subject to the following requirements of this subsection:

"(1) The settlors shall establish a medical peer review panel, which shall determine standards of quality for managed care provider systems. Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending upon the nature of the medical need. Each settlor shall have the power to appoint and remove 2 individuals who shall serve on the panel. A panel member shall be either a medical practitioner knowledgeable in managed care, or an individual who is expert in managed care.

"(2) Each last signatory operator and the joint board of trustees of the 1991 Fund shall submit a description of any managed care provider system to the panel prior to implementation of the system, and shall, on the same date or prior to such submission, provide notice of the submission to the participants of the affected employee benefit plan or plans. The last signatory employer or the joint board of trustees may implement the proposed system on a provisional basis on or after the 120th day after the submission to the panel, unless the panel issues a preliminary determination that the system has not been shown to meet the requisite standards. The requirements of this paragraph shall not apply to a last signatory operator electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(3)(A) Upon receipt of a submission by a last signatory operator or by the joint board of trustees, the panel shall conduct a preliminary examination of the managed care provider system. In the event that the preliminary review reveals a failure to show compliance with established standards such that provisional implementation by a last signatory operator or by the joint board of trustees may be detrimental to participants subject to the system, the panel shall, within 120 days of the submission, issue a preliminary determination that the system has not been shown to meet the requisite standards.

"(B) Within 240 days from the date of any submission, the panel shall issue a final determination of whether the system has been shown to meet the established standards of quality. In the event of a negative determination, the panel shall list specific steps that may be taken by the last signatory operator or by the joint board of trustees to qualify the system under the established standards.

"(C) The first-named settlor in section 9723(8) shall have the authority to review submissions made under paragraph (2), and to designate the order in which such submissions shall be considered by the panel.

"(D) In the event that the members of the panel deadlock on a determination to be made under this paragraph, they shall, by majority vote, appoint a neutral person, who would be qualified to serve as a panel member, to break such deadlock.

"(4) In the event of a negative determination by the panel, the last signatory operator shall have the options described in subparagraph (A), (B), or (C), and the joint board of trustees shall have the options described in subparagraphs (A) and (B):

"(A) implementing the specific steps outlined by the panel pursuant to paragraph (3);

"(B) consistent with the requirements of this subsection, establishing a new managed care provider system that meets the requisite standards; or

"(C) electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(5) The panel shall develop rules for the periodic review of determinations made, except that reviews shall be no more frequent than once every 3 years; and for the reconsideration of any prior determination upon a showing that the managed care provider system does not or has ceased to meet the established standards. The panel may take into account written complaints received from affected participants and beneficiaries, but the authority of the panel shall be limited to determining the continued qualification of a managed care provider system under the established standards, and shall not extend to resolving claims of medical malpractice or any other issue.

"(6) The panel shall withhold from all persons not connected with the conduct of a reconsideration or review described in paragraph (5) (other than the first-named settlor in section 9723(8)) all information relating to the subject of any written complaint received by an affected participant or beneficiary; and may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such information. Notwithstanding the foregoing, the panel shall provide the last signatory operator or the joint board of trustees of the 1991 Fund with a copy of any written complaint relating to a managed care provider system maintained by such last signatory operator or joint board of trustees.

"(7)(A) The panel, any person acting as a member or staff to the panel, any person under a contract or other formal agreement with the panel, and any person who participates with or assists the panel with respect to any action taken pursuant to this subsection, shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the Civil Rights Acts (42 U.S.C. 1981 et seq.). Nothing in this subparagraph shall prevent the United States or any attorney general of a State from bringing an action, where such an action is otherwise authorized.

"(B) Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to the panel regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

"(8) The joint board of trustees of the 1991 Fund and each last signatory operator that makes a submission pursuant to subsection (b)(2) shall be liable for reasonable fees assessed by the panel in connection with the review of managed care provider systems.

"(c) SATISFACTION OF OBLIGATIONS.—Subject to the provisions of sections 9711 and 9713, the obligations of a last signatory operator under this section may be satisfied for any period with respect to any individual by payment of the required assessment under section 9713(d) or the premium under section 9704(g)(1)(C), or by the provision of the required benefits under an individual employer plan.

"(d) CONTROL GROUP LIABILITY.—As of the date that any benefit obligation owed pursuant to this section is due, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator shall be treated as such last signatory operator, and shall be jointly and severally liable for such benefit obligation.

"SEC. 9715. TRANSITION BENEFITS; PREMIUM NONPAYMENT; TRANSFERS BETWEEN 1991 FUND AND CORPORATION.

"(a) PAYMENT OF BENEFITS TO ORPHAN MINERS.—The plans described in section 9721(d) and the 1991 Fund shall continue to provide benefits to orphan miners, spouses, surviving spouses and dependents described in section 9711 (b) and (c), until the end of the second month beginning after the effective date of section 9712(d). Such orphan miners, spouses, surviving spouses and dependents shall be transferred to the Corporation as of the first day of the third month following the effective date of section 9712(d). The defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) shall, on behalf of the Corporation and the 1991 Fund, continue to provide death benefits to orphan miners described in section 9711(b) and to retirees described in section 9713(b)(1) until the end of the second month beginning after the effective date of section 9712(d). Such pension plans shall have no liability for death benefits for the orphan miners described in section 9711(b), or for the retirees described in section 9713(b)(1), as of the first day of the third month following the effective date of section 9712(d). The Corporation may elect to pay the plans described in section 9721(d), the 1991 Fund, or the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) to continue to provide transition benefits after the end of the second month beginning after the effective date of section 9712(d), and for a period not to exceed 6 months. If the Corporation so elects, it shall pay such plans all amounts necessary to enable the provision of benefits and to cover all costs of administration associated with the provision of benefits. The schedule for such payments shall be determined by the boards of trustees of the plans, and may require advance payments. Amounts paid pursuant to this subsection shall not be included in the amounts to be reimbursed pursuant to subsection (b).

"(b) REIMBURSEMENT OF COST FOR TRANSITION BENEFITS.—No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation shall reimburse the plans described in section 9721(d) and the 1991 Fund, with interest, for the amounts of benefits paid and administrative expenses incurred pursuant to subsection (a). No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation and the 1991 Fund shall reimburse the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7), with interest, for the amount of death benefits paid and administrative expenses incurred pursuant to subsection (a).

"(c) ACCESS TO RECORDS.—The joint boards of trustees of the plans described in section 9721(d) and the 1991 Fund shall share with the Corporation all records, files and documents related to the orphan miners, spouses, surviving spouses and dependents transferred to the Corporation, to the extent necessary for the Corporation to administer the payment of benefits to such individuals.

"(d) PREMIUM NONPAYMENT.—

"(1) No individual shall be eligible for benefits from the 1991 Fund during any month for which the assessments required under section 9713(d) have not been paid by such individual's last signatory operator. Such individual shall be immediately eligible to receive benefits from the Corporation and the Corporation shall have a cause of action against such individual's last signa-

tory operator for the per beneficiary premium imposed under section 9704(g)(1)(C).

"(2) The 1991 Fund shall continue to treat an individual described in paragraph (1) as if he or she were eligible for benefits until the end of the third month for which an assessment due has not been paid. If the last signatory operator with respect to such individual has not paid its assessments due by the end of such month (with such interest and liquidated damages imposed by the board of trustees in their discretion, up to the amounts provided in section 9722(d)(2) (B) and (C)), the 1991 Fund shall notify the Corporation that the individual is transferred to the Corporation pursuant to paragraph (1), and the Corporation shall reimburse the 1991 Fund, with interest, for any benefits paid to or on behalf of such individual for all months for which assessments have not been paid.

"Subchapter C—Other Provisions

"Sec. 9721. Determination and disposition of excess assets.

"Sec. 9722. Civil enforcement.

"Sec. 9723. Definitions.

"Sec. 9724. Sham transactions.

"SEC. 9721. DETERMINATION AND DISPOSITION OF EXCESS PENSION ASSETS.

"(a) DETERMINATION OF EXCESS PENSION ASSETS.—

"(1) Within 30 days after the enactment of this chapter, the joint board of trustees of the plan described in subsection (c) shall, through the independent actuaries of the plan, calculate the amount of the excess pension assets. The trustees of the plan described in subsection (c) shall recalculate the excess pension assets at any time that they are directed to do so by the settlors.

"(2) Immediately following the calculation (or recalculation) of the excess pension assets, the trustees of the plan described in subsection (c) shall segregate the excess pension assets from the remaining assets of such plan. The segregated excess pension assets (including all earnings thereon) shall be held in the plan until disbursed pursuant to subsection (b).

"(b) DISPOSITION OF EXCESS PENSION ASSETS.—Notwithstanding any other provision of law, the excess pension assets (including all earnings thereon) shall be expended in the following order:

"(1) Fifty million dollars shall be added to the general assets of the Corporation.

"(2) The deficits in the plans described in subsection (d) as of the date of enactment of this chapter shall be reduced to zero.

"(3) Fifty million dollars shall be added to the general assets of the 1991 Fund.

"(4) The remainder of the excess pension assets, if any, shall be added to the general assets of the 1991 Fund, at such times and in such amounts as may be directed by the settlors.

"(c) PLAN CONTAINING EXCESS PENSION ASSETS.—A plan is described in this subsection if it is a pension plan and—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(d) RELATED WELFARE PLANS.—A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) it provides health benefits to retirees and beneficiaries of the industry which maintained the plan described in subsection (c); and

"(A) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976; or

"(B) participation in the plan is substantially limited to individuals who retired on or after January 1, 1976.

"(e) TAX TREATMENT, VALIDITY OF TRANSFER OF EXCESS PENSION ASSETS.—

"(1) No deduction shall be allowed under this title with respect to the expenditure of excess pension assets pursuant to subsection (a), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers or amounts hereafter contributed by employers to the plans described in subsection (c) or (d), or to the 1991 Fund.

"(2) The expenditure of excess pension assets pursuant to subsection (b)—

"(A) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(B) shall not be includible in the gross income of any employer maintaining a plan described in subsection (c).

"(3) Neither the segregation of excess pension assets pursuant to subsection (a)(2), the expenditure of excess pension assets pursuant to subsection (b), nor any direction made by the settlors pursuant to subsection (a)(1) or (b)(4) shall be deemed to violate or be prohibited by any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to taxes, fines, or penalties of any kind whatsoever.

"SEC. 9722. CIVIL ENFORCEMENT.

"(a) Civil actions may be brought by the 1991 Fund for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(b) Except as otherwise provided in this chapter, where such an action is brought in a district court of the United States, it may be brought in the district where the 1991 Fund is administered, in the district where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(c) The district courts of the United States shall have jurisdiction of actions brought by the 1991 Fund under this chapter without regard to the amount in controversy in any such action.

"(d)(1) In any action brought under subsection (a) (other than an action described in paragraph (2)), the court in its discretion may award to the 1991 Fund all or a portion of the costs of litigation, including reasonable attorneys' fees, incurred by the 1991 Fund in connection with such action.

"(2) In any action by the 1991 Fund to enforce section 9713(d)(2), in which a judgment in favor of the 1991 Fund is awarded, the court shall award the 1991 Fund—

"(A) the unpaid assessments;

"(B) interest on the unpaid assessments;

"(C) an amount equal to the greater of—

"(i) interest on the unpaid assessments; or

"(ii) liquidated damages in the amount of 20 percent of the amount determined by the court under subparagraph (A);

"(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant; and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid assessments shall be determined by using the rate provided under the rules of the 1991 Fund, or, if none, the rate prescribed under section 6621.

"(e)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the 1991 Fund acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(b) shall be extended to 6 years after the applicable date.

"(f) Any person who is an employer, a last signatory operator, a person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, a bituminous coal industry retiree, or any spouse, surviving spouse or dependent of a bituminous coal industry retiree, and is adversely affected by any act or omission of any party under this chapter, or who is an employee organization of which such a coal industry retiree is a member, or an employer association of which such an employer is a member, may bring an action for appropriate equitable relief in the appropriate court.

"(1) During the pendency of any proceeding under this subsection by an employer, employer association, last signatory operator, or person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, all potentially affected retirees, spouses, surviving spouses and dependents eligible for benefits from the 1991 Fund shall be transferred to the Corporation, which shall—

"(A) provide such benefits as would have been provided from the 1991 Fund, and

"(B) have and exercise all of the rights and obligations of the 1991 Fund with respect to—

"(i) the collection of assessments relating to such retirees and spouses, surviving spouses and dependents, and

"(ii) the defense of the proceeding.

"(2) In the event that a last signatory operator or other person pays to the 1991 Fund the assessments required pursuant to section 9713(d) for any month during the pendency of a proceeding described in paragraph (1), the 1991 Fund, and not the Corporation, shall be responsible for providing any benefits required to be paid for that month to eligible individuals under section 9713(b).

"(g) In any action brought under subsection (f), the court may award all or a portion of the costs and expenses, including reasonable attorneys' fees, incurred in connection with such action to any party that prevails or substantially prevails in such action.

"(h) This subsection shall be the exclusive means for bringing actions against the Corporation or the 1991 Fund under this chapter.

"(i)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date.

"(j) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(k) In any suit, action or proceeding in which the 1991 Fund is a party, in any State court, the 1991 Fund may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action or proceeding is pending by following any procedure for removal now or hereafter in effect.

"SEC. 9723. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'coal production work' shall mean work in which an individual engages in physical operations consisting of the mining, preparation, handling, processing, cleaning and loading of coal, including removal of overburden and coal waste, the transportation of coal (except by waterway or rail not owned by an employer engaged in the production of coal), repair and maintenance work normally performed at a

mine site or central shop of an employer engaged in the production of coal, maintenance of gob piles and mine roads, construction of mine or mine-related facilities including the erection of mine tipples and sinking of mine shafts or slopes performed by employees of the employer engaged in the production of coal, and work of the type customarily related to the foregoing; except that the term shall not mean managerial, supervisory, warehouse, clerical or technical work, unless such work is performed subject to a coal wage agreement binding the employer engaged in the production of coal.

"(2) The term 'coal wage agreement' shall mean—

"(A) the National Bituminous Coal Wage Agreement;

"(B) any agreement substantially identical or substantially similar to such agreement, but only if, as of the date of enactment of this chapter, such agreement provided for contributions to be made to the plans described in section 9721(d); or

"(C) any other agreement entered into between an employer in the bituminous coal industry and the United Mine Workers of America that requires the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan.

"(3) The term 'credited service' shall have the same meaning as determined under the applicable defined benefit pension plan, but only if such service was of the type used to determine eligibility under the plan described in section 9721(d)(2)(B).

"(4) The term 'excess pension assets' shall mean the excess of the current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(26)) of the plan described in section 9721(c) over the actuarial present value of all benefits for all plan participants under such plan, determined as of the date of enactment, in accordance with the actuarial assumptions and methods which reflect the plan actuary's best estimate of anticipated experience under such plan, except that where excess pension assets are recalculated as required under section 9721(a)(1), the amount of excess pension assets shall be determined as of the July 1 next preceding the date of the recalculation.

"(5) A last signatory operator shall be considered to be in business for purposes of this chapter if any of the following conducts or derives revenue from any business, whether or not within the coal industry—

"(A) such last signatory operator;

"(B) any member of the controlled group of corporations (within the meaning of section 414(b)) of such last signatory operator; or

"(C) any trade or business which is under common control (as determined under section 414(c)) with such last signatory operator.

If a last signatory operator is no longer in business and there is no successor, the relationships described in paragraphs (2) and (3) shall be determined at the time it ceased to be in business.

"(6)(A) The term 'last signatory operator shall mean, with respect to any orphan miner or other coal industry retiree eligible for medical benefits, a person that meets or at one time met the following conditions:

"(i) A person meets the conditions of this clause if such person is—

"(I) an owner, lessee or other person who operates, controls or supervises a coal mine;

"(II) an independent contractor who operates, controls or supervises a coal mine; or

"(III) in the event a person described in (I) or (II) is no longer in business, any successor to such person, except that a purchaser shall not be considered to be a successor with respect to any orphan miner or other coal industry retiree eligible for medical benefits, if responsibility for the medical benefits of such orphan miner or other coal industry retiree was retained by the seller in the purchase and sale transaction.

"(ii) A person meets the conditions of this clause if such person or, in the case of a person described in clause (i)(III), such person's predecessor—

"(I) was a signatory to a 1978 coal wage agreement, or any subsequent coal wage agreement; and

"(II) was the last coal industry employer of such orphan miner or other retiree.

"(B) Notwithstanding subparagraph (A), if, as of the date of enactment of this chapter, a person has assumed or retained responsibility for retiree medical benefit obligations for individuals who retired from employment under a coal wage agreement, then such person shall be treated as the last signatory operator with respect to such individuals for purposes of this chapter, and any person from whom such responsibility was assumed shall not be treated as the last signatory operator.

"(C) For purposes of this chapter, the last signatory operator of any orphan miner or other coal industry retiree shall be considered to be the last signatory operator with respect to such orphan miner's or other coal industry retiree's spouse, surviving spouse and dependents, if any.

"(7) The term 'National Bituminous Coal Wage Agreement' shall mean the collective bargaining agreement negotiated by the settlors.

"(8) The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (hereinafter referred to as the 'BCOA'), except that if the BCOA ceases to exist, members of the BCOA representing more than 50 percent of the tonnage membership of BCOA on the date of enactment of this Act shall collectively be considered a settlor.

"SEC. 9724. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and liability shall be imposed) without regard to such transaction. A bona fide, arm's-length sale of an entity subject to liability under this chapter to an unrelated party (within the meaning of section 4204(d) of the Employee Retirement Income Security Act of 1974, as amended), shall not by itself be sufficient to establish a principal purpose to evade or avoid liability within the meaning of this section."

(b) CONFORMING AMENDMENT.—The table of subtitles for the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J. Coal Industry health benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of the enactment of this Act.

TITLE XX—GENERAL PROVISIONS; REDUCTION OF OIL VULNERABILITY

SEC. 2001. DEFINITIONS.

For purposes of this title and titles XXI through XXV—

(1) the term "demonstration" means the building or assembling of facilities or equipment at appropriate scale to prove the technical feasibility of a process or technology;

(2) the term "developing country" includes the nations of Eastern Europe and the Soviet Union, or any successor entity or entities thereto;

(3) the term "long-term" means the period from 10 to 20 years in the future;

(4) the term "mid-term" means the period from 5 to 10 years in the future;

(5) the term "near-term" means the period from the present to 5 years in the future;

(6) the term "Secretary" means the Secretary of Energy; and

(7) the term "source reduction" means any practice which—

(A) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

(B) reduces the hazards to the public health and the environment associated with the release of such substances, pollutants, or contaminants,

including equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, and inventory control, but not including any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

SEC. 2002. GOALS.

It is the goal of the United States in carrying out energy supply and energy conservation research and development—

(1) to strengthen national energy security by reducing dependence on imported oil;

(2) to increase the efficiency of the economy by meeting future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving comparable consideration to technologies which enhance energy supply and technologies which improve the efficiency of energy end uses;

(3) to reduce the adverse environmental consequences of energy production and use through the development of an environmentally sustainable energy system which makes possible a reduction from the 1990 level in greenhouse gas emissions from energy production and use in the United States;

(4) to maintain the technological competitiveness of the United States and stimulate economic growth through the development of critical advanced materials and technologies; and

(5) to foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development.

Subtitle A—Oil and Gas Supply Enhancement

SEC. 2011. ENHANCED OIL RECOVERY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on technologies to increase and accelerate the volume of oil recovered from domestic oil reservoirs in producing fields, including technologies to—

(1) improve reservoir characterization;

(2) improve analysis and field verification;

(3) field test and demonstrate advanced enhanced oil recovery processes in reservoirs the Secretary considers to be of high priority;

(4) improve enhanced oil recovery process technology for more economic and efficient oil production;

(5) study reservoir properties and how they affect oil recovery from porous media;

(6) improve techniques for meeting environmental requirements;

(7) improve data bases of reservoir and environmental conditions; and

(8) lower lifting costs on stripper wells by utilizing advanced renewable energy technologies such as small wind turbines and others.

(b) PROGRAM GOALS.—

(1) OVERALL GOAL.—The overall goal of the program established under subsection (a) is the development of technologies to increase recoverable oil resources cost effectively by approximately 76,000,000,000 barrels of oil by the year 2010, compared to 1991 levels of recoverable reserves.

(2) NEAR-TERM PRIORITIES.—The near-term priorities of the program include preserving access to high potential reservoirs, identifying available technologies that can extend well lifetimes, and developing environmental field operations for waste disposal and injection practices.

(3) MID-TERM PRIORITIES.—The mid-term priorities of the program include developing and testing identified but unproven technologies, and transferring those technologies for widespread use.

(4) LONG-TERM PRIORITIES.—The long-term priorities of the program include developing advanced techniques to recover oil not recoverable by other techniques.

(c) ACCELERATED PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a plan for carrying out under this section the accelerated field testing of technologies to achieve the overall goal stated in subsection (b)(1) within 10 years after the date of enactment of this Act. The plan shall include a revised schedule of field tests, and cost estimates for the accelerated program. In preparing the plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, and with the Advisory Board established under section 2303.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require that the non-Federal share of the project being assisted be at least 50 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including advanced extraction and process technology, $60,000,000 for fiscal year 1993 and $270,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2012. OIL SHALE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research and development on oil shale extraction and conversion, using laboratory-scale activities. The program shall include technology development for both Eastern and Western shales.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) include—

(1) supporting the development of economically competitive and environmentally acceptable technologies to produce domestic supplies of liquid fuels from oil shale;

(2) increasing knowledge of environmentally acceptable oil shale waste disposal technologies and practices;

(3) increasing knowledge of the chemistry and kinetics of oil shale retorting;

(4) increasing understanding of engineering issues concerning the design and scale-up of oil shale extraction and conversion technologies; and

(5) improving techniques for oil shale mining systems.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for fiscal year 1993 and $51,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2013. NATURAL GAS SUPPLY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration to improve technologies for—

(1) the extraction of natural gas from tight gas sands and devonian shales or other unconventional sources; and

(2) secondary natural gas recovery.

(b) PROGRAM GOALS.—

(1) OVERALL GOALS.—The overall goals of the program established under subsection (a) are to improve field data and modeling of natural gas production from unconventional sources and to continue data accumulation on unconventional gas sources, including speculative sources.

(2) NEAR-TERM PRIORITIES.—The near-term priorities of the program include—

(A) a focus on recovery from conventional gas reservoirs;

(B) the consolidation of Federal data bases;

(C) the preparation of a series of maps indicating the location of domestic natural gas resources;

(D) enhanced natural gas recovery studies;

(E) the development of horizontal drilling technology; and

(F) the development of techniques for upgrading low quality natural gas.

(3) MID-TERM PRIORITIES.—The mid-term priorities of the program include—

(A) a focus on recovery from unconventional sources such as tight gas sand formations; and

(B) the developing of techniques for locating naturally fractured zones and cost-effective methods for increasing the size and gas-flow capability of fracture systems.

(4) LONG-TERM PRIORITIES.—The long-term priorities of the program include—

(A) a focus on recovery from speculative sources, including deep sediments and gas hydrates; and

(B) the development of new techniques to locate and extract natural gas.

(c) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(e) COFIRING OF NATURAL GAS AND COAL.—

(1) PROGRAM.—The Secretary shall establish and carry out a program of research, development, and demonstration of cofiring natural gas with coal in utility and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(2) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements with, and provide financial assistance to, appropriate parties for application of cofiring technologies to boilers to demonstrate this technology.

(3) REPORT TO CONGRESS.—The Secretary shall, before December 31, 1995, submit to the Congress a report on the progress made in carrying out this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $40,000,000 for fiscal year 1993 and $240,000,000 for the period encompassing fiscal years 1994 through 1997.

(g) CONSULTATION.—In carrying out the provisions of this subtitle, the Secretary shall consult representatives of the oil and gas industry for innovative research and development proposals to improve oil and gas recovery and shall consider relevant technical data from industry and other research and information centers and institutes.

Subtitle B—Oil and Gas Demand Reduction and Substitution

SEC. 2021. GENERAL TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on cost effective technologies to reduce the demand for oil in the transportation sector for all vehicles, including existing vehicles, through increased energy efficiency and the use of alternative fuels. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goals stated in section 2002. Such program shall include the activities required under sections 2022 through 2027, and ongoing activities of a similar nature at the Department of Energy.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(d) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary for carrying out the program described in subsection (a), including transportation sector energy conservation research and development (other than activities under section 2025) and transportation sector biofuels energy systems under solar energy, $150,000,000 for fiscal year 1993 and $880,000,000 for the period encompassing fiscal years 1994 through 1997, including—

(A) $100,000,000 for carrying out section 2022;

(B) $50,000,000 for carrying out section 2023;

(C) $2,500,000 for carrying out section 2024;

(D) $25,000,000 for carrying out section 2026; and

(E) $50,000,000 for carrying out section 2027, including Department of Energy National Laboratory participation in proposals submitted under subsection (d) of such section.

(2) There are authorized to be appropriated to the Secretary for carrying out section 2025—

(A) $58,000,000 for fiscal year 1993;

(B) $75,000,000 for fiscal year 1994;

(C) $80,000,000 for fiscal year 1995;

(D) $80,000,000 for fiscal year 1996;
(E) $90,000,000 for fiscal year 1997; and
(F) $100,000,000 for fiscal year 1998.

SEC. 2022. ADVANCED AUTOMOTIVE FUEL ECONOMY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration, to supplement ongoing research activities of a similar nature at the Department of Energy, to accelerate the near-term and mid-term development of advanced technologies to improve the fuel economy of light-duty passenger vehicles powered by a piston engine, and hybrid vehicles powered by a combination of piston engine and electric motor.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to stimulate the development of emerging technologies with the potential to achieve significant improvements in fuel economy while reducing emissions of greenhouse gases and other air pollutants.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section, making a special effort to involve small businesses in the program.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305, unless the Secretary finds that a lower non-Federal cost share is warranted given the technical risks involved.

SEC. 2023. ALTERNATIVE FUEL VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall carry out a program of research, development, and demonstration on techniques related to improving natural gas and other alternative fuel vehicle technology, including—

(1) fuel injection;
(2) carburetion;
(3) manifolding;
(4) combustion;
(5) power optimization;
(6) efficiency;
(7) lubricants and detergents;
(8) engine durability;
(9) ignition, including fuel additives to assist ignition;
(10) multifuel engines;
(11) emissions control, including catalysts;
(12) novel gas compression concepts;
(13) advanced storage systems;
(14) advanced gaseous fueling technologies; and
(15) the incorporation of advanced materials in these areas.

(b) COOPERATIVE AGREEMENTS AND ASSISTANCE.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, public or private entities willing to provide 50 percent of the costs of a program to perform research, development, and demonstration under subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "alternative fuels" includes natural gas, liquefied petroleum gas, any fuel the content of which is at least 85 percent by volume methanol, ethanol, or other alcohol, and hydrogen;

(2) the term "alternative fuel vehicle" means a motor vehicle that operates on alternative fuels; and

(3) the term "motor vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

SEC. 2024. BIOFUELS RESEARCH AND DEVELOPMENT USER FACILITY.

(a) The Secretary shall establish a biofuels research and development user facility to expedite industry adoption of biofuels technologies. Such facility shall provide industry with onsite laboratory and office space to work on biofuels technologies, including production of alcohol fuels from biomass.

(b) The Secretary, through grants to such universities and colleges as the Secretary determines are qualified, shall establish a research and demonstration program with respect to the production and use of diesel fuels from vegetable oils. The program shall include—

(1) research on the economic feasibility of production of oilseed crops for biofuels purposes; and

(2) for demonstration purposes, the establishment of a mobile small-scale oilseed pressing and esterification unit and a stationary small-scale commercial oilseed pressing and esterification unit.

SEC. 2025. ELECTRIC VEHICLE AND BATTERY RESEARCH AND DEVELOPMENT PROGRAM.

(a) COOPERATIVE PROGRAM.—(1) The Secretary, consistent with the comprehensive plan described in paragraph (2), shall establish a cooperative program with the electric utility industry, the automobile industry, and such other persons or industries as the Secretary considers appropriate to conduct joint cooperative research and development projects with industry in areas of technology development such as—

(A) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for vehicle range improvement;

(B) light-weight body structures for vehicle weight reduction;

(C) advanced battery technology with high energy and power for electric vehicle application;

(D) batteries and fuel cells for hybrid vehicle application;

(E) fuel cells and fuel cell systems for primary vehicle power sources; and

(F) photovoltaics for application with electric vehicle use.

The Secretary may also include any such projects that were entered into under the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920) or the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2501–2514) in the program under this subsection.

(2)(A) The Secretary shall prepare a comprehensive multi-year program plan for carrying out this section. In the preparation of such plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric vehicle manufacturers and the United States automobile industry, and such other public and private organizations as the Secretary considers appropriate.

(B) The comprehensive plan shall include—

(i) a prioritization of research areas critical to the commercialization of electric vehicles, including advanced battery technology;

(ii) the program elements, management structure, and activities, including program responsibilities of Federal agencies and departments;

(iii) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year, for all major activities and projects;

(iv) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the plan for each of the participating Federal agencies or departments;

(v) a description of the methods of technology transfer;

(vi) the proposed participation by non-Federal entities in the implementation of the plan; and

(vii) such other information as the Secretary considers appropriate.

(C) Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit the comprehensive plan to the Congress. Such plan shall be revised and such revision transmitted to the Congress when significant changes are proposed.

(3) Not later than 240 days after the date of enactment of this Act, the Secretary shall request proposals or seek to negotiate joint cooperative research and development projects under this subsection.

(4) The contribution of the United States to any project under this section shall not exceed 50 percent.

(5) The Secretary shall conduct evaluations, arrange for tests and demonstrations necessary to support efforts undertaken pursuant to this subsection.

(b) FUEL CELLS FOR TRANSPORTATION.—(1) The Secretary shall develop and implement a comprehensive program of research, development, and demonstration of fuel cells and related systems for transportation applications through the establishment of one or more cooperative programs among industry, government, and research institutions to develop and demonstrate the use of fuel cells as the primary power source for private and mass transit vehicles and other mobile applications.

(2) Research, development, and demonstration activities under this subsection shall be designed to incorporate one or more of the following priorities—

(A) the potential for near-term to mid-term commercialization;

(B) the ability of the systems to use a variety of renewable and nonfossil fuels;

(C) emission reduction and energy conservation potential;

(D) the potential to utilize fuel cells and fuel cell systems developed under Department of Defense and National Aeronautics and Space Administration programs; and

(E) the potential to take maximum practical advantage of advances made in electric vehicle research, stationary source fuel cell research, and other research activities authorized by this title.

(3)(A) Research, development, and demonstration projects selected by the Secretary under this subsection shall have application to—

(i) passenger vehicles;
(ii) vans and utility vehicles;
(iii) light rail systems and locomotives;
(iv) trucks, including long-haul trucks, dump trucks, and garbage trucks;
(v) passenger buses;
(vi) non-chlorofluorocarbon mobile refrigeration systems;
(vii) marine vessels, including recreational marine engines; or
(viii) mobile engines and power generation, including recreational generators, and industrial and construction equipment.

(B) The Secretary shall establish programs to undertake research, development, and demonstration activities for use in at least two of the applications listed in subpara-

graph (A) in each of fiscal years 1993, 1994, 1995, and 1996, based on the priorities established in paragraph (2), so that by the end of the period, research, development, and demonstration activities are under way for each application. The initiatives authorized and implemented pursuant to this subsection shall be in addition to any other fuel cell programs authorized in existing law.

(c) HOLD HARMLESS.—Nothing in this section shall be construed to alter, affect, modify, or change any activities or agreements initiated prior to the date of enactment of this Act with domestic motor vehicle manufacturers through joint venture or consortium agreements regarding batteries for electric vehicles.

(d) CONSULTATION.—The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation in carrying out this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "advanced battery technology" means electro-chemical storage devices, including fuel cells, and associated technology necessary to charge, discharge, recharge, or regenerate such devices, for use as a source of power for an electric vehicle, and any other associated equipment;

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electrical energy used to power an electric vehicle; and

(3) the term "electric vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power.

SEC. 2026. RENEWABLE HYDROGEN ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on renewable hydrogen energy systems, to supplement ongoing activities of a similar nature at the Department of Energy, including—

(1) at least one program to develop and demonstrate a system for generating hydrogen from renewable energy sources;

(2) at least one program to assess the feasibility of existing natural gas pipelines carrying hydrogen gas, including experimentation if needed, with a goal of determining those components of the natural gas distribution system that would have to be modified to carry—

(A) more than 20 percent hydrogen mixed with natural gas; and

(B) pure hydrogen gas;

(3) at least one program to develop and demonstrate at least one hydrogen storage system suitable for electric vehicles powered by fuel cells, with emphasis on—

(A) improved metal hydride hydrogen storage;

(B) activated carbon-based hydrogen storage;

(C) high pressure compressed hydrogen; or

(D) other novel hydrogen storage techniques;

(4) at least one program to develop and demonstrate a fuel cell suitable to power an electric vehicle; and

(5) such other research and development programs as the Secretary considers necessary to carry out this section.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2027. ADVANCED DIESEL EMISSIONS RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a program of research, development, and demonstration on diesel engine combustion and engine systems, related advanced materials, and fuels and lubricants to reduce emissions oxides of nitrogen and particulates. Activities conducted under this program shall supplement activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goal stated in subsection (b).

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate the ability of United States diesel manufacturers to meet current and future oxides of nitrogen and particulate emissions requirements.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy National Laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide research, development, and demonstration activities under this section. The Secretary shall biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) SOLICITATION OF PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals from eligible parties, as such term is defined in section 2205(3), for conducting research, development, and demonstration activities consistent with the 5-year program plan. Such proposals may be submitted by one or more eligible parties, and may include any funding mechanisms otherwise authorized under Federal law.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

Subtitle C—Oil Substitution Through Coal Liquefaction

SEC. 2031. OIL SUBSTITUTION THROUGH COAL LIQUEFACTION.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research and development for the purpose of developing economically and environmentally acceptable advanced technologies for oil substitution through coal liquefaction.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) improved resource selection and product quality;

(2) the development of technologies to increase net yield of liquid fuel product per ton of coal;

(3) an increase in overall thermal efficiency; and

(4) a reduction in capital and operating costs through technology improvements.

(c) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research and development activities under this section.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require that the non-Federal share of the project being assisted be at least 50 percent.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $23,000,000 for fiscal year 1993 and $33,000,000 for the period encompassing fiscal years 1994 through 1997.

TITLE XXI—ENERGY AND ENVIRONMENT

Subtitle A—Improved Energy Efficiency

SEC. 2101. GENERAL IMPROVED ENERGY EFFICIENCY RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on cost effective technologies to improve energy efficiency and increase the use of renewable energy in the buildings, industrial, and utility sectors. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goals stated in section 2002. Such program shall include the activities required under sections 2102, 2103, 2104, 2105, 2106, and 2107 and ongoing activities of a similar nature at the Department of Energy.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) in the buildings sector—

(A) to accelerate the development of technologies that will increase energy efficiency;

(B) to increase the use of renewable energy; and

(C) to improve building construction practices and materials to reduce environmental pollution in the mid-term, through the development of low emission, low energy buildings;

(2) in the industrial sector—

(A) to accelerate the development of technologies that will increase energy efficiency and thereby improve productivity;

(B) to increase the use of renewable energy; and

(C) to reduce pollution production per unit of output; and

(3) in the utility sector, to accelerate the development of technologies that will increase energy efficiency.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other

financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this subtitle, including building, industry, and utility sectors energy conservation research and development, and inventions and innovation under energy conservation technical and financial assistance, $190,000,000 for fiscal year 1993 and $1,490,000,000 for the period encompassing fiscal years 1994 through 1997, including—

(1) $100,000,000 for carrying out section 2102;

(2) $50,000,000 for carrying out section 2103;

(3) $100,000,000 for carrying out section 2104;

(4) $15,000,000 for carrying out section 2105;

(5) $15,000,000 for carrying out section 2106; and

(6) $18,091,000 for fiscal year 1993 for carrying out section 2107.

SEC. 2102. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.

(a) PROGRAM DIRECTION.—(1) The Secretary shall conduct a program of research, development, and demonstration for energy efficient natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall include research, development, and demonstration on—

(A) thermally activated heat pumps, including absorption heat pumps and engine-driven heat pumps; and

(B) other advanced natural gas technologies, including fuel cells.

(3) The electric heating and cooling program shall focus on including research, development, and demonstration on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electrically driven HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2103. PULP AND PAPER RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on advanced pulp and paper technologies. Activities under this section shall include research, development, and demonstration on energy generation technologies, boilers, combustion processes, pulping processes (excluding de-inking), chemical recovery, causticizing, source reduction processes, and other related technologies that can improve the energy efficiency of, and reduce the adverse environmental impacts of, pulp and papermaking operations. This section does not authorize research, development, and demonstration projects involving the combustion of waste paper, excluding gasification.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2104. ADVANCED BUILDING RESEARCH, DEVELOPMENT, AND DEMONSTRATION FOR LOW EMISSION, LOW ENERGY BUILDINGS BY 2005.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a program of research, development, and demonstration on new technologies for integrated building design and products that will provide affordable and commercially viable low emission, low energy buildings by the year 2005, to supplement ongoing activities of a similar nature at the Department of Energy. Activities under this section shall include research, development, and demonstration on—

(1) integrated building designs, design tools, and construction techniques;

(2) advanced building components that can perform effectively in integrated building designs;

(3) advanced energy conversion systems (such as photovoltaics) for application to buildings;

(4) the use of recycled materials in building products and products that can be recycled; and

(5) demonstration of evaluation methods and tools to assess performance in operating environments.

(b) PROPOSALS.—

(1) SOLICITATION.—Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) evidence of knowledge of current building practices in the United States and in other countries;

(B) an explanation of how the proposal will expedite the commercialization of advanced building materials, technologies, and products, advanced construction techniques, and innovative design practices beyond those already in the marketplace;

(C) evidence of consideration of whether the unique capabilities of Department of Energy National Laboratories warrants collaboration with such Laboratories, and the extent of such collaboration proposed;

(D) evidence of collaboration with relevant industry or other groups or organizations; and

(E) a demonstration of the ability of the proposers to undertake and complete the project proposed.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2105. ELECTRIC DRIVES.

(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—The Secretary shall conduct research, development, and demonstration to expedite adoption of energy efficient industrial electric drive technologies, including adjustable speed drives, high speed motors, and high efficiency motors. Activities under this section shall include the identification and development of technical information on targets of opportunity, assessment of infrastructure needs, and development of advanced technologies and processes.

(b) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for research, development, and demonstration projects under this section.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2106. MID-TERM TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary, on consultation with the Secretary of Defense, the Administrator of the General Services Administration, and other appropriate Federal officials, shall establish a program for the demonstration, at federally owned or assisted buildings and facilities designated by such officials for long-term commitment to such demonstration, of emerging energy efficiency and renewable energy technologies described in subsection (b).

(b) TECHNOLOGIES.—Technologies to be demonstrated under this section shall be technologies substantially developed by the Department of Energy, or derived from research and development carried out by the Department of Energy, that are not commercially available, and shall include residential heat pumps, lighting fixtures, cogeneration, solar detoxification, and other technologies that the Secretary, after consultation with the Secretary of Defense, the Administrator of the General Services Administration, and other appropriate Federal officials, determines can improve energy efficiency and environmental conditions in Federal facilities and operations.

(c) PURPOSE OF DEMONSTRATION.—The purpose of demonstrations funded under this section shall be to determine—

(1) the technical feasibility and reliability;

(2) the economic life cycle costs;

(3) the production feasibility; and

(4) the Federal sector market potential,

of the technology to be demonstrated.

(d) COMPLETION OF DEMONSTRATION.—(1) When a demonstration project funded under this section has successfully demonstrated the cost-effective feasibility of a technology, the Federal agency involved, with assistance from the Secretary, shall effect technology transfer by publicizing the results of the demonstration.

(2) When a successfully demonstrated technology has reached a stage of production capability, the resulting product shall be listed on appropriate General Services Administration product schedules.

SEC. 2107. STEEL AND ALUMINUM RESEARCH.

(a) AMENDMENTS.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is amended—

(1) in section 4(b)(5), by striking "Industrial Programs" and inserting in lieu thereof "Industrial Technologies";

(2) in section 8, by inserting at the end the following new sentence: "The report submitted at the close of fiscal year 1993 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this Act.";

(3) in section 9(a)(1), by striking "and $25,000,000 for fiscal year 1991" and inserting in lieu thereof "$25,000,000 for fiscal year 1991, $17, 968,000 for fiscal year 1992, and $18,091,000 for fiscal year 1993";

(4) in section 9(b), by striking "and 1991" and inserting in lieu thereof "1991, 1992, and 1993"; and

(5) in section 11(a), by striking "or fiscal year 1991" both places it appears and inserting in lieu thereof "fiscal year 1991, fiscal year 1992, or fiscal year 1993".

(b) REPEALS.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 is amended—

(1) in section 4(c)(1)(C), by inserting "and" after "Program;";

(2) in section 4(c)(2)(C), by striking "Program; and" and inserting in lieu thereof "Program.";

(3) by striking section 4(c)(3);

(4) in section 5(1)(B), by inserting "and" after "program;";

(5) in section 5(2)(B), by striking "program; and" and inserting in lieu thereof "program."; and

(6) by striking section 5(3).

Subtitle B—Electricity Generation and Use

SEC. 2111. RENEWABLE ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a broad and comprehensive program of research, development, and demonstration to provide cost-effective options for the generation of electricity from renewable energy sources for grid and nongrid application, including field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility for providing cost effective generation and for meeting the goal stated in section 2002(3).

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be the accelerated development of renewable energy technologies that can cost effectively meet at least 15 percent of United States electricity generation needs by the year 2010.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including all solar energy programs (other than activities under section 2021), geothermal systems, electric energy systems, and energy storage systems, $215,000,000 for fiscal year 1993 and $1,285,000,000 for the period encompassing fiscal years 1994 through 1997, of which $26,900,000 is for carrying out section 2119 for fiscal year 1993.

SEC. 2112. HIGH EFFICIENCY HEAT ENGINES.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on high efficiency heat engines, including field demonstrations of sufficient scale and number in operating environments to prove the technical and economic feasibility of such engines, emphasizing advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and industrial power generation covering a range of small-, mid-, and large-scale applications, including—

(1) mechanically recuperated gas turbines;

(2) intercooled gas turbines with steam injection or recuperation;

(3) gas turbines utilizing reformed fuels or hydrogen; and

(4) high efficiency, simple cycle gas turbines.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to develop high efficiency heat engines that can achieve over 50 percent efficiency.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including the Administrator of the Environmental Protection Agency and national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) PROPOSALS.—Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $125,000,000 for the period encompassing fiscal years 1993 through 1997, to be derived from sums authorized under section 2101(f).

SEC. 2113. NUCLEAR ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, taking into consideration life cycle environmental costs;

(2) facilitate the design, licensing, construction, and operation of a nuclear powerplant using a standardized design;

(3) exhibit enhanced safety features; and

(4) incorporate features that advance the objectives of the Nuclear Non-Proliferation Act of 1978.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) for the near-term—

(A) facilitate the submission, by September 30, 1995, for certification by the Nuclear Regulatory Commission, of standardized advanced light water reactor technology designs that the Secretary determines have the characteristics described in subsection (a) (1) through (4);

(B) facilitate the completion of submissions, by September 30, 1996, for preliminary design approvals by the Nuclear Regulatory Commission of standardized designs for the modular high-temperature gas-cooled reactor technology and the liquid metal reactor technology; and

(C) the evaluation, by September 30, 1996, of the actinide burn technology to determine if it can reduce the volume of long-lived fission byproducts;

(2) for the mid-term—

(A) facilitate increased efficiency of enhanced safety, advanced light water reactors to produce electric power at the lowest cost to the customer;

(B) the development of advanced reactor concepts that are passively safe and environmentally acceptable; and

(C) the completion of necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology to support the selection, by September 30, 1998, of one or both of those technologies as appropriate for prototype demonstration; and

(3) for the long-term, the completion of research and development and demonstration to support the design of advanced reactor technologies capable of providing electric power to a utility grid as soon as practicable but no later than the year 2010.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this section. The program plan shall include schedule milestones, Federal funding requirements, and non-Federal cost sharing requirements. In preparing the program plan, the Secretary shall take into consideration—

(1) the need for, and the potential for future adoption by electric utilities or other entities of, advanced nuclear reactor technologies that are available, under development, or have the potential for being developed, for the generation of energy from nuclear fission;

(2) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of such technologies when they are needed;

(3) how the Federal Government can most effectively cooperate with the private sector in the accomplishment of the goals set forth in subsection (b); and

(4) potential alternative funding sources for carrying out this section.

In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, annually update and, as part of the report required under subsection (f) of this section, resubmit the program plan to Congress. Each such update shall describe any activities that are behind schedule, any funding shortfalls, and any other circumstances that might affect the ability of the Secretary to meet the goals set forth in subsection (b).

(d) FIRST-OF-A-KIND ENGINEERING.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of Federal financial and technical assistance for the first-of-a-kind engineering design of standardized commercial nuclear powerplants which are included, as of the date of enactment of this Act, in the Department of Energy's program for certification of advanced light water reactor designs.

(2) SELECTION CRITERIA.—In order to be eligible for assistance under this subsection, an entity shall certify to the satisfaction of the Secretary that—

(A) the entity, or its members, are bona fide entities engaged in the design, engineering, manufacture, and construction of nuclear reactors;

(B) the entity, or its members, have the financial resources necessary for, and fully in-

tend to pursue the design, engineering, manufacture, and construction in the United States of nuclear power plants through completion of construction and into operation;

(C) the design proposed is scheduled for certification by the Nuclear Regulatory Commission under the Department of Energy's program for certification of light water reactor designs; and

(D) at least 50 percent of the funding for the project shall be obtained from non-Federal sources, and a substantial portion of that non-Federal funding shall be obtained from utilities or entities whose primary purpose is the production of electrical power for public consumption.

(3) PROGRAM DOCUMENTS.—The Secretary shall prepare and submit to the Congress a program document for each design selected under this subsection, specifying goals and objectives, major milestones for achieving those goals and objectives, and the work products to be provided to the Secretary or made available for inspection.

(4) FUNDING LIMITATIONS.—(A) Before entering into an agreement with an entity under this subsection, the Secretary shall establish a cost ceiling for the contribution of the Federal Government for the project, and shall report such cost ceiling to the Congress.

(B) No entity shall receive assistance under this subsection for a period greater than 4 years.

(C) The aggregate funding provided by the Secretary for projects under this subsection shall not exceed $20,000,000 for any single fiscal year.

(5) STATUS REPORT.—The Secretary shall annually submit to the Congress, as a part of the report required under subsection (h), a status report on each project receiving assistance under this subsection. Each such report shall describe the progress of the project, measured against the program document for such project submitted under paragraph (3), including a description of the entities involved in the project, the number and type of professional and other employees involved, the work products (in the form of drawings produced or specifications written, received, or inspected by the Secretary), and the extent of cost sharing.

(e) PROTOTYPE DEMONSTRATION.—

(1) SOLICITATION OF PROPOSALS.—Within 3 years after the date of enactment of this Act, the Secretary shall solicit proposals for carrying out the preliminary engineering design of not more than 2 prototype advanced nuclear reactor technologies developed by the Department of Energy, other than advanced light water reactor technologies, necessary to support a decision on whether to recommend construction of a prototype demonstration reactor with the characteristics described in subsection (a)(1) through (4). Proposals submitted under this paragraph shall be for modular design concepts of sufficient size to address requirements related to the certification of a standardized design.

(2) RECOMMENDATION TO CONGRESS.—Not later than September 30, 1998, the Secretary shall submit to Congress recommendations on whether to build no more than 2 prototype demonstration reactors under this subsection. Such recommendations shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on milestones for construction and operation;

(C) include an estimate of the funding requirements; and

(D) specify the extent and type of non-Federal financial support anticipated.

In developing the recommendations under this paragraph, the Secretary shall provide for public notice and an opportunity for comment, and shall solicit the views of the Nuclear Regulatory Commission and other parties with technical expertise the Secretary considers useful in the development of such recommendations.

(3) COST SHARING.—The prototype demonstration program under this subsection shall be carried out to the maximum extent practicable with private sector funding. At least 50 percent of the funding for such program shall be non-Federal funding. The extent of non-Federal cost sharing proposed for any demonstration project shall be a criterion for the selection of the project. Any cost overruns beyond projections contained in a proposal submitted under this subsection shall be paid for with non-Federal funds.

(4) LIMITATION ON AUTHORIZATION.—No prototype demonstration project may be carried out pursuant to a recommendation under paragraph (2) unless funding has been appropriated pursuant to a report the Secretary has submitted with respect to such project pursuant to section 2402(b).

(f) ANNUAL NUCLEAR RESEARCH, DEVELOPMENT, AND DEMONSTRATION REPORT.—The Secretary, in consultation with the Advisory Board established under section 2303, shall annually submit to the Congress a report which—

(1) includes a comprehensive Federal nuclear research, development, and demonstration strategy;

(2) addresses energy supply and associated environmental problems in the immediate, short-term, mid-term, and long-term time intervals;

(3) evaluates the economic, environmental, and technological merits of each aspect of the Federal nuclear research, development, and demonstration program;

(4) includes a description of the progress made in implementing this section;

(5) includes an update of the program plan developed under subsection (c);

(6) includes an update of the program plan developed under section 2114(b); and

(7) includes the annual report required under section 2115(c).

Such report shall be submitted along with the President's annual budget request to Congress.

(g) NUCLEAR REGULATORY COMMISSION REPORT.—The Nuclear Regulatory Commission shall annually submit to the Congress, along with the President's annual budget request, a report on the certification process for standardized advanced light water reactor designs which—

(1) describes the progress of such certification process;

(2) describes the progress made in reviewing the Utility Requirements Document;

(3) includes a timetable for completion of the certification, including specific fiscal year milestones; and

(4) states resource requirements for meeting the timetable described in paragraph (3).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $110,000,000 for research and development activities for fiscal year 1993 and $490,000,000 for research and development activities for the period encompassing fiscal years 1994 through 1997, and $90,000,000 for facilities operations and maintenance for fiscal year 1993 and $455,000,000 for facilities operations and maintenance for the period encompassing fiscal years 1994 through 1997. Amounts authorized or otherwise made available for program direction, space reactor power systems, advanced radioisotope power systems, and the space exploration initiative under nuclear energy research and development shall be in addition to the amounts authorized in the preceding sentence.

SEC. 2114. CIVILIAN NUCLEAR WASTE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research and development on new technologies for mitigating hazards associated with high level radioactive waste and spent fuel from nuclear reactors.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research and development activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, annually update and, as part of the report required under section 2113(f), resubmit the program plan to Congress.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $1,000,000 for fiscal year 1993 and $44,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2115. FUSION ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research and development on fusion energy technologies. The cooperative effort to develop the International Thermonuclear Experimental Reactor program (hereafter in this section referred to as "ITER") shall be the main focus of the program established under this subsection. The Secretary shall encourage the effective participation of United States industry in the ITER program, and shall seek to ensure that United States industrial technological capability will continue to be able to support ITER.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) for the near-term—

(A) fully supporting United States participation in the Engineering Design Activity of the ITER program and development of the basis for effective participation in follow-on activities of the cooperative program;

(B) planning for the construction and operation of a major new machine for fusion research and development to provide experience with long pulse fusion phenomena or other critical research and development needs;

(C) supporting the development of technological capabilities for selected technical areas critical to fusion power and providing for significant industrial participation in the development of those technologies; and

(D) continuing research and development for the Inertial Fusion Energy Program and initiating the development of the Heavy Ion Inertial Confinement Fusion Energy Experiment;

(2) for the mid-term—

(A) participation in the ITER program after completion of the Engineering Design Activity, including preconstruction and other activities for an ITER facility;

(B) continuing research and development activities in support of a broad based fusion energy program;

(C) supporting the development of technological capabilities for selected technical areas critical to fusion power and providing for significant industrial participation in the development of those technologies; and

(D) developing, constructing, and testing a Heavy Ion Inertial Confinement Fusion Energy Experiment for the Inertial Fusion Energy Program; and

(3) for the long-term—

(A) participation in the ITER program, including construction, operation, and maintenance of an appropriate United States industrial technological base; and

(B) building and testing an inertial fusion energy reactor for the purpose of power production.

(c) REPORTS.—The Secretary, in consultation with the Advisory Board established under section 2303, shall prepare a detailed plan describing the work to be performed, resources to be committed, and milestone schedules for the following subprograms:

(1) Basic fusion energy science and research to support both the Magnetic Fusion Energy program and the Heavy Ion Inertial Confinement Fusion Energy program.

(2) The ITER.

(3) The Long Pulse Fusion Reactor.

(4) An Engineering and Technology Development program with industrial participation.

(5) The development and construction of a Heavy Ion Inertial Confinement Fusion Energy Experiment.

Each year, in conjunction with the submission of the annual budget to Congress, the Secretary shall submit a detailed report describing the progress made, including science and technical advancements, the resources committed during the previous years, expenditures, contracts with industry, and performance related to scheduled milestones.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $345,000,000 for fiscal year 1993 and $1,670,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2116. COAL.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on advanced technologies that use coal to generate electricity in a more efficient and environmentally acceptable manner.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include the development of technologies that—

(1) reduce United States oil imports and ensure a reliable electricity supply;

(2) comply with applicable environmental requirements; and

(3) would achieve the greatest practicable reduction of emissions of harmful pollutants, including greenhouse gases.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section for technologies nearing the full scale demonstration stage, the Secretary may require cost sharing as provided in section 2305.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, and all fossil energy research and development operating expenses for program direction and management support, cooperative research and development, fossil energy environmental restoration and plant and capital equipment, $250,000,000 for fiscal year 1993 and $1,090,000,000 for the period encompassing fiscal years 1994 through 1997.

(e) REPORT TO CONGRESS.—The Secretary shall provide a report to the Congress within one year after the date of enactment of this Act, investigating the technical and economic feasibility of blending farm crop products with coal to maximize indigenous fossil fuel resources and reduce sulfur emissions. The report shall identify key technical or economic issues that may provide obstacles to widespread use of fuel blends.

SEC. 2117. FUEL CELLS.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on efficient and environmentally benign decentralized power generation using fuel cells. The program may include research, development, and demonstration activities on molten carbonate, solid oxide, including tubular, monolithic, and planar technologies, and advanced concepts.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) is the development of cost-effective, efficient, and environmentally benign fuel cell systems which will operate on fossil fuels in multiple end use sectors.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $40,000,000 for fiscal year 1993 and $150,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2118. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1993 $70,000,000 for the Fast Flux Test Facility to maintain the operational status of the reactor, such sums to be derived from amounts appropriated to the Secretary for the environmental restoration and waste management program.

(b) LONG-TERM MISSIONS.—The Secretary shall aggressively pursue the development and implementation of long-term missions for the Fast Flux Test Facility. Within 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the progress made in carrying out this subsection.

SEC. 2119. EFFICIENT ELECTRIC ENERGY SYSTEMS.

The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.) is amended by inserting after section 5 the following new section:

"SEC. 5A. EFFICIENT ELECTRIC ENERGY SYSTEMS.

"The goal for the High Temperature Superconductivity Energy Systems Program shall be to promote energy efficiency by carrying out a program of research and development of high temperature superconducting electric power equipment technologies. Research efforts shall emphasize—

"(1) activities that address near-term technical projects such as the development of superconducting materials that are in practical form and have increased electrical current capacity;

"(2) improving the efficiency of materials performance at higher temperatures and at all magnetic field orientations; and

"(3) assisting the private sector with designs for more efficient electric power generation and delivery systems for commercial marketplace which are cost competitive with conventional energy systems.".

SEC. 2120. ELECTRIC AND MAGNETIC FIELDS RESEARCH AND PUBLIC INFORMATION DISSEMINATION PROGRAMS.

(a) ELECTRIC AND MAGNETIC FIELDS INTERAGENCY COMMITTEE.—

(1) IN GENERAL.—The President shall, within 2 months after the date of the enactment of this Act, establish the Electric and Magnetic Fields Interagency Committee to coordinate the efforts of the Federal Government with respect to research on the possible human health effects of electric and magnetic fields, technologies to improve the measurement and characterization of electric and magnetic fields, and techniques to assess and manage exposure to electric and magnetic fields.

(2) DUTIES.—

(A) RESEARCH AGENDA.—Not later than 6 months after the date of the enactment of this Act, the Interagency Committee, in consultation with the Advisory Committee, shall develop and submit to the Congress a comprehensive agenda for conducting research on the possible human health effects of electric and magnetic fields, with particular emphasis on electric and magnetic fields produced by electricity of the 60 Hertz frequency. The Interagency Committee, in consultation with the Advisory Committee, shall update the agenda as often as necessary and submit the updated agenda to the Congress. The agenda shall include priorities for—

(i) research on biological mechanisms by which electric and magnetic fields interact with biological systems;

(ii) research and development of technologies to improve the measurement and characterization of electric and magnetic fields;

(iii) epidemiological research on the possible human health effects of electric and magnetic fields; and

(iv) research on techniques to assess and manage exposure to electric and magnetic fields.

(B) REVIEW OF FEDERAL PROGRAM.—The Interagency Committee shall review each electric and magnetic fields research project conducted under a Federal program or funded in whole or in part with Federal funds—

(i) to ensure that the research project advances the agenda and program established under this section; and

(ii) to ensure that the research project is not unnecessarily duplicative of any other such research project.

(C) RECOMMENDATIONS ON PUBLIC INFORMATION DISSEMINATION PROGRAM.—Not later than 5 months after the date of the enactment of this Act, the Interagency Committee shall submit to the Director recommendations concerning the scope and nature of the information to be disseminated under subsection (d). The Interagency Committee shall submit to the Director updated recommendations as often as necessary.

(3) MEMBERSHIP.—The Interagency Committee shall be composed of 8 members with 1 member appointed by each of the following:

(A) The Director of the National Institute of Environmental Health Sciences.

(B) The Secretary of Energy.

(C) The Administrator of the Environmental Protection Agency.

(D) The Secretary of Defense.

(E) The Administrator of the Occupational Safety and Health Administration.

(F) The Director of the National Institute of Standards and Technology.

(G) The Secretary of Transportation.

(H) The Administrator of the Rural Electrification Administration.

(4) CHAIRPERSON.—The member of the Interagency Committee who is appointed by the Director of the National Institute of Environmental Health Sciences under paragraph (3) shall be the chairperson of the Interagency Committee. The chairperson of the Interagency Committee shall be responsible for ensuring that the duties of the Interagency Committee are carried out.

(b) NATIONAL ELECTRIC AND MAGNETIC FIELDS ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 2 months after the date of the enactment of this Act, the President shall establish the National Electric and Magnetic Fields Advisory Committee.

(2) DUTIES.—The Advisory Committee shall—

(A) make recommendations to the Interagency Committee with respect to the formulation of the research agenda referred to in subsection (a)(2)(A); and

(B) make recommendations to the Director with respect to the research program established under subsection (c), including the preparation of solicitations for proposals to conduct research under the program.

(3) MEMBERSHIP.—The Advisory Committee shall be composed of 11 members appointed by the President from among individuals who are representative of experts in possible human health effects of electromagnetic fields, experts in the measurement and characterization of electromagnetic fields, experts in the assessment and risk management of exposure to electromagnetic fields, State regulatory agencies, State health agencies, electric utilities, electrical equipment manufacturers, labor unions, and public interest groups.

(4) TERMINATION.—The Advisory Committee shall terminate within 2 months after the Advisory Committee submits the final report required under subsection (c)(4)(C).

(c) NATIONAL ELECTRIC AND MAGNETIC FIELDS RESEARCH PROGRAM.—

(1) IN GENERAL.—Within 9 months after the date of the enactment of this Act, the Director, after considering recommendations of the Advisory Committee, shall establish a program to carry out the agenda referred to in subsection (a)(2)(A).

(2) FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The Director may provide grants and other funding and enter into contracts to conduct research projects under the program established under paragraph (1).

(B) NON-FEDERAL CONTRIBUTIONS.—

(i) IN GENERAL.—Projects selected for funding in any fiscal year under this subsection may not be conducted unless the Director receives and provides non-Federal contributions for such projects in an amount that equals at least 50 percent of the total funding for all projects to be conducted in the fiscal year.

(ii) SOLICITATION OF CONTRIBUTIONS.—The Director shall within 30 days after the date of the enactment of this Act, solicit pledges for non-Federal contributions referred to in clause (i) from non-Federal entities that are established solely to provide non-Federal contributions under clause (i) and that have no substantive involvement in the program established under this section, other than to provide the non-Federal contributions.

(3) SOLICITATION AND SELECTION OF PROPOSALS.—

(A) IN GENERAL.—Within 15 months after the date of the enactment of this Act, and as often thereafter as the Director considers to be appropriate, the Director, in coordination with the Interagency Committee, shall solicit and select proposals to conduct projects under this subsection.

(B) CONSULTATION WITH ADVISORY COMMITTEE.—In preparing solicitations for proposals to conduct projects, the Director shall consult with the Advisory Committee.

(C) PEER REVIEW PANELS.—Before a proposal to conduct a project under this subsection may be selected by the Director, such proposal must be submitted to, and evaluated by, at least one scientific and technical peer review panel constituted by the Director.

(4) REPORTS.—

(A) REPORT UPON COMPLETION OF PROJECT.—Any person who conducts a project under the program established under paragraph (1) shall, upon completion of the project, submit to the National Academy of Sciences, the Interagency Committee, and the Advisory Committee a report summarizing the research activities and findings of the project.

(B) REPORT TO INTERAGENCY COMMITTEE AND ADVISORY COMMITTEE.—The Chairman of the National Academy of Sciences shall biennially submit to the Interagency Committee and the Advisory Committee a report that evaluates the research activities that have been completed under this subsection. The report shall include recommendations to promote the effective transfer of information derived from such research projects, including the transfer to representatives of State regulatory agencies, State health agencies, electric utilities, electrical equipment manufacturers, labor unions, and public interest groups.

(C) REPORTS TO CONGRESS.—The Interagency Committee and the Advisory Committee shall each biennially submit to the Congress a report summarizing the progress of the research program established under this subsection.

(5) CONFLICTS OF INTEREST.—The Director shall include conflict of interest provisions in any grant or other funding provided, or contract entered into, under the research program established under this subsection including provisions—

(A) that require any person conducting a project under such program to disclose any other source of funding received by the person to conduct other related projects, including funding received from consulting on issues relating to electric and magnetic fields; and

(B) that prohibit a person who has been awarded a grant or contract under this program from testifying in a court of law as an expert on the specific research he is conducting under such grant or contract.

(d) ELECTRIC AND MAGNETIC FIELDS PUBLIC INFORMATION DISSEMINATION PROGRAM.—

(1) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Director shall establish a program to collect, compile, publish, and disseminate to the public information on electric and magnetic fields, with particular emphasis on electric and magnetic fields produced by electricity of the 60 Hertz frequency. The Director, in coordination with the Interagency Committee, shall ensure that the information disseminated through the program is updated as often as necessary. The program shall include information regarding—

(A) the possible human health effects of electric and magnetic fields;

(B) the types and extent of human exposure to electric and magnetic fields in various occupational and residential settings;

(C) technologies to measure and characterize electric and magnetic fields; and

(D) methods to assess and manage exposure to electric and magnetic fields.

(2) INFORMATION PAMPHLET.—The program referred to in paragraph (1) shall include the development and dissemination of a pamphlet that would be useful to the public in the assessment and risk management of exposure to electric and magnetic fields. The pamphlet shall be developed and disseminated within 2 years of the date of the enactment of this Act and shall be updated as often as necessary.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Committee" means the National Electric and Magnetic Fields Advisory Committee established under subsection (b).

(2) The term "Interagency Committee" means the Electric and Magnetic Fields Interagency Committee established under subsection (a).

(3) The term "Director" means the Director of the National Institute of Environmental Health Sciences.

(4) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Director $60,000,000 for the period encompassing fiscal years 1993 through 1997 to carry out the provisions of this section except for the provisions of subsection (d). Any amounts appropriated pursuant to this paragraph shall remain available until expended.

(2) PUBLIC INFORMATION DISSEMINATION PROGRAM.—There are authorized to be appropriated to the Director $1,000,000 for each of fiscal years 1993 through 1997 to carry out the provisions of subsection (d). Any amounts appropriated pursuant to this paragraph shall remain available until expended.

(3) RESTRICTIONS ON USE OF FUNDS.—

(A) ADMINISTRATIVE EXPENSES OF CERTAIN FUNDING RECIPIENTS.—Of the total amount of funds provided to any institution under subsection (c), the amount of such funds that may be used for the administrative indirect costs of the institution may not exceed 26 percent of the modified direct costs of the project funded by the grant.

(B) ADMINISTRATIVE EXPENSES OF THE NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES.—Of the total amount of funds made available under this section for any fiscal year, not more than 5 percent of such funds may be used for authorized administrative expenses of the National Institute of Environmental Health Sciences in carrying out this section.

(C) CONSTRUCTION AND REHABILITATION OF FACILITIES AND EQUIPMENT.—Funds made available under this section may not be used for the construction or rehabilitation of facilities or fixed equipment.

(g) SENSE OF CONGRESS.—It is the sense of the Congress that remedial action taken by the Government on electric and magnetic fields, if and as necessary, should be based on, and consistent with, scientifically valid research such as the results and findings of the research authorized by this Act.

Subtitle C—Pollution Prevention

SEC. 2121. ENERGY EFFICIENT POLLUTION PREVENTION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Administrator of the

Environmental Protection Agency, is authorized to continue to carry out an Energy Efficient Pollution Prevention Program for the purpose of carrying out research, development, and demonstration on energy efficient pollution prevention technologies and processes, emphasizing source reduction and a systems approach to minimizing adverse environmental effects of industrial production in the most cost-effective and energy efficient manner.

(b) IDENTIFICATION OF TARGETS OF OPPORTUNITY.—Within 9 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall identify targets of opportunity for the demonstration of energy efficient pollution prevention technologies and processes, taking into consideration the total materials and energy cycle, and with the goal of minimizing adverse environmental effects.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall solicit proposals for research, development, and demonstration projects under this section. Proposals submitted under this subsection shall demonstrate that the proposed project includes—

(1) technically viable and replicable cost-effective approaches; and

(2) procedures for technology transfer and information outreach during and after completion of the project.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $75,000,000 for the period encompassing fiscal years 1993 through 1997, to be derived from sums authorized under section 2101(f).

TITLE XXII—ENERGY AND ECONOMIC GROWTH

SEC. 2201. NATIONAL CRITICAL ADVANCED MATERIALS INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a National Critical Advanced Materials Initiative in the Office of Assistant Secretary for Conservation and Renewable Energy for the purpose of carrying out a program of research, development, and demonstration on techniques not commercially available for processing, synthesizing, fabricating, and manufacturing of critical advanced materials and associated components that have energy efficiency and renewable energy applications, to supplement ongoing activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate research, development, and demonstration of critical advanced materials not commercially available to expedite the deployment of high performance energy efficient and renewable energy technologies in the industrial, transportation, and buildings sectors that can foster economic growth and competitiveness.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy National Laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide research, development, and demonstration activities under this section. The Secretary, with the advice of the Advisory Board established under section 2303, shall biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals from eligible parties for conducting research, development, and demonstration activities consistent with the 5-year program plan. Such proposals may be submitted by one or more eligible parties, and may include any funding mechanisms otherwise authorized under Federal law.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of critical advanced materials in energy efficiency or renewable energy in the near-term to mid-term;

(B) evidence of consideration of whether the unique capabilities of Department of Energy National Laboratories warrants collaboration with such Laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) a demonstration of the ability of the proposers to undertake and complete the project proposed.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(f) GENERAL SERVICES ADMINISTRATION INSERTION DEMONSTRATION PROGRAM.—The Secretary, in consultation with the Administrator of General Services, shall establish a program to expedite the use, in goods and services acquired by the General Services Administration, of critical advanced materials technologies. Such program shall include a demonstration of the use of critical advanced materials technologies in such operating environments as may be necessary to establish technical and operating reliability. The Secretary shall transfer funds to the General Services Administration for carrying out this subsection.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, to be derived from sums authorized under section 2101(f)—

(1) $150,000,000 for the period encompassing fiscal years 1993 through 1997 for carrying out subsections (a) through (d), including Department of Energy National Laboratory participation in proposals submitted under subsection (d), of which ⅔ shall be for energy efficiency applications and ⅓ shall be for renewable energy applications; and

(2) $15,000,000 for the period encompassing fiscal years 1993 through 1997 for carrying out subsection (f), including transferring funds to the General Services Administration.

SEC. 2202. NATIONAL CRITICAL ADVANCED MANUFACTURING TECHNOLOGIES INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a National Critical Advanced Manufacturing Technologies Initiative in the Office of Assistant Secretary for Conservation and Renewable Energy for the purpose of carrying out a program of research, development, and demonstration on critical advanced manufacturing technologies not commercially available to improve energy efficiency and productivity in manufacturing, to supplement ongoing activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate research, development, and demonstration of critical advanced manufacturing technologies to expedite improved productivity, quality, and control in manufacturing processes that can foster economic growth, energy efficiency, and competitiveness.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy National Laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide research, development, and demonstration activities under this section. The Secretary, with the advice of the Advisory Board established under section 2303, shall biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals from eligible parties for conducting research, development, and demonstration activities consistent with the 5-year program plan. Such proposals may be submitted by one or more eligible parties, and may include any funding mechanisms otherwise authorized under Federal law.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of critical advanced manufacturing technologies to improve energy efficiency in the building, industry, and transportation sectors;

(B) evidence of consideration of whether the unique capabilities of Department of Energy National Laboratories warrants collaboration with such Laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) a demonstration of the ability of the proposers to undertake and complete the project proposed.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, from sums authorized under section 2101(f), $50,000,000 for the period encompassing fiscal years 1993 through 1997 for carrying out this section, including Department of Energy National Laboratory participation in proposals submitted under subsection (d).

SEC. 2203. SUPPORTING RESEARCH AND TECHNICAL ANALYSIS.

(a) BASIC ENERGY SCIENCES.—

(1) PROGRAM DIRECTION.—The Secretary shall continue to support a vigorous program of basic energy sciences to provide basic research support for the development of energy technologies. Such program shall focus on the efficient production and use of energy, and the expansion of our knowledge of materials, chemistry, geology, and other related areas of advancing technology development.

(2) USER FACILITIES.—(A) As part of the program referred to in paragraph (1), priority shall be given to the planning, construction, and operation of user facilities to provide special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of our Nation's universities, industry, private laboratories, Federal Laboratories, and others. Research institutions or individuals from other nations shall be accommodated at such user facilities in cases where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest.

(B) The construction of the Advanced Photon Source at the Argonne National Laboratory is hereby authorized.

(C) The Secretary shall not change the user fee practice in effect as of October 1, 1991, with respect to user facilities unless expressly so authorized by law enacted after the date of enactment of this Act.

(D) The Secretary shall expedite the construction of the Advanced Neutron Source at the Oak Ridge National Laboratory, in order to provide critical research capabilities in support of our Nation's research initiatives for advanced materials, biotechnology, and advanced manufacturing, as well as a broad range of research. Within 90 days after the date of enactment of this Act, the Secretary shall submit to the Congress a plan for such construction, including a schedule for construction.

(3) COST SHARING.—Except as provided in a cooperative research and development agreement, the Secretary shall not require the use of non-Federal funds for research pursuant to this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this subsection $772,000,000 for fiscal year 1993 and $3,693,000,000 for the period encompassing fiscal years 1994 through 1997.

(b) UNIVERSITY AND SCIENCE EDUCATION.—(1) The Secretary shall support programs for improvements and upgrading of university research reactors and associated instrumentation and equipment. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the condition and status of university research reactors, which includes a 5-year plan for upgrading and improving such facilities, instrumentation capabilities, and related equipment.

(2) The Secretary shall develop a method to evaluate the effectiveness of science and mathematics education programs provided by the Department of Energy and its laboratories, including specific evaluation criteria.

(3)(A)(i) The Director of the Office of Energy Research shall operate an Experimental Program to Stimulate Competitive Research (hereafter in this paragraph referred to as the "Experimental Program") as part of the Department of Energy's University and Science Education Programs.

(ii) The objectives of the Experimental Program shall be—

(I) to enhance the competitiveness within the peer-review system of investigators from academic institutions in eligible States; and

(II) to increase the probability of long-term growth of competitive funding to investigators at institutions from eligible States.

(iii) In order to carry out the objectives stated in clause (ii), the Experimental Program shall provide for activities which may include (but not be limited to) competitive research awards and graduate traineeships.

(iv) The Experimental Program shall assist those States that—

(I) historically have received relatively little Federal research and development funding; and

(II) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(B) For purposes of this paragraph, the term "eligible States" means States that received DOE-EPSCoR planning or traineeship grants in fiscal year 1991 or fiscal year 1992.

(C) No more than $5,000,000 of the funds appropriated to the Experimental Program in any fiscal year are authorized to be appropriated for graduate traineeships.

(c) TECHNOLOGY TRANSFER.—The Secretary shall support technology transfer activities conducted by the National Laboratories. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the adequacy of funding for such activities, along with a proposal for reducing the length of time required to consummate cooperative research and development agreements.

(d) FACILITIES SUPPORT FOR MULTIPROGRAM ENERGY LABORATORIES.—

(1) FACILITY POLICY.—The Secretary shall develop and implement a least cost strategy for correcting facility problems, closing unneeded facilities, making facility modifications, and building new facilities at multiprogram energy laboratories.

(2) FACILITY PLAN.—Within 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at multiprogram energy laboratories. Such plan shall provide for the organized conduct of facilities work in accordance with the following priorities, listed in descending order of priority:

(A) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(B) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration.

(C) Providing engineering design and construction services for those facilities which require modification or additions in order to meet the needs of new or expanded programs.

Such plan shall include plans for new facilities and facility modifications which will be required to meet the Department of Energy's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations. Such plan shall address the coordination of modernization and consolidation of facilities in order to meet changing mission requirements, and shall provide for annual reports to Congress on accomplishments, conformance to schedules, commitments, and expenditures.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for Supporting Research and Technical Analysis, other than for Basic Energy Sciences, but including Energy Research Analysis, University and Science Education, Technology Transfer, Advisory and Oversight Program Direction, and Facilities Support for Multiprogram Energy Laboratories, $85,000,000 for fiscal year 1993 and $700,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2204. INTEGRATION OF RESEARCH AND DEVELOPMENT.

(a) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy National Laboratories, and professional and technical societies, shall prepare and submit to Congress a 5-year program plan for improving the integration of basic and applied renewable energy and energy efficiency research and development within the Department of Energy. Such program plan shall include—

(1) an evaluation of current procedures and mechanisms used to integrate basic and applied renewable energy and energy efficiency research and development within the Department of Energy;

(2) an assessment of the role that the Department of Energy National Laboratories play in the integration of basic and applied renewable energy and energy efficiency research and development within the Department of Energy;

(3) an identification and evaluation of models that could enhance integration, with particular attention to combustion research and development and materials research and development at the Department of Energy National Laboratories;

(4) an identification and evaluation of new programs, mechanisms, and related policy options that could improve the integrating process, including—

(A) set aside funding for matching or leveraging basic and applied renewable energy and energy efficiency research and development programs;

(B) more formal linkages; and

(C) program coordination;

(5) recommendations for expanded research and development and new technology areas; and

(6) budget estimates for activities under this section.

(b) APPLIED RESEARCH AND DEVELOPMENT.—For purposes of this section, applied research and development includes end use engineering and technology development, but does not include commercialization.

SEC. 2205. DEFINITIONS.

For purposes of this title—

(1) the term "critical advanced manufacturing technology" means processes, equipment, techniques, practices, and capabilities that are applied for the purpose of—

(A) improving the productivity, quality, and energy efficiency of the design, development, testing, and manufacture of a product; or

(B) expanding the technical capability to design, develop, test, and manufacture a product that is fundamentally different in character from existing products and that will result in improved energy efficiency;

(2) the term "critical advanced materials" means materials that are processed, synthesized, fabricated, and manufactured to develop high performance properties that exceed the corresponding properties of conven-

tional materials for structural, electronic, magnetic, or photonic applications, or for joining, welding, bonding, or packaging components into complex assemblies, including—

(A) advanced monolithic materials such as metals, ceramics, and polymers;

(B) advanced composite materials such as metal matrix (including intermetallics), polymer matrix, ceramic matrix, continuous fiber ceramic composite, and carbon matrix composites; and

(C) advanced electronic, magnetic, and photonic materials, including semiconductor, electrooptic, magnetooptic, thin-film, and special purpose coating materials used in technologies for energy efficiency, renewable energy, or electric power applications;

(3) the term "eligible party" includes an entity only if—

(A) the Secretary finds that the entity's participation would be in the economic interest of the United States, as evidenced by—

(i) investments in the United States in research, development, and manufacturing (including, for example, the development and manufacture of major components or subassemblies in the United States);

(ii) significant contributions to employment in the United States;

(iii) agreement with respect to any technology arising from assistance provided under this title to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(iv) provision of effective protection for the intellectual property rights of the United States; and

(B) either—

(i) the entity is United States-owned; or

(ii) the Secretary finds that the entity is organized under the laws of the United States or of one of the States of the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any program similar to those authorized under this title; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies; and

(4) the term "United States" means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE XXIII—POLICY AND ADMINISTRATIVE PROVISIONS

SEC. 2301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS IN ENERGY TECHNOLOGY.

(a) REDUCED PROCESSING TIME.—The Secretary shall take such steps as are necessary to expedite procedures for reviewing cooperative research and development agreements entered into by the Department of Energy or its laboratories to make the administrative review process consistent with those at other Federal agencies and their laboratories.

(b) REPORT TO CONGRESS.—The Secretary shall, with the advice of the Advisory Board established under section 2303, by December 15 of each year, submit a report to Congress that—

(1) identifies cooperative research and development agreements and other agreements intended to expedite the transfer of technologies from Department of Energy laboratories that are then in effect or under negotiation;

(2) specifies the technology with respect to which each such agreement applies or will apply;

(3) identifies the resources committed by the partners to each such agreement, including Department of Energy laboratories; and

(4) provides, to the extent available, information on—

(A) the date each such agreement was proposed;

(B) the date of final approval; and

(C) the reasons for any significant time delay.

(c) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT FUNDING.—Program funds authorized for Conservation Research and Development and Fossil Energy Research and Development may be used for the support of customary activities related to the negotiation and execution of cooperative research and development agreements by Department of Energy laboratories.

SEC. 2302. POLICY ON CAPITAL PROJECTS AND CONSTRUCTION.

(a) REQUIREMENT OF PRIOR AUTHORIZATION.—(1) No funds are authorized to be appropriated under title XX, XXI, XXII, XXIII, or XXIV of this Act by the Secretary for any substantial construction project, substantial equipment acquisition, or major construction project unless a report on such project or acquisition has been provided to Congress in accordance with subsection (b).

(2) The Secretary may not obligate any funds for any substantial construction project, substantial equipment acquisition, or major construction project unless such project or acquisition has been specifically authorized by statute.

(3) This subsection may not be amended or modified except by specific reference to this subsection.

(b) REPORTS TO CONGRESS.—(1) Within 180 days after the date of enactment of this Act, the Secretary shall submit to the Congress a report that identifies all construction projects and acquisitions of the Department of Energy described in subsection (a) for which the preliminary design phase is completed but the construction or acquisition is not completed. Such report shall include—

(A) an estimate of the total cost of completion of the construction project or acquisition, itemized by individual activity and by fiscal year; and

(B) an identification of which construction projects or acquisitions have not been specifically authorized by statute, along with an assessment of the relation of each such construction project or acquisition to the goals stated in section 2002

The Secretary shall annually update and resubmit the report required by this paragraph, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914).

(2) The Secretary shall, after completion of the preliminary design phase of a major construction project, submit to the Congress a report containing—

(A) an estimate of the total cost of construction of the facility;

(B) an estimate of the time required to complete construction;

(C) an estimate of the annual operating costs of the facility;

(D) the intended useful operating life of the facility; and

(E) an identification of any existing facilities to be closed as a result of the operation of the facility.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "major construction project" means a project whose construction costs are estimated to exceed $100,000,000 over the life of the project;

(2) the term "substantial construction project" means a project whose construction costs are estimated to exceed $10,000,000, but not to exceed $100,000,000, over the life of the project; and

(3) the term "substantial equipment acquisition" means the acquisition of equipment at a cost estimated to exceed $10,000,000 for the entire acquisition.

SEC. 2303. ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Research, Development, and Demonstration Advisory Board (hereafter in this section referred to as the "Advisory Board").

(b) RESPONSIBILITIES.—The Advisory Board shall provide impartial technical advice to the Secretary to assist in the development of energy research, development, and demonstration plans and reports under sections 6 and 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905 and 5914), under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), and as otherwise provided in titles XX through XXIV of this Act. The Advisory Board shall also periodically review such plans and reports and their implementation in relation to the goals stated in section 2002 of this Act, and report the results of such review to the Secretary and the Congress.

(c) MEMBERSHIP.—The Advisory Board shall be composed of 11 voting members, appointed by the Secretary from among individuals who are qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Advisory Board. The membership shall represent a range of scientific and technological expertise that reflects the range of energy research, development, and demonstration programs conducted by the Department of Energy. At least 1 member shall have expertise in the environmental sciences related to the production and consumption of energy. Additionally, the Director of the Office of Energy Research shall serve as an ex officio, nonvoting member of the Advisory Board.

(d) TERMS.—(1) Except as provided in paragraph (2), voting members of the Advisory Board shall serve 3-year terms.

(2) Of the voting members of the Advisory Board initially appointed under subsection (c)—

(A) 4 shall be appointed to 2-year terms; and

(B) 3 shall be appointed to 1-year terms.

(e) CHAIRPERSON.—At the first meeting each year of the Advisory Board, the members shall elect a chairperson from among the membership, who shall serve in such position for 1 year.

(f) MEETINGS.—The Advisory Board shall meet at least once a year.

(g) PANELS.—The Advisory Board, after consultation with the Secretary, may establish such panels as the Advisory Board considers appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board in carrying out this section.

(h) COMPENSATION.—Each member of the Advisory Board who is not otherwise employed by the Federal Government shall be paid at a rate equal to the daily equivalent of the rate of basic pay payable for GS-18 of the General Schedule for each day (including travel time) during which such member is engaged in the actual performance of the responsibilities of the Advisory Board.

(i) CONFLICT OF INTEREST.—Each member of the Advisory Board shall be subject to the requirements of sections 603 and 604 of the Department of Energy Act (42 U.S.C. 7213 and 7214).

(j) REPORTS TO CONGRESS.—(1) The Advisory Board shall annually submit a report to the Congress on its activities and progress toward meeting its responsibilities under this section. Such report shall be made a part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914).

(2) The Advisory Board shall prepare and submit to the Congress before February 15 of each year a report on electric generating technology appropriate for demonstration. This report shall recommend—

(A) priorities for demonstration including the size and scale of the demonstration unit;

(B) cost sharing guidelines for projects that demonstrate such technologies;

(C) recommendations for levels of funding for such demonstrations; and

(D) an assessment of completed demonstration projects that identifies the problem areas and recommends improvements.

(k) TERMINATION.—The Advisory Board shall terminate 5 years after the establishment of such Board.

SEC. 2304. AMENDMENTS TO EXISTING LAW.

(a) FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974 AMENDMENTS.—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) by striking "the Administrator" and inserting in lieu thereof "the Department of Energy Act (42 U.S.C. 7101 et seq.), and titles XX through XXV of the Comprehensive National Energy Policy Act, the Secretary, in consultation with the Advisory Board established under section 2303 of the Comprehensive National Energy Policy Act,";

(B) by striking "(to the early 1980's)" in paragraph (1) and inserting in lieu thereof "(the period up to 5 years after submission of the plan or its annual revision)";

(C) by striking "(the early 1980's to 2000)" in paragraph (2) and inserting in lieu thereof "(the period from 5 years to 10 years after submission of the plan or its annual revision)"; and

(D) by striking "(beyond 2000)" in paragraph (3) and inserting in lieu thereof "(the period beyond 10 years after submission of the plan or its annual revision)";

(2) in subsection (b)—

(A) by striking "Administrator" in paragraphs (1) and (2) and inserting in lieu thereof "Secretary, in consultation with the Advisory Board established under section 2303 of the Comprehensive National Energy Policy Act,";

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." at the end of paragraph (1);

(C) by striking "(to the early 1980's), middle-term (the early 1980's to 2000), and long-term (beyond 2000) time intervals" in paragraph (2) and inserting in lieu thereof ", middle-term, and long-term time intervals described in subsection (a)(1) through (3)";

(D) by striking "Administrator" each place it appears in paragraph (3) and inserting in lieu thereof "Secretary";

(E) by striking "and" at the end of paragraph (3)(P);

(F) by striking the period at the end of paragraph (3)(Q) and inserting in lieu thereof a semicolon; and

(G) by adding at the end of paragraph (3) the following new subparagraphs:

"(R) to implement the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.); and

"(S) to implement titles XX through XXIV of the Comprehensive National Energy Policy Act."; and

(3) in subsection (c)—

(A) by striking "Administrator" and inserting in lieu thereof "Secretary, in consultation with the Advisory Board established under section 2303 of the Comprehensive National Energy Policy Act,"; and

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." after "and demonstration plans.".

(b) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY COMPETITIVENESS ACT OF 1989 AMENDMENT.—Section 9(b)(4) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12006(b)(4)) is amended by inserting "and the plan developed under section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905)" after "(42 U.S.C. 7321)".

SEC. 2305. COST SHARING.

Proposals submitted under provisions of titles XX through XXIV of this Act requiring cost sharing shall, except as otherwise specifically provided in those provisions, include a commitment from non-Federal sources for providing, in cash or in kind, between 20 and 50 percent of the cost of the project proposed. Each such proposal shall include a justification of the non-Federal percentage proposed. The Secretary may reduce or eliminate the non-Federal percentage requirement under this section if the Secretary determines that research under the proposal is of a more basic or fundamental nature.

SEC. 2306. COMPREHENSIVE ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION PLAN AND PROGRAM.

(a) ENERGY TECHNOLOGY INVENTORY AND STATUS REPORT.—As part of the National Energy Policy Plan required under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), the Secretary, with the advice of the Advisory Board established under section 2303 of this Act, shall develop an inventory and status report of technologies to enhance energy supply and to improve the efficiency of energy end uses. The inventory and status report shall include fossil, renewable, nuclear, and energy conservation technologies which have not yet achieved the status of fully reliable and cost-competitive commercial availability, but which the Secretary projects may become available with additional research, development, and demonstration. The inventory and status report shall provide, for each technology—

(1) an assessment of its—

(A) degree of technological maturity; and

(B) principal research, development, and demonstration issues, including—

(i) the barriers posed by capital, operating, and maintenance costs;

(ii) technical performance; and

(iii) potential environmental impacts;

(2) the projected time frame for commercial availability, specifying at a minimum whether the technology will be commercially available in the near-term, mid-term, or long-term, whether there are too many uncertainties to project availability, or whether it is unlikely that the technology will ever be commercial; and

(3) a projection of the future cost-competitiveness of the technology in comparison with alternative technologies to provide the same energy service.

The Secretary shall publish the proposed report for a written public comment period of at least 90 days. The Secretary shall consider such comments and include a summary thereof in the report.

(b) RESEARCH AND DEVELOPMENT PRIORITIES.—As part of the National Energy Policy Plan required under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), the Secretary shall establish comprehensive energy research, development, and demonstration program priorities to give highest priority to the development of technologies assessed in the energy technology inventory and status report that will enable the United States to meet the goals stated in section 2002 of this Act.

SEC. 2307. COSTS RELATED TO DECOMMISSIONING AND THE STORAGE AND DISPOSAL OF NUCLEAR WASTE.

(a) AWARD OF CONTRACTS.—

(1) PRIME CONTRACTORS.—In awarding contracts to perform nuclear hot cell services, the Secretary, in evaluating bids for such contracts, shall exclude from consideration costs related to the decommissioning of nuclear facilities or the storage and disposal of nuclear waste, if—

(A) one or more of the parties bidding to perform such services is a United States company that is subject to such costs; and

(B) one or more of the parties bidding to perform such services is a foreign company that is not subject to comparable costs.

(2) SUBCONTRACTORS.—Any person awarded a contract subject to the restrictions described in paragraph (1) who subcontracts with a person to perform the services described in such paragraph shall be subject to the same restrictions in evaluating bids among potential subcontractors, as the Secretary was subject to in evaluating bids among prime contractors.

(b) ISSUANCE OF REGULATIONS.—The Secretary shall issue regulations not later than 90 days after the date of the enactment of this Act to carry out the requirements of subsection (a).

(c) DEFINITIONS.—As used in this section—

(1) the term "costs related to decommissioning of nuclear facilities" means any cost associated with the compliance with regulatory requirements governing the decommissioning of nuclear facilities licensed by the Nuclear Regulatory Commission;

(2) the term "costs related to storage and disposal of nuclear waste" means any costs, whether required by regulation or incurred as a matter of prudent business practice, associated with the storage or disposal of nuclear waste;

(3) the term "nuclear hot cell services" means services related to the examination of, or performance of various operations on, nuclear fuel rods, control assemblies, or other components that are emitting large quantities of ionizing radiation; and

(4) the term "nuclear waste" means any radioactive waste material subject to regulation by the Nuclear Regulatory Commission or the Department of Energy.

SEC. 2308. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under title XX, XXI, XXII, XXIII, or XXIV of this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by title XX, XXI, XXII, XXIII, or XXIV of this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 2309. LIMITATION ON APPROPRIATIONS.

Appropriations for activities with respect to which specific amounts are authorized under title XX, XXI, XXII, XXIII, or XXIV of this Act may not be made to the extent such appropriations provide for allocations of amounts not explicitly provided for in such titles.

SEC. 2310. RENEWABLE ENERGY AND OCEAN RESOURCES CENTER.

(a) FEASIBILITY STUDY.—The Secretary of Energy shall conduct a feasibility study of establishing a national laboratory able to carry out research, development, and technology transfer activities on—

(1) solar and renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean resource concepts, including global climate change; and

(5) other matters as the Secretary of Energy may direct.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit a report on the study conducted in subsection (a) to Congress.

SEC. 2311. UNCOSTED OBLIGATIONS.

(a) REPORT.—Along with the submission of each of the President's annual budget requests to Congress, the Secretary shall submit to Congress a report which—

(1) identifies the amount of Department of Energy funds that were, as of the end of the previous fiscal year—

(A) committed uncosted obligations; and

(B) uncommitted uncosted obligations;

(2) specifically describes the purposes for which all such funds are intended; and

(3) explains the effect that information contained in the report has had on the annual budget request for the Department of Energy being simultaneously submitted.

(b) DEFINITIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing definitions of the terms "uncosted obligation", "committed uncosted obligation", and "uncommitted uncosted obligation" for purposes of reports to be submitted under subsection (a).

TITLE XXIV—MARINE AND COASTAL ENVIRONMENT PROTECTION

SEC. 2401. SHORT TITLE.

This title may be cited as the "Marine and Coastal Environment Protection Act of 1992".

Subtitle A—Ocean and Coastal Resources Block Grants

SEC. 2411. SHORT TITLE.

This subtitle may be cited as the "Ocean and Coastal Resources Block Grant Act".

SEC. 2412. DEFINITIONS.

For purposes of this subtitle—

(1) "block grant" means a National Ocean and Coastal Resources Block Grant;

(2) "coastal State" means the Commonwealth of Puerto Rico and any State of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(3) "coastal territory" means the Virgin Islands, the Northern Mariana Islands, American Samoa, or Guam;

(4) "Fund" means the Ocean and Coastal Resources Fund;

(5) "local government" means that term as defined in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincorporated communities, including Alaska Native villages and with respect to Indian tribes, the term includes 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;

(6) "Secretary" means the Secretary of Commerce; and

(7) "State" means any coastal State or coastal territory—

(A) for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); or

(B) which the Secretary has determined is making satisfactory progress toward the development of such program which will be approvable under such section 306.

The determination made by the Secretary under subparagraph (B) shall not be made for any State for more than one fiscal year and may be renewed with respect to such State for no more than two additional fiscal years.

SEC. 2413. OCEAN AND COASTAL RESOURCES FUND.

(a) There is established in the Treasury of the United States a fund to be known as the Ocean and Coastal Resources Fund.

(b)(1) Beginning in fiscal year 1993 and in each fiscal year thereafter, the Secretary of the Treasury shall deposit into the Fund, not later than 60 days after the end of the previous fiscal year, an amount equal to 4 percent of the average amount of all sums deposited in the Treasury of the United States pursuant to section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) during the three previous fiscal years.

(2) Beginning in fiscal year 1994, and in each fiscal year thereafter, the amount deposited in the Fund shall not exceed 105 percent of the amount deposited in the Fund in the prior fiscal year.

(c) As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Fund during each fiscal year to carry out the purposes of, and in accordance with, the provisions of section 2414 of this Act.

SEC. 2414. NATIONAL OCEAN AND COASTAL RESOURCES BLOCK GRANTS.

(a) Subject to the provisions of section 2413(c) and this section, for fiscal year 1993 and for each subsequent fiscal year, the Secretary shall provide to each State a national ocean and coastal resources block grant from amounts paid into the Fund during such fiscal year under section 2413(b).

(b)(1) No State may receive a block grant for a fiscal year unless such State has submitted to the Secretary, and the Secretary has approved after notice and comment, a report for such fiscal year that—

(A) specifies the proposed allocation by such State of the block grant among the activities specified in section 2415(a);

(B) describes each proposed activity receiving funds provided by the block grant and the amounts proposed to be expended for each activity; and

(C) demonstrates that each proposed project is consistent with the allowable uses specified in section 2415, will benefit the coastal environment of the State, and is justified in terms of its need, design, and cost of implementation.

(2) In order to be eligible to receive a block grant pursuant to this subtitle and before submitting the report required under paragraph (1), each State shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the State convenient for encouraging maximum public participation.

(c) All amounts appropriated from the Fund in any fiscal year shall be apportioned by the Secretary as block grants to eligible States as follows—

(1) 0.25 percent for each coastal territory;

(2) 5.0 percent for each of Alabama and Mississippi;

(3) 10.0 percent for each of Alaska, California, Louisiana, and Texas;

(4) 1.75 percent for each of the remaining States; and

(5) the balance of appropriated amounts among the States in the same ratio that the volume of oil and natural gas produced from the outer Continental Shelf which is first landed in such State in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from the entire outer Continental Shelf which is first landed in all of the States in such year.

(d) The authority of the Secretary to award block grants under this subtitle shall expire on September 30, 2004. Not later than September 30, 2003, the Secretary, in consultation with the Secretary of the Interior, shall review the apportionment provided in subsection (c) and the existing and projected volume of oil and natural gas from the outer Continental Shelf landed in coastal States. Based on such review, the Secretary shall submit a report to Congress not later than December 31, 2003. The report shall include recommendations for maintaining or revising such apportionment. If a revision of such

apportionment is recommended, the report shall include further recommendations for an equitable and orderly transition from the apportionment provided in subsection (c) to any new apportionment provision.

SEC. 2415. REQUIREMENTS ON THE USE OF BLOCK GRANTS.

(a) Funds received pursuant to this subtitle shall be used by the coastal States for—

(1) projects to protect, conserve, or enhance air quality, water quality, fish and wildlife habitats, or wetlands in, or in close proximity, to the State's coastal zone as identified in the State's management program under section 306(d)(2)(A) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(2) projects that ameliorate adverse environmental impacts that result from the siting, construction, expansion, or operation of energy facilities in the coastal zone, above and beyond any mitigation required of permittees under current law;

(3) administrative, resource assessment, and environmental study costs the State incurs in reviewing and approving or disapproving Outer Continental Shelf lease sale, exploration, and development and production activities under any applicable law; and

(4) administrative costs of complying with this subtitle.

(b) The Secretary shall reduce any block grant, provided under this subtitle to a State, by no more than 30 percent of the amount of such State's block grant, if the Secretary makes the determination provided in section 312(c) of the Coastal Zone Management Act of 1972.

SEC. 2416. RELATIONSHIP TO OTHER LAW.

Nothing in this subtitle shall reduce any amounts required to be credited to the Land and Water Conservation Fund, pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 to 4601-11), or to the Historic Preservation Fund, pursuant to the Historic Preservation Act (16 U.S.C. 470h), from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. To the extent that the crediting of such amounts into the Land and Water Conservation Fund or the Historic Preservation Fund makes monies otherwise payable under this subtitle unavailable, payments to the States pursuant to this subtitle shall be reduced on a pro rata basis.

SEC. 2417. LOCAL GOVERNMENTS.

(a) Each State receiving a block grant in any fiscal year under section 2414(a) shall—

(1) establish an effective mechanism for consultation and coordination with its local governments with respect to the allocation of such block grant within the State; and

(2) provide to its local governments allocations from such block grant, taking into consideration the responsibilities of the local governments in carrying out activities under section 2415(a).

(b) In carrying out its responsibilities under this section, each State shall provide no less than 33⅓ percent of each block grant received under section 2414(a) to its local governments.

SEC. 2418. AUDIT.

(a) Under regulations promulgated by the Secretary, any State receiving a block grant under section 2414(a) shall, for each fiscal year that it receives such grant, submit to the Secretary a financial audit of the grant. The income derived from such grant for each fiscal year shall be included in the audit required by this section.

(b) Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all funds provided by the block grant received by such State for the fiscal year;

(2) include a statement of all financial assistance provided to such State's local governments pursuant to section 2417;

(3) be conducted by an entity which is independent of any agency or official administering or using funds provided by such block grant; and

(4) be conducted in accordance with the financial and compliance element of the standards for audit of governmental organizations, activities, and functions established by the Comptroller General of the United States.

(c) After receiving a State's financial audit under this section, the Secretary shall—

(1) make a preliminary evaluation of each audit submitted pursuant to this section. If the Secretary determines, in the preliminary evaluation of a State's audit, that all or any part of the block grant has not been used as required by this subtitle, the Secretary shall publish notice of this finding in the Federal Register. In addition, the Secretary may suspend, and place in escrow, an amount from any future block grant which is equivalent to the amount misused, pending final determination pursuant to paragraph (3);

(2) provide the State with an opportunity for a hearing; and

(3) make a final determination.

(d) If the Secretary makes a final determination under subsection (c)(3) that all or any part of such funds were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused under subsection (c), including the withholding of such amount from a State's future block grant or the amount which may have been suspended under subsection (c)(1).

(e) If no appeal of the final determination is filed within 60 days following notification to the State of the final determination, any funds withheld or recovered by the Secretary under subsection (d)(2) shall be returned to the Fund.

(f) If an appeal of the final determination is filed within the 60-day period specified in subsection (e), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

SEC. 2419. RULES AND REGULATIONS.

Within 180 days of enactment of this Act, the Secretary shall promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle B—Revisions to the Outer Continental Shelf Program

SEC. 2431. RELATIONSHIP TO OUTER CONTINENTAL SHELF LEASING PROGRAM AND EXISTING LAW.

(a) RELATIONSHIP TO OUTER CONTINENTAL SHELF LEASING PROGRAM.—Notwithstanding the Outer Continental Shelf Leasing Program maintained by the Secretary pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) or any lease sale schedule contained in a specific leasing program thereunder, the Secretary shall carry out such program consistent with the provisions of this subtitle.

(b) RELATIONSHIP TO EXISTING LAW.—Except as otherwise specifically provided in this Act, nothing in this Act shall be construed to affect the application of other Federal law to activities conducted on the Outer Continental Shelf.

SEC. 2432. SPECIFIC REGIONAL OUTER CONTINENTAL SHELF PLANNING AREAS.

The specific regional Outer Continental Shelf planning areas referred to in this subtitle shall be those so designated in the Department of the Interior Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program 1992-1997 Proposal, dated July 1991.

SEC. 2433. OUTER CONTINENTAL SHELF LEASING ENVIRONMENTAL SCIENCES REVIEW.

(a) ENVIRONMENTAL SCIENCES REVIEW PANELS.—

(1) ESTABLISHMENT.—An environmental sciences review panel shall be established for each of the Planning Areas described in section 2434, except that one such review panel shall be established for the South Atlantic Planning Area and the Straits of Florida Planning Area, collectively.

(2) PURPOSES.—The purposes of each review panel established under paragraph (1) shall be—

(A) to assess the adequacy of available physical oceanographic, ecological, and socioeconomic information in enabling the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing—

(i) leasing and exploration; and

(ii) development and production,

in the area covered by such review panel;

(B) if such available information is not adequate for such purposes, to identify the additional studies required to obtain such information;

(C) to identify the potential physical oceanographic, ecological, and socioeconomic impacts of exploration and development in the area covered by such review panel;

(D) to provide for and supervise the peer review, by qualified scientists not employed by the Federal Government, of the proposed studies identified under subparagraph (B) before their submission to the Secretary and separate reviews of each research proposal designed to implement those studies; and

(E) to report to the Secretary on its findings and recommendations under this paragraph.

(3) MEMBERSHIP.—Each review panel established under paragraph (1) shall consist of—

(A) one representative each from the Environmental Protection Agency, the Minerals Management Service, the National Oceanic and Atmospheric Administration, and the United States Fish and Wildlife Service;

(B) at least one representative from each State approved by the Governor of such State in the area covered by such review panel; and

(C) three members appointed by the Secretary of Commerce from a list of individuals nominated by the National Academy of Sciences who are professional scientists in the fields of physical oceanography, marine ecology, and social science.

There shall be 4 members as described in subparagraph (B) on each review panel, except that the total representation under such subparagraph (B) on a review panel covering more than 4 States shall equal the number of States covered.

(4) COMPENSATION.—(A) Members of each review panel appointed under paragraph (3)(C), while performing official duties under

this subtitle shall receive compensation for travel and transportation expenses under section 5703 of title 5, United States Code.

(B) Members of each review panel appointed under paragraph (3)(C) may be compensated at a rate to be fixed by the Secretary of Commerce, but not in excess of the maximum rate of pay for grade GS-18 provided in the General Schedule under section 5332 of title 5, United States Code, for each day such member spends performing the duties of the panel.

(b) REPORTS TO CONGRESS.—The Secretary shall, after consideration of the findings and recommendations of each review panel established under subsection (a), submit a report to the Congress—

(1) certifying that the physical oceanographic, ecological, and socioeconomic information available is sufficient to enable the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing leasing and development in the area covered by such review panel; and

(2) including a detailed explanation of any differences between such certification and the findings and recommendations of the review panel, along with a detailed justification for each such difference.

(c) LEASING CONSIDERATIONS.—The Secretary shall, in determining whether to lease any area described in section 2434—

(1) consider the findings and recommendations of the appropriate review panel established under subsection (a) of this section; and

(2) to the extent that the Secretary disagrees with such findings and recommendations, provide substantial evidence for such disagreement.

SEC. 2434. RESTRICTIONS AND REQUIREMENTS APPLICABLE TO SPECIFIC PLANNING AREAS.

(a) NORTH ATLANTIC PLANNING AREA.—In the North Atlantic Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(b) MID-ATLANTIC PLANNING AREA.—In the Mid-Atlantic Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(3)(A) The restrictions and requirements of subparagraphs (B), (C), and (D) of this paragraph shall apply only with respect to the area offshore North Carolina included within blocks numbered 246, 247, 290, 291, 334, 335, 378, 379, 422, 423, 466, 467, 510, 511, 553, 554, 555, 597, 598, 640, and 641 on protraction diagram NI 18-2 of the Universal Transverse Mercator Grid System.

(B) Notwithstanding the requirements of section 5(a)(2) (A) and (B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (A) and (B)), the Secretary, within 90 days after the date of enactment of this Act, shall cancel any active leases in the area.

(C) Before the cancellation required under subparagraph (B), no exploration or development plans or permits to drill shall be approved for any such lease in existence on the date of enactment of this Act.

(D) Compensation to lessees owning leases that are canceled under subparagraph (B) shall be determined under section 5(a)(2) (C) and (D) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (C) and (D)).

(c) SOUTH ATLANTIC PLANNING AREA.—In the South Atlantic Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(d) STRAITS OF FLORIDA PLANNING AREA.—In the Straits of Florida Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(e) EASTERN GULF OF MEXICO PLANNING AREA.—(1) In the Eastern Gulf of Mexico Planning Area north of 26 degrees north latitude and east of the lateral seaward boundary between the States of Florida and Alabama, the following additional restrictions and requirements shall apply:

(A) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(B) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(2) In the Eastern Gulf of Mexico Planning Area, the additional restrictions and requirements in this paragraph shall apply only with respect to the area offshore Florida, south of 26 degrees north latitude and east of 86 degrees west longitude:

(A) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(B) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(C) Studies to acquire the information found inadequate by the National Research Council's report shall be completed prior to any lease sale held after January 1, 2002.

(D)(i) Notwithstanding the requirements of section 5(a)(2) (A) and (B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (A) and (B)), the Secretary, within 90 days after the date of enactment of this Act, shall cancel any active leases in the area.

(ii) Before the cancellation required under clause (i), no exploration or development plans or permits to drill shall be approved for any such lease in existence on the date of enactment of this Act.

(iii) Compensation to lessees owning leases that are cancelled under clause (i) shall be determined under section 5(a)(2) (C) and (D) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (C) and (D)).

(f) SOUTHERN CALIFORNIA, CENTRAL CALIFORNIA, AND NORTHERN CALIFORNIA PLANNING AREAS.—In the Southern California, Central California, and Northern California Planning Areas, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(3) Studies to acquire the information found inadequate by the National Research Council's report shall be completed, and additional research on the incremental risks of an oil spill in the area shall be conducted, prior to any lease sale held after January 1, 2002.

(g) WASHINGTON-OREGON PLANNING AREA.—In the Washington-Oregon Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(3) Studies recommended by the Pacific Northwest Outer Continental Shelf Task Force, shall be completed prior to any lease sale held after January 1, 2002.

(4) No leasing or preleasing activity shall be conducted within the area designated as the Olympic Coast National Marine Sanctuary in accordance with Public Law 100-627.

(h) NORTH ALEUTIAN BASIN PLANNING AREA.—In the North Aleutian Basin Planning Area, the additional restrictions and requirements in this paragraph shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(3)(A) Notwithstanding the requirements of section 5(a)(2) (A) and (B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (A) and (B)), the Secretary, within 90 days after the date of enactment of this Act, shall cancel any active leases in the area.

(B) Before the cancellation required under subparagraph (A), no exploration or development plans or permits to drill shall be approved for any such lease in existence on the date of enactment of this Act.

(C) Compensation to lessees owning leases that are cancelled under subparagraph (A) shall be determined under section 5(a)(2) (C) and (D) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (C) and (D)).

(i) CONTINUOUS SESSION OF CONGRESS.—In computing any 45-day period of continuous session of Congress under this section—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain are excluded.

SEC. 2435. ALASKA OCS SUBSISTENCE REVIEW.

The Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.), as amended by section 2434(h) of this Act, is further amended by adding at the end thereof the following:

"SEC. 32. ALASKA OCS SUBSISTENCE REVIEW.—Prior to issuing any five-year program under section 18 of this Act, conducting any lease sale, or approving any plan or permit for exploration, development, or production activities in the Alaska region authorized by this Act, the Secretary shall comply with section 810 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3120). At the lease sale stage the Secretary shall fully consider the effects of exploration, development, and production upon subsistence uses.".

SEC. 2436. DEFINITIONS.

For the purposes of this subtitle—

(1) terms defined in the Outer Continental Shelf Lands Act have the meaning given such terms in that Act;

(2) the term "adequate" means sufficiently complete to enable necessary decisions to be made under the Outer Continental Shelf Lands Act, and of sufficient scientific quality to be repeatable, reliable, and valid in measurements and analysis with appropriate methods and subject;

(3) the term "National Research Council's report" means the report entitled "The Adequacy of Environmental Information for Outer Continental Shelf Oil and Gas Decisions: Florida and California" issued in 1989 by the Council's Committee to Review the Outer Continental Shelf Environmental Studies Program and supported by the President's Outer Continental Shelf Leasing and Development Task Force through Department of the Interior Contract No. 1435000130495; and

(4) the term "preleasing activities" means activities conducted before a lease sale is held, and includes the scheduling of a lease, requests for industry interest, calls for information and nominations, area identifications, publication of draft or final environmental impact statements, notices of sale, and any form of rotary drilling; but such term does not include environmental, geologic, geophysical, economic, engineering, or other scientific analyses, studies, and evaluations.

Subtitle C—Environmental Studies Program

SEC. 2441. ENVIRONMENTAL STUDIES.

Section 20(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(a)(1)) is amended by adding at the end the following new sentence: "Such study shall include an assessment of the adequacy of available physical oceanographic, ecological, and socioeconomic information.".

SEC. 2442. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346) is amended by adding at the end the following new subsections:

"(g) ADEQUACY OF INFORMATION.—For the purposes of this section, the term 'adequacy' means sufficiently complete to enable necessary decisions to be made under this Act, and of sufficient quality to be repeatable, reliable, and valid in measurements and analysis with appropriate methods and subject.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section—

"(1) $21,000,000 for fiscal year 1993;

"(2) $25,000,000 for fiscal year 1994;

"(3) $30,000,000 for fiscal year 1995;

"(4) $35,000,000 for fiscal year 1996; and

"(5) $40,000,000 for fiscal year 1997.".

Subtitle D—Miscellaneous

SEC. 2451. CANCELLATION OF LEASES.

Section 5(a)(2)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2)(B)) is amended—

(1) by inserting "or pursuant to an Act of Congress" after "by the Secretary"; and

(2) by striking "five" and inserting in lieu thereof "two".

SEC. 2452. COMPENSATION FOR LEASE BUYBACKS.

Section 5(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C); and

(2) by adding at the end the following new subparagraph:

"(D) that compensation a lessee is entitled to receive under subparagraph (C) may be made in the form of currency, forgiveness of the lessee's obligation to pay rents or royalties which would otherwise be paid to the Federal Government on another lease issued pursuant to this Act, or a combination of currency with such forgiveness.".

SEC. 2453. EVALUATION OF DEVELOPMENT POTENTIAL.

The Act of August 30, 1935 (Public Law No. 409 of the 74th Congress), is amended by inserting "The Secretary shall undertake a demonstration project to evaluate the potential for hydropower development, utilizing tidal currents;" after "Document Numbered 15, Seventy-fourth Congress;".

Subtitle E—Alaska Resources

PART 1—TRANS-ALASKA PIPELINE

SEC. 2461. RESPONSIBILITY OF RIGHT-OF-WAY HOLDER.

Title II of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) is amended by adding at the end thereof the following:

"RESPONSIBILITY OF RIGHT-OF-WAY HOLDER

"SEC. 208. In addition to the existing duties to respond to, contain, and clean up oil spills within the State of Alaska, including Prince William Sound, under section 204(b) of this Act and other laws and requirements, the holder of the right-of-way shall submit an oil spill response plan for Prince William Sound to the Secretary of Transportation for approval under section 4202 of the Oil Pollution Act of 1990.".

SEC. 2462. EXXON VALDEZ SETTLEMENT FUND LAND ACQUISITION.

Title II of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), as amended by section 2401 of this Act, is amended by adding at the end thereof the following:

"EXXON VALDEZ SETTLEMENT FUND HABITAT ACQUISITION

"SEC. 209. (a) Notwithstanding any other provision of law, all amounts received by the United States in settlement of United States v. Exxon Corporation and Exxon Shipping Company (Case No. A90-015-1CR and 2CR) (Criminal Plea Agreement) shall be exclusively utilized to acquire from willing sellers land or interests in land, including timber rights, within the Chugach National Forest in the Prince William Sound region and in other Gulf of Alaska areas affected by the discharge of oil from the T/V EXXON VALDEZ, including Kenai Fjords National Park, Afognak Island, the Alaska Maritime National Wildlife Refuge, and Kodiak National Wildlife Refuge.

"(b) Notwithstanding any other provision of law, the Federal Trustees identified in the Memorandum of Agreement and Consent Decree entered into by the United States and the State of Alaska, as approved by the District Court for the District of Alaska on October 8, 1991, shall not approve any restoration plan which does not include acquisition, in addition to that required by subsection (a), as the primary component of such restoration plan.".

SEC. 2463. SUBSISTENCE CLAIMS AGAINST TRANS-ALASKA PIPELINE LIABILITY FUND.

Section 204(c)(13) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(13)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (B) the following:

"(C) all injuries suffered by individuals or entities due to the impact of a discharge on people engaging in subsistence.

"In order to expedite compensation, the Fund shall certify a class action claim with respect to subparagraph (C).".

SEC. 2464. TAPS REMEDY NOT EXCLUSIVE.

Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(3)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, claim determinations or payments by the Fund shall not limit the right of any person to pursue other remedies provided by State or Federal law against parties other than the Fund for the full amount of all uncompensated damages caused by a discharge of oil.".

SEC. 2465. UTILITY CORRIDOR.

The Secretary of the Interior shall not implement the Bureau of Land Management's Record of Decision related to the Utility Corridor Management Plan, dated January 11, 1991. Notwithstanding any other provision of law, lands withdrawn by Public Land Order No. 5150 of December 31, 1971, that are owned by the United States shall not be conveyed or otherwise transferred to any other entity, but shall be retained and managed by the Secretary pursuant to applicable law.

PART 2—ARCTIC RESEARCH

SEC. 2471. FUNDING FOR ARCTIC RESEARCH PROGRAMS.

(a) IN GENERAL.—There is hereby authorized to be appropriated for a period of five fiscal years, commencing in fiscal year 1994, monies not to exceed $20,000,000 annually to be used to fund high priority research projects and programs related to, among other things, understanding the long- and short-term effects of energy development and productive activities on the Arctic environment. To be eligible for funding under this section, the project or program must be identified in accordance with subsection (b).

(b) ARCTIC RESEARCH PROJECTS LIST.—(1) Not later than six months after the date of enactment of this section, the Chairman of the Interagency Arctic Research Policy Committee shall prepare, with the concurrence of the Arctic Research Commission, a list of arctic research projects and programs as described in subsection (a) which will be eligible for funding under this section.

(2) The list referred to in paragraph (1) shall be transmitted to the Congress as part of the first budget submitted by the President following enactment of this section. Thereafter, revisions of the list shall be prepared in accordance with paragraph (1) and transmitted to the Congress as part of the President's budget submission.

Subtitle F—Transshipment of Plutonium Through United States Ports

SEC. 2481. TRANSSHIPMENT OF PLUTONIUM THROUGH UNITED STATES PORTS.

(a) DENIAL OF PORT PRIVILEGES.—

(1) IN GENERAL.—A vessel in transit from a foreign nation to a foreign nation that is transporting plutonium shall not be permitted entry, even under emergency circumstances, to any place in the United States and to the navigable waters of the United States, unless the container for the plutonium is certified as safe by the United States Nuclear Regulatory Commission in accordance with subsection (b).

(2) INTERNATIONAL LAW.—Paragraph (1) of this subsection applies except when denial of entry violates international law or practice.

(b) RESPONSIBILITIES OF THE NUCLEAR REGULATORY COMMISSION.—

(1) DETERMINATION OF SAFETY.—The Nuclear Regulatory Commission shall determine whether the container referred to in subsection (a) is safe for use in the transporting of plutonium by vessels and transmit to Congress a certification for the purpose of such subsection in the case of each type of container determined to be safe.

(2) TESTING.—In order to make a determination with respect to a container under paragraph (1), the Nuclear Regulatory Commission shall test such container, to the fullest extent possible, under conditions approximating a maximum credible accident involving collision, fire, and sinking, based upon actual worst case maritime accident experience.

(3) LIMITATION.—The Nuclear Regulatory Commission may not certify under this section that a container is safe for use in the transportation of plutonium by vessel if the container ruptured or released any of its contents during tests conducted in accordance with paragraph (2).

(4) EVALUATION.—The Nuclear Regulatory Commission shall evaluate the container certification required by subsection (a) in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.) and all other applicable law.

(c) CONTENT OF CERTIFICATION.—A certification referred to in subsection (a) with respect to a container shall include—

(1) the determination of the Nuclear Regulatory Commission as to the safety of such container;

(2) a statement that the requirements of subsection (b)(2) were satisified in the testing of such container; and

(3) a statement that the container did not rupture or release any of its contents into the environment during testing.

(d) DESIGN OF TESTING PROCEDURES.—In designing the tests required by subsection (b), the Nuclear Regulatory Commission shall—

(1) convene an independent scientific panel of marine safety experts, a majority of whom shall be representatives of the Coast Guard and National Transportation Safety Board, to assist in (A) the definition of a maximum credible accident involving plutonium transport based upon a survey of maritime accidents and an assessment of the most severe conditions under which such accidents have occured and (B) the design of appropriate test procedures to replicate such conditions;

(2) provide for public notice of the proposed definition and test procedures;

(3) provide a reasonable opportunity for public comment on such definition and procedures; and

(4) consider such comments, if any, before making its final determination with respect to such definition and procedures.

(e) TESTING RESULTS: REPORTS AND PUBLIC DISCLOSURE.—The Nuclear Regulatory Commission shall transmit to Congress a report on the results of each test conducted under this section and shall make such results available to the public.

(f) INAPPLICABILITY TO MEDICAL DEVICES.—Subsections (a) through (c) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

(g) INAPPLICABILITY TO MILITARY USES.—Subsections (a) through (c) shall not apply to plutonium in the form of nuclear weapons or to other shipments of plutonium determined by the Department of Energy to be directly connected with the United States national security or defense programs.

(h) PAYMENT OF COSTS.—All costs incurred by the Nuclear Regulatory Commission associated with the testing program required by this section, and administrative costs related thereto, shall be reimbursed to the Nuclear Regulatory Commission by any foreign country receiving plutonium shipped through the United States in containers specified by the Commission.

(i) DEFINITION.—For purposes of this section the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.

TITLE XXV—COAL, OIL, AND GAS

SEC. 2501. AMENDMENT TO SURFACE MINING ACT.

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "1995" and inserting in lieu thereof "2010, after which time the fee shall be established at a rate to continue to provide for the deposit referred to in subsection (h)".

SEC. 2502. HOT DRY ROCK GEOTHERMAL ENERGY.

(a) USGS PROGRAM.—The Secretary of the Interior, acting through the United States Geological Survey, and in consultation with the Secretary of Energy, shall establish a cooperative Government-private sector program with respect to hot dry rock geothermal energy resources on public lands (as such term is defined in section 103(e) of the Federal Land Policy and Management Act of 1976) and lands managed by the Department of Agriculture, other than any such public or other lands that are withdrawn from geothermal leasing. Such program shall include, but shall not be limited to, activities to identify, select, and classify those areas throughout the United States that have a high potential for hot dry rock geothermal energy production and activities to develop and disseminate information regarding the utilization of such areas for hot dry rock energy production. Such information may include information regarding field test processes and techniques for assuring that hot dry rock geothermal energy development projects are developed in an economically feasible manner without adverse environmental consequences. Utilizing the information developed by the Secretary, together with information developed in connection with other related programs carried out by other Federal agencies, the Secretary, acting through the United States Geological Survey, may also enter into contracts and cooperative agreements with any public or private entity to provide assistance to any such entity to enable such entity to carry out additional projects with respect to the utilization of hot dry rock geothermal energy resources which will further the purposes of this section.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 2503. HOT DRY ROCK GEOTHERMAL ENERGY IN EASTERN UNITED STATES.

The United States Geological Survey, in collaboration with the Secretary of Energy, shall convene a workshop of interested governmental and private parties to discuss the regional potential for hot dry rock geothermal energy in the Eastern United States. The purpose of the workshop shall be to review the status of recoverability of hot dry rock energy in the Eastern United States and to determine what geologic, technological, and economic obstacles need to be overcome to make the utilization of hot dry rock energy feasible. The workshop shall be convened within 6 months after enactment of this Act and the United States Geological Survey shall submit a report to Congress within 6 months after the workshop containing a summary of the findings and conclusions of the workshop.

SEC. 2504. COAL REMINING.

(a) MODIFICATION OF PROHIBITION.—Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(20)(B) shall terminate on September 30, 2010.".

(b) PERIOD OF RESPONSIBILITY.—Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will be extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.".

(c) DEFINITIONS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).".

(d) ELIGIBILITY.—Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.".

(e) ABANDONED COAL REFUSE SITES.—(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove an abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

59-059 O—97 Vol. 138 (Pt. 14) 32

SEC. 2505. SURFACE MINING ACT IMPLEMENTATION.

(a) SUBSIDENCE.—(1) Section 717(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1307(b)) is amended as follows:

(A) Strike "a surface coal mine" and insert in lieu thereof "surface coal mining operations".

(B) Strike "surface coal mine operation" and insert in lieu thereof "surface coal mining operations".

(2) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

"SEC. 720. (a) Surface coal mining operations shall comply with the following requirement: Promptly repair, or compensate for, damage resulting from subsidence caused to any structure or facility due to underground coal mining operations, without regard to the mining technique used. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged structure or facility. Compensation shall be provided to the owner of the damaged structure or facility and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(b) Within one year after the date of enactment of this section, the Secretary of the Interior shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a). Such regulations shall include adequate bonding to ensure that the requirements of subsection (a) are met.".

(b) VALID EXISTING RIGHTS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by adding the following new paragraph after paragraph (34)(as added by section 2801(c) of this Act):

"(35) for the purpose of section 522(e) 'valid existing rights' means—

"(A) Except for haul roads and as otherwise provided under this paragraph, those property rights of the applicant in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which authorizes the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant, to produce coal by a surface coal mining operation; and the person proposing to conduct surface coal mining operations in an area protected under section 522(e) either—

"(i) had been validly issued, or was making a good faith effort to obtain, as of August 3, 1977, all state and federal permits necessary to conduct such operations on those lands; or

"(ii) can demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977.

"(B) For haul roads the term 'valid existing rights' means—

"(i) a recorded right-of-way, a recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or

"(ii) any other road in existence as of August 3, 1977.

"(C) When an area comes under the protection of section 522(e) after August 3, 1977, the date the protection comes into existence shall be used in lieu of August 3, 1977.

"(D) Notwithstanding the reference to surface impacts incident to an underground coal mine in paragraph (28)(A), for the purpose of section 522(e) the term 'surface coal mining operations' shall not include subsidence caused by an underground coal mine.".

(c) RESEARCH.—(1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumbering the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).".

(d) COAL FORMATIONS.—(1) Notwithstanding section 205 of Public Law 89-4 and any regulation relating to such section, in furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551-558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall enter into a cooperative agreement with any State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed $500,000 annually,".

(4) Notwithstanding any other provision of law, independent of the cooperative agreements referred to in this section, any State referred to in paragraph (1) may at its discretion transfer up to 30 percent of the annual grants available to the State under section 402(g) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of undertaking the activities referred to in paragraph (1) if such activities conform with the declaration of policy set forth in section 1 of the Act of August 31, 1954 (30 U.S.C. 551). Such activities shall be deemed to meet the requirements of section 403(a) of the Surface Mining Control and Reclamation Act of 1977.

SEC. 2506. FEDERAL COAL ROYALTY STUDY.

(a) ROYALTY STUDY.—(1) The Secretary of the Interior shall conduct a study of current Federal coal royalty rates for surface mined and underground mined coal, and the valuation methodology of such coal, for the pur-

poses of assessing, for each of the following, whether the current Federal coal royalty system:

(A) Creates competitive inequities among the Federal coal producing regions and States.

(B) Suppresses coal production in certain Federal coal producing regions and States.

(C) Results in a loss of mineral receipts to the Federal Government and to State government.

(D) Causes inefficiencies in Federal valuation, audit and collection activities.

(2) The Secretary shall compare the alternative royalty systems identified in subsection (b) with the current system and make separate findings, on each of the following, with respect to whether any such alternative royalty system would:

(A) Mitigate any competitive inequities among the Federal coal producing regions and States.

(B) Increase coal production in certain Federal coal producing regions and States.

(C) Result in an increase in mineral receipts to the Federal government and to State governments.

(D) Provide for a more efficient valuation, audit and collection program.

(b) ALTERNATIVES.—(1) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine each of the following alternative coal royalty systems based on:

(A) The value of coal measured in cents per million British thermal units.

(B) A flat cents-per-ton rate.

(C) Any other methodology the Secretary deems appropriate for the purpose of the study.

(2) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine the justification for establishing a separate royalty rate for lignite coal and a separate valuation methodology for lignite coal.

(c) NOTICE.—Within 60 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a notice detailing the scope and methodology proposed to be used in the study, and after opportunity for public comment, publish a final notice on the scope and methodology that will be used in the study.

(d) REPORT.—The Secretary shall report the findings of the study, and recommendations on alternative Federal royalty systems, to the President and the Congress within 2 years after the date of enactment of this Act.

SEC. 2507. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT.

(a) MINERAL RECEIPTS UNDER ACQUIRED LANDS ACT.—Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any payment to a State under this section shall be made by the Secretary of the Interior and shall be made not later than the last business day of the month following the month in which such moneys or associated reports are received by the Secretary of the Interior, whichever is later. The Secretary shall pay interest to a State on any amount not paid to the State within that time at the rate prescribed under section 111 of the Federal Oil and Gas Royalty Management Act of 1982 from the date payment was required to be made under this subsection until the date payment is made.".

(b) AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.—The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) is amended by adding the following new section at the end thereof:

"SEC. 11. Each department, agency and instrumentality of the United States which administers lands acquired by the United States with one or more existing mineral lease shall transfer to the Secretary of the Interior the authority to administer such lease and to collect all receipts due and payable to the United States under the lease. In the case of lands acquired on or before the date of the enactment of this section, the authority to administer the leases and collect receipts shall be transferred to the Secretary of the Interior as expeditiously as practicable after the date of enactment of this section. In the case of lands acquired after the date of enactment of this section, such authority shall be vested with the Secretary at the time of acquisition. The provisions of section 6 of this Act shall apply to all receipts derived from such leases where such receipts are due and payable to the United States under the lease in the same manner as such provisions apply to receipts derived from leases issued under the authority of this Act. For purposes of this section, the term 'existing mineral lease' means any lease in existence at the time land is acquired by the United States.".

(c) CLARIFICATION.—Section 7 of the Act of August 18, 1941, ch. 377 (33 U.S.C. 701c-3) is amended by adding the following sentence at the end thereof: "For the purposes of this section, the term 'money' includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.".

SEC. 2508. RESERVED OIL AND GAS.

(a) IN GENERAL.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended—

(1) in paragraph (1)(A), by striking out "under paragraph (2)" and inserting in lieu thereof "under paragraphs (2) and (3)"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

"(B) An election under this paragraph is effective—

"(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

"(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

"(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

"(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

"(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

"(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.

SEC. 2509. OUTSTANDING OIL AND GAS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (o):

"(p)(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (3), the Secretary of Agriculture is authorized to require, pursuant to regulations promulgated by the Secretary, that such activities be subject to such reasonable terms and conditions as may be necessary to protect the interests of the United States in accordance with applicable laws, rules and regulations governing the Secretary's acquisition of an interest in such lands, and in accordance with applicable laws, rules and regulations relating to the management of such lands.

"(2) The terms and conditions referred to in paragraph (1) shall prevent or minimize damage to the environment and other resource values.

"(3) The lands referred to in this subsection are those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.".

(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a).

SEC. 2510. FEDERAL ONSHORE OIL AND GAS LEASING.

Section 17(c)(1) of the Mineral Leasing Act is amended by adding the following after the first sentence: "If more than one qualified person applies for a noncompetitive lease under this paragraph for any unit on the first day on which applications for noncompetitive leases may be submitted under this paragraph for that unit, the Secretary shall not issue a noncompetitive lease for that unit under this paragraph but shall make such unit available for competitive leasing under subsection (b) at the next

quarterly competitive oil and gas lease sale held by the Secretary.".

SEC. 2511. OIL PLACER CLAIMS.

Notwithstanding any other provision of law, in furtherance of the purposes of the Act of February 11, 1897, commonly referred to as the Oil Placer Act, and section 37 of the Mineral Leasing Act, the Secretary of the Interior is authorized and directed to, within 90 days after the enactment of this Act, (1) convey by quit-claim deed to the owner or owners, or separately and as an alternative, (2) disclaim and relinquish by a document in any form suitable for recordation in the county within which the lands are situated, all right, title and interest or claim of interest of the United States to those lands in the counties of Hot Springs, Park and Washakie in the State of Wyoming, held pursuant to the Act of February 11, 1897, and which are currently producing covered substances under a cooperative or unit plan of development.

SEC. 2512. OIL SHALE CLAIMS.

Section 37 of the Mineral Leasing Act (30 U.S.C. 193) is amended by inserting "(a)" before the first sentence and by adding the following at the end thereof:

"(b) REVIEW.—(1) Not later than 30 days after the enactment of this subsection the Secretary of the Interior shall publish proposed regulations in the Federal Register containing standards and criteria for determining the validity of all unpatented oil shale claims referred to in subsection (a). Final regulations shall be promulgated within 180 days after the date such proposed regulations are published. The Secretary shall make a determination with respect to the validity of each such claim within 2 years after the promulgation of such final regulations. In making such determinations the Secretary shall give priority to those claims referred to in subsection (c).

"(2) The proposed regulations referred to in paragraph (2) shall be in lieu of proposed regulations concerning oil shale claims published in the Federal Register on January 9, 1991, and shall provide that oil shale claims supported a discovery of a valuable oil shale deposit within the meaning of the general mining laws of the United States on February 25, 1920, not imposed arbitrary limitations on lawful contest proceedings against such claims by the United States with respect to failure to comply with the assessment work requirements of the general mining laws of the United States or sanction an absolute right of resumption with respect to such requirements, and shall be limited in scope to oil shale claims.

"(c) FULL PATENT.—(1) Except as provided under subsection (d)(2), after April 8, 1992, no patent shall be issued by the United States for any oil shale claim referred to in subsection (a) unless the Secretary determines that, for the claim concerned—

"(A) a patent application was filed with the Secretary on or before April 8, 1992;

"(B) all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were fully complied with by that date; and

"(C) the claim is valid pursuant to the regulations referred to in subsection (b).

"(2) If the Secretary makes the determinations referred to in paragraph (1) for any oil shale claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this subsection, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

"(d) ELECTION.—(1) The holder of each oil shale claim for which no patent may be issued by reason of subsection (c) shall make an election under paragraph (2) or paragraph (3). Not later than 30 days after the enactment of this subsection, the Secretary shall by certified mail notify the holder of each such claim of the requirement to make such election. The holder shall make the election within such period shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void.

"(2)(A) The holder of a claim required to make an election pursuant to paragraph (1) may apply for a patent within 1 year after making such election. The Secretary may issue a patent to such claim as provided under this paragraph if the requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) are met and the Secretary determines the claim to be valid pursuant to the regulations referred to in subsection (b).

"(B) Notwithstanding any other provision of law, the patent referred to in subparagraph (A) shall be limited to the oil shale and associated minerals and may be issued only upon the payment of fair market value for the oil shale and associated minerals by the holder of the claim to the Secretary.

"(C) Any patent issued for an oil shale claim under this paragraph shall be subject to an express reservation to the United States of the surface of the affected lands, and the provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to such claim in the same manner and to the same extent as such provisions apply to the unpatented mining claims referred to in such provisions.

"(3)(A) The holder of a claim required to make an election pursuant to paragraph (1) may continue to maintain the claim by complying with the general mining laws of the United States, except in order to maintain the claim as valid such claim holder shall also make an annual payment to the Secretary of at least $1,000 for each claim. Payments received under this paragraph shall be deposited into the General Fund of the Treasury.

"(B) The holder of a claim referred to in subparagraph (A) shall comply with the provisions of section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744) by filing the affidavit referred to in such section and including the payment referred to in subparagraph (A). The payment requirement shall take effect on the first day of the first month of September which occurs more than 90 days after an election is made to maintain a claim under this paragraph.

"(C) Failure to comply with the requirements of this paragraph shall be deemed conclusively to constitute a forfeiture of the oil shale claim and the claim shall be null and void.

"(D) The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to oil shale claims under this paragraph in the same manner and to the same extent as such provisions apply to the mining claims referred to in such provisions.

"(e) RECLAMATION.—In addition to other applicable requirements, any person who maintains a claim pursuant to subsection (d) shall be required to reclaim the land subject to such claim and to pose a surety bond or provide other types of financial guarantee satisfactory to the Secretary before disturbance of the land subject to such claim to ensure reclamation.".

SEC. 2513. HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PROGRAM.

(a) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PLAN.—(1) Every 5 years, the Secretary of the Interior, acting through the Director of the Bureau of Mines (hereinafter referred to as the "Director"), shall develop a Plan for Health, Safety, and Mining Technology Research (hereinafter in this subsection referred to as the "Plan"). After developing a proposed Plan, the Director of the Bureau of Mines shall submit it to the Committee established under subsection (b) for its review.

(2) The Plan shall identify the goals and objectives of the Health, Safety, and Mining Technology program of the Bureau of Mines, and shall guide research and technology development under such program, over each 5-year period.

(3) In preparing the proposed Plan referred to in paragraph (1), the Director shall solicit suggestions, comments and proposals for research and technology development projects from the mining industry, labor, academia and other concerned groups and individuals.

(4) The Director shall prepare a list of all health, safety, and mining technology projects received pursuant to the solicitation referred to in paragraph (3), and all such projects initiated by the Bureau of Mines, and submit the list to the Committee established under subsection (b) as part of the proposed Plan. The list shall contain the following information:

(A) the title and a brief synopsis of each project;

(B) a justification of the health, safety, and employment benefits anticipated by each project;

(C) an estimate of the timeframe to complete each project;

(D) an estimate of the funding requirements of each project; and

(E) an explanation of how each project would assist the Bureau of Mines in achieving the goals and objectives defined in the proposed Plan.

(5) The Director shall to the extent possible adopt the recommendations made by the Committee in the report referred to in subsection (b)(4) in selecting projects for the Health, Safety, and Mining Technology program, unless the Director determines, in writing, that a deviation from such report is necessary to meet a high-priority research need that was unanticipated at the time of the submission of the Committee report. The Director shall submit an explanation for any such deviation to the Secretary and to the Congress.

(b) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH ADVISORY COMMITTEE.—(1) There is hereby established the Health, Safety, and Mining Technology Research Advisory Committee (hereinafter in this subsection referred to as the "Committee"). The Committee shall be composed of 14 members appointed by the Secretary of the Interior. Members of the Committee shall serve for terms of two years. Any member of the Committee may serve after the expiration of a term until a successor is appointed. Any member of the Committee may be appointed to serve more than one term.

(2) The Secretary shall appoint members to the Committee as follows:

(A) A representative from the Mine Safety and Health Administration.

(B) A representative from the National Institute for Occupational Safety and Health.

(C) Two representatives from the coal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(D) Two representatives from the metal, non-metal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(E) Six representatives from unions representing miners, of which 2 shall have expertise in metal, non-metal mining.

(F) A representative from a school of mines with expertise in coal mining research located in the eastern portion of the United States.

(G) A representative from a school of mines with expertise in metal, non-metal mining research located in the western portion of the United States.

(3) Members of the Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this subtitle on vouchers signed by the Chairman.

(4) Notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), the Committee established under this subtitle shall serve as a standing Advisory Committee to the Bureau of Mines. The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to the Committee established under this subsection.

(5) The purpose of the Committee shall be to review the proposed Plan submitted by the Director under subsection (a), evaluate the list contained in such proposed Plan using the values set forth in paragraph (5), and submit the proposed Plan within 60 days after it is received by the Committee to the Director as part of a report with recommendations.

(6) Each proposal on the list submitted by the Director as part of the proposed Plan shall be assigned a value by the Committee for each of the following factors: safety, health, impact on employment of miners and timeliness of the proposed project's benefits. The values shall be as follows:

(A) Safety can assume a value of 0 to 5, where a 0 signifies little or no safety value, a 1 signifies an indirect safety benefit, a 3 signifies a direct safety benefit, and a 5 means a significant, direct safety benefit.

(B) Health can assume a value of 0 to 5, where a 0 signifies little or no health value, a 1 signifies an indirect health benefit, a 3 signifies a direct health benefit, and a 5 means a significant, direct health benefit.

(C) Employment can assume a value of 0 to 5, with a value of 0 if miners will be unemployed as a result of the research program, 5 if employment will be increased and 3 if there is no change in employment.

(D) Timeliness can assume a value of 0 to 2, where a 0 signifies that all health, safety, and productivity benefits will require 5 or more years, a 1 signifies that health, safety, and productivity benefits will be realized in 3 to 5 years, a 2 signifies that health, safety, and productivity benefits will be realized in less than 3.

(c) TECHNICAL AMENDMENT.—For the purposes of section 501(b) of Public Law 91-173, as amended, activities in the field of coal or other mine health under such section shall also be carried out by the Secretary of the Interior acting through the Director of the Bureau of Mines.

SEC. 2514. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall—

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources.".

TITLE XXVI—INDIAN ENERGY RESOURCES

SEC. 2601. SHORT TITLE.

This title may be cited as the "Indian Energy Amendments of 1992".

SEC. 2602. DEFINITIONS.

For purposes of this title—

(1) except as provided in section 1104(c) and section 1105(d), 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;

(2) the term "Indian reservation" includes Indian reservations; public domain Indian allotments; former Indian reservations in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(3) the term "Secretary" means the Secretary of the Department of Energy.

SEC. 2603. TREATMENT OF INDIAN TRIBES AS STATES.

(a) INVOLVEMENT OF TRIBES.—In implementing the provisions of this Act, the Secretary shall involve Indian tribes to the maximum extent possible and where appropriate and shall do so in a manner that is consistent with the Federal trust and the Government-to-Government relationship between Indian tribes and the Federal Government.

(b) TREATMENT AS STATE.—The Secretary may, whenever appropriate, treat an Indian tribe as a State for any purpose of section 122 pursuant to such reasonable conditions as the Secretary may establish.

SEC. 2604. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.

(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in consultation with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry on Indian reservations, in order to increase development of the substantial energy resources located on such Indian reservations. Such program shall include, but not be limited to, the following components:

(1) The Secretary shall provide development grants to Indian tribes or to joint ventures which are 51 percent or more controlled by an Indian tribe to assist Indian tribes in obtaining the managerial and technical capability needed to develop the energy resources on Indian reservations. Such grants shall include provisions for management training for tribal or village members, improving the technical capacity of the Indian tribe, and the reduction of tribal unemployment. Each grant shall be for a period of 3 years.

(2) The Secretary shall provide grants, not to exceed 50 percent of the project costs, for vertical integration projects. For purposes of this paragraph, the term "vertical integration project" means a project that promotes the vertical integration of the energy resources on an Indian reservation, so that the energy resources are used or processed on such Indian reservation. Such term includes, but is not limited to, projects involving solar and wind energy, oil refineries, the generation and transmission of electricity, hydroelectricity, cogeneration, natural gas distribution, and clean, innovative uses of coal.

(3) The Secretary shall provide technical assistance (and such other assistance as is appropriate) to Indian tribes for energy resource development and to promote the vertical integration of energy resources on Indian reservations.

(b) LOW INTEREST LOANS.—

(1) IN GENERAL.—The Secretary shall establish a program for making low interest loans to Indian tribes. Such loans shall be used to promote Indian energy resource exploitation, development, and vertical integration.

(2) TERMS.—The Secretary shall establish reasonable terms for loans made under this subsection.

(c) DEFINITION.—For the 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.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $10,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999 to carry out the purposes of subsection (a)(1);

(2) $10,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999 to carry out the purposes of subsection (a)(2); and

(3) such sums as are necessary to carry out the purposes of subsection (b).

SEC. 2605. INDIAN ENERGY RESOURCE REGULATION.

(a) GRANTS.—The Secretary is authorized to make annual grants to Indian tribes for the purpose of assisting Indian tribes in the development, administration, implementation, and enforcement of tribal laws and regulations governing the development of energy resources on Indian reservations.

(b) PURPOSE.—The purposes for which funds provided under a grant awarded under subsection (a) may be used include, but are not limited to—

(1) the training and education of employees responsible for enforcing or monitoring com-

pliance with Federal and tribal laws and regulations;

(2) the development of tribal inventories of energy resources;

(3) the development of tribal laws and regulations;

(4) the development of tribal legal and governmental infrastructure to regulate environmental quality pursuant to Federal and tribal laws; and

(5) the enforcement and monitoring of Federal and tribal laws and regulations.

(c) OTHER ASSISTANCE.—The Secretary shall cooperate with and provide assistance to Indian tribes for the purpose of assisting Indian tribes in the development, administration, and enforcement of tribal programs. Such cooperation and assistance shall include the following:

(1) Technical assistance and training, including the provision of necessary circulars and training materials.

(2) Assistance in the preparation and maintenance of a continuing inventory of information on tribal energy resources and tribal operations. In providing assistance under this paragraph, Federal departments and agencies shall make available to Indian tribes all relevant data concerning tribal energy resource development consistent with applicable laws regarding disclosure of proprietary and confidential information.

(d) DEFINITION.—For the purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including an 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 OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999 to carry out the purposes of this section.

SEC. 2606. INDIAN ENERGY ROYALTY MANAGEMENT COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Indian Energy Taxation and Royalty Management Commission (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of—

(1) 8 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribes, at least 4 of whom shall be elected tribal leaders;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States that have Indian reservations with energy resources;

(3) 1 member appointed by the Secretary of the Interior from among individuals in the private sector with expertise in tribal and State taxation of energy resources;

(4) 1 member appointed by the Secretary of the Interior from individuals with expertise in oil and gas royalty management administration, including auditing and accounting;

(5) 1 member appointed by the Secretary of the Interior from recommendations submitted by national environmental organizations; and

(6) the Secretary of the Interior, or his designee.

(c) APPOINTMENTS.—Members of the Commission shall be appointed not later than 60 days following the date of the enactment of this title.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(f) QUORUM.—7 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) ORGANIZATIONAL MEETING.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after the members are first appointed to the Commission.

(h) COMPENSATION.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission, not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(i) TRAVEL.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees under sections 5702 and 5703 of title 5, United States Code.

(j) COMMISSION STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission 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) ADDITIONAL PERSONNEL.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate of basic pay payable for level 15 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(4) PERSONNEL DETAIL AUTHORIZED.—Upon the request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

(k) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop proposals to address the dual taxation by Indian tribes and States of the extraction of mineral resources on Indian reservations;

(2) make recommendations to improve the management, administration, accounting, and auditing of royalties associated with the production of oil and gas on Indian reservations;

(3) develop alternatives for the collection and distribution of royalties associated with the production of oil and gas on Indian reservations; and

(4) develop proposals on incentives to foster the development of energy resources on Indian reservations.

(l) POWERS OF THE COMMISSION.—The powers of the Commission shall include the following:

(1) For the purpose of carrying out its duties under this section, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out its duties under this section.

(m) COMMISSION REPORT.—The Commission shall, within 12 months after funds are made available to carry out this section, prepare and transmit to the President, the Committee on Interior and Insular Affairs of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate, a report containing the recommendations and proposals specified in subsection (k).

(n) AUTHORIZATION.—There are authorized to be appropriated to the Commission $1,000,000 to carry out this section. Such sum shall remain available, without fiscal year limitation, until expended.

(o) TERMINATION.—The Commission shall terminate 30 days after submitting the final report required under subsection (m).

TITLE XXVII—INSULAR AREAS ENERGY SECURITY

SEC. 2701. SHORT TITLE.

This title shall be cited as the "Insular Areas Energy Security Act".

SEC. 2702. THE INSULAR AREAS ENERGY SECURITY AMENDMENT OF 1992.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96-597, as amended by Public Law 98-213 (48 U.S.C. 1492), is amended by adding the following subsection—

"(g)(1) There are hereby authorized to be appropriated $2,000,000 for each fiscal year through 1998 for grants to insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependence of the insular area on imported fuels and improve the quality of life in the insular area, such sums to remain available until expended.

"(2) Factors which shall be considered in determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy grant under this subsection shall include, but not be limited to, the following:

"(A) Whether the measure will reduce the relative dependence of the insular area on imported fuels.

"(B) The ease and costs of operation and maintenance of any facility contemplated as part of the project.

"(C) Whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the report by the Secretary of Energy pursuant to this section or identified by the Secretary as consistent with the purposes of this section.

"(D) Whether the measure will contribute significantly to the quality of the environment in the insular area.".

SEC. 2703. DEFINITION.

Section 401 of Public Law 97-425, the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10241) is amended by striking "States," the first place it appears, and inserting in lieu thereof "States and", inserting a period after "District of Columbia", and striking the remainder of the sentence.

SEC. 2704. ELECTRICITY REQUIREMENTS IN TRUST TERRITORY OF THE PACIFIC ISLANDS.

Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall, in consultation with the Government of Palau, submit a plan to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives to extend electric service to those areas of the Trust Territory of the Pacific Islands that are not yet served or fully served and eliminate any debt incurred in the Trust Territory of the Pacific Islands relating to its electrical generating plant and related facilities. The plan shall include—

(1) an assessment of the power needs of the Trust Territory of the Pacific Islands both currently, and for the year 2000, including how electricity in the Trust Territory of the Pacific Islands will be distributed to those areas that on the date of enactment of this Act do not have electricity;

(2) an assessment of, and recommendations regarding, how these needs can be met;

(3) an assessment of, and recommendations regarding, any additional legal authority or funding which may be necessary to meet these needs; and

(4) an assessment of, and recommendations regarding, the respective roles of the Federal Government and the Government of the Trust Territory of the Pacific Islands in meeting these needs.

SEC. 2705. PCB CLEANUP IN MARSHALL ISLANDS AND FEDERATED STATES OF MICRONESIA.

Section 105(h)(1) of Public Law 99-239 is amended by adding at the end the following new paragraph:

"The programs and services of the Environmental Protection Agency regarding PCBs shall, to the extent applicable, as appropriate, and in accordance with applicable law, be construed to be made available to such islands.".

TITLE XXVIII—NUCLEAR PLANT LICENSING

SEC. 2801. COMBINED LICENSES.

Section 185 of Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended—

(1) in the heading for such section by adding "and Operating Licenses" after "Permits";

(2) by adding a subsection designator "a." before "All applicants for licenses"; and

(3) by adding at the end the following new subsection:

"b. After holding a public hearing under section 189 a. (1)(A), the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189 a. (1)(B).".

SEC. 2802. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.

Section 189 a. (1) of Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended—

(1) by adding a subparagraph designator "(A)" before "In any proceeding under this Act,"; and

(2) by adding after subparagraph (A) the following new subparagraph:

"(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185 b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under clause (i) shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under clause (i), the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under clause (i), and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 2803. RULEMAKING.

The Nuclear Regulatory Commission shall propose regulations implementing sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, not later than 1 year after the date of enactment of this Act.

SEC. 2804. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.

Section 189 a. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(2)) is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 2805. JUDICIAL REVIEW.

Section 189 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 2806. EFFECT ON PENDING PROCEEDINGS.

Sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, shall apply to all proceedings involving a combined license for which an application was filed after May 8, 1991, under such sections.

SEC. 2807. CONFORMING AMENDMENT.

The table of contents of the Atomic Energy Act of 1954 is amended by amending the item related to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

TITLE XXIX—RADIATION PROTECTION

Subtitle A—Below Regulatory Concern

SEC. 2901. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF NRC REGULATORY CONCERN.

(a) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting after section 275 the following new section:

"SEC. 276. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF REGULATORY CONCERN OF NUCLEAR REGULATORY COMMISSION.

"(a) IN GENERAL.—No provision of this Act, or of the Low-Level Radioactive Waste Policy Act, may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the management, storage, incineration, or disposal of low-level radioactive waste, or other practices or materials involving low-level radioactivity, if the Nuclear Regulatory Commission, after January 1, 1990—

"(1) exempts such waste, practices, or materials from regulation; or

"(2) issues a regulation governing such waste, practices, or materials that substantially reduces protection of the public health and safety.

"(b) AUTHORITY TO EXCLUDE WASTE.—Any State that is a member of a compact for the disposal of low-level radioactive waste may prohibit or otherwise restrict the importation into such State, for purposes of storage or disposal in such State, of low-level radioactive waste, or other low-level radioactive materials, generated outside the borders of the compact region of such State, if the Commission, after January 1, 1990—

"(1) exempts such waste or materials from regulation; or

"(2) issues a regulation governing such waste or materials that substantially reduces protection of the public health and safety.

"(c) DEFINITIONS.—Each term used in this section that is also used in the Low-Level Radioactive Waste Policy Act shall have the meaning given such term in section 2 of such Act.".

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. 2011 prec.) is amended by inserting after the item relating to section 275 the following new item:

"Sec. 276. State authority to regulate radiation below level of regulatory concern of Nuclear Regulatory Commission.".

SEC. 2902. REVOCATION OF RELATED NRC POLICY STATEMENTS.

The policy statements of the Nuclear Regulatory Commission published in the Federal Register on July 3, 1990 (55 Fed. Reg. 27522) and August 29, 1986 (51 Fed. Reg. 30839), relating to radioactive waste below regulatory concern, shall have no effect after the date of the enactment of this Act.

Subtitle B—Disposal Standards at Mill Tailings Sites

SEC. 2911. DISPOSAL STANDARDS AT MILL TAILINGS SITES.

Section 84 of the Atomic Energy Act of 1954 (42 U.S.C. 2114) is amended by adding at the end the following new subsection:

"d. No radioactive material may be disposed of at a site subject to Federal regulation pursuant to title II of the Uranium Mill Tailings Radiation Control Act of 1978 unless—

"(1) the Governor of the State has agreed to such disposal; or

"(2) the radioactive material to be disposed of is byproduct material as defined in section 11 e.(2) and—

"(A) the site to be used for disposal is in compliance with all applicable Federal and State regulations; and

"(B) the proposed disposal will not cause the site to fail to comply with such regulations.".

TITLE XXX—MISCELLANEOUS

SEC. 3001. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978 REPEAL.

Section 403(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373(a)) is repealed.

SEC. 3002. ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976 REPEAL.

(a) REPEAL.—Section 7(a)(5) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e(a)(5)) is repealed.

(b) ABOLITION OF OFFICE OF FEDERAL INSPECTOR OF CONSTRUCTION.—The Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System, created pursuant to the paragraph repealed by subsection (a) of this section, is abolished. All functions and authority vested in the Inspector are hereby transferred to the Chairman of the Federal Energy Regulatory Commission.

(c) REVOCATION OF CERTAIN OFI REGULATIONS.—Regulations applicable to the Office of Federal Inspector of the Alaska Natural Gas Transportation System, as set forth in chapter 15 of title 10, Code of Federal Regulations, are hereby revoked.

SEC. 3003. GEOTHERMAL HEAT PUMPS.

The Secretary shall—

(1) encourage States, municipalities, counties, and townships to allow the installation of geothermal heat pumps, and, where applicable, to permit public and private water recipients to utilize the flow of water from, and back into, public and private water mains for the purpose of providing sufficient water supply for the operation of residential and commercial geothermal heat pumps; and

(2) not discourage any local authority which allows the use of geothermal heat pumps from—

(A) inspecting, at any reasonable time, geothermal heat pump connections to the water system to ensure the exclusive use of the public or private water supply to the geothermal heat pump system; and

(B) requiring that geothermal heat pump systems be designed and installed in a manner that minimizes the risk of contamination of the public water supply.

SEC. 3004. EMPLOYEE PROTECTION FOR NUCLEAR WHISTLEBLOWERS.

(a) INTERNAL WHISTLEBLOWERS; EMPLOYERS.—Section 210(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)) is amended—

(1) by inserting "(1)" after "SEC. 210. (a)";

(2) by striking ", including" and all that follows through "licensee or applicant,";

(3) by inserting after the dash the following new subparagraphs:

"(A) notified his employer (or an agent of such employer) of an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(B) opposed any practice made unlawful by this Act or the Atomic Energy Act of 1954;

"(C) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this Act or the Atomic Energy Act of 1954;";

(4) by redesignating paragraphs (1) through (3) as subparagraphs (D) through (F), respectively; and

(5) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term 'employer' includes—

"(A) a licensee of the Commission or of an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021);

"(B) an applicant for a license from the Commission or such an agreement State;

"(C) a contractor or subcontractor of such a licensee or applicant;

"(D) a contractor or subcontractor at a nuclear or radioactive waste facility of the Department of Energy; and

"(E) any other employer engaged in any activity licensed under the Atomic Energy Act of 1954.".

(b) TIME PERIOD FOR FILING COMPLAINT.—Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended by striking "thirty days" and inserting "1 year".

(c) DE NOVO REVIEW.—Section 210(b)(2)(A) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(2)(A)) is amended—

(1) by inserting "(i)" after "(2)(A)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Notwithstanding subsection (c)(2), in the event that the Secretary does not issue an order under clause (i) within the 120-day period prescribed by such clause, the complainant shall be entitled to de novo review of the complaint in any district court of the United States.

"(II) Nothing in this subparagraph shall be construed to preclude the applicability of the provisions of section 554 of title 5, United States Code, to the issuance of an order under clause (i).".

(d) AVOIDANCE OF FRIVOLOUS COMPLAINTS.—Section 210(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant has demonstrated that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(B) Relief may not be ordered under paragraph (2) if the employer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.".

(e) NONPREEMPTION.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is amended by adding at the end the following new subsection:

"(h) Notwithstanding subsection (c)(2), the provisions of this section shall not be construed to preclude a complainant under this section from pursuing any right or remedy otherwise available to such complainant under any law—

"(1) contemporaneously with pursuit of relief under this section;

"(2) subsequent to the issuance of a final order by the Secretary under this section; or

"(3) subsequent to judicial review under subsection (c)(1).".

(f) POSTING REQUIREMENT.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(i) The provisions of this section shall be prominently posted in any place of employment to which this section applies.".

(g) EXEMPLARY DAMAGES.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(j) In any action brought under this section, the Secretary or, on appeal under subsection (b)(2)(A)(ii), the United States district court, shall have jurisdiction to grant all appropriate relief, including injunctive relief, compensatory, and exemplary damages.".

(h) DUTY OF NRC TO INVESTIGATE SUBSTANTIVE ALLEGATIONS.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(k)(1) The Commission or the Department of Energy shall not delay any investigation or proceeding by it with respect to an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) on the basis of—

"(A) the filing of a complaint under subsection (b)(1); or

"(B) any investigation by the Secretary, or other action, under this section in response to such complaint.

"(2) A determination by the Secretary under this section that a violation of subsection (a) has not occurred shall not be considered by the Commission or the Department of Energy in its determination of whether any violation of this Act or the Atomic Energy Act of 1954 has occurred.".

(i) PROHIBITION ON PASSTHROUGH OF DAMAGES AND LEGAL COSTS.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(l) In the event that a complainant prevails in any action against a contractor or subcontractor of the Department of Energy under this section, no amount awarded against such contractor or subcontractor in such action, nor any amount paid by such contractor or subcontractor in legal costs related to such action, may be paid or reimbursed, directly or indirectly, by contract or otherwise, by the Department of Energy or any other Federal entity. No such amount may be considered an allowable cost under any contract with the Department of Energy.".

(j) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The title heading of title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended to read as follows:

"TITLE II—NUCLEAR REGULATORY COMMISSION; NUCLEAR WHISTLEBLOWER PROTECTION".

(2) Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended—

(A) by striking "(hereinafter in this subsection referred to as the 'Secretary')" and inserting "(in this section referred to as the 'Secretary')"; and

(B) by striking "and the Commission" and inserting ", the Commission, and the Department of Energy".

(3) The second of the two sections of the Energy Reorganization Act of 1974 that is numbered 210 (42 U.S.C. 5851) is redesignated as section 211.

(k) APPLICABILITY.—The amendments made by this section shall apply to claims filed under section 211(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act.

SEC. 3005. RENEWABLE ENERGY PARK DEMONSTRATION PROGRAM.

The Secretary shall designate a location for a Federal demonstration of integrating renewable, coal, oil, and other energy production with agriculture and manufacturing. Such location shall—

(1) be in a county with greater than 18 percent unemployment in December 1991;

(2) be in a county which lost greater than 6 percent of its population between 1980 and 1990; and

(3) have had an energy park development plan approved by a governmental body before March 10, 1992.

There are authorized to be appropriated to the Secretary $1,000,000, for providing grants, with or without a recoupment requirement, to attract new energy-related industries to the location designated under this section. The Federal share of the cost of any project funded under this section shall not exceed 20 percent of the total capital costs of the project.

SEC. 3006. USE OF ENERGY FUTURES FOR FUEL PURCHASES.

(a) FUEL STUDY.—The Secretary of Energy shall conduct a study—

(1) to ascertain if the use of energy futures and options contracts could provide cost-effective protection for Government entities (including Government purchases for military purposes and for the Strategic Petroleum Reserve) and consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk) from unanticipated surges in the price of fuel; and

(2) to ascertain how such Government entities or consumer cooperatives may be educated in the prudent use of energy futures and options contracts to maximize their purchasing effectiveness, protect themselves against unanticipated surges in the price of fuel, and minimize fuel costs.

(b) REPORT.—The Secretary of Energy, no later than 12 months after the date of enactment of this Act, shall transmit the study required in this section to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) PILOT PROGRAM.—The Secretary of Energy shall conduct a pilot program, commencing not later than 30 days after the transmission of the study required in subsection (b), to educate such governmental entities, consumer cooperatives, or other organizations on the prudent and cost-effective use of energy futures and options contracts to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 3007. ENERGY SUBSIDY STUDY.

(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of the enactment of this Act; or

(2) have been in effect prior to the date of the enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of the enactment of this Act; or

(ii) reasonably foreseeable on the date of the enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1993 and 1994.

SEC. 3008. TAR SANDS.

(a) POLICY.—It is the policy of the United States to encourage the development and production, by all means consistent with sound engineering, economic, and environmental practices, of deposits of tar sands.

(b) STUDY.—The Secretary of Energy shall, within one year after the date of enactment of this Act, submit to the Congress the results of a study which—

(1) identifies and evaluates the development potential of sources of tar sands in the United States, including tar sands waste tailings;

(2) identifies and evaluates processes for extracting oil from those identified tar sands sources; and

(3) evaluates the environmental benefits of, and the potential for coproduction of minerals and metals from, such processes.

SEC. 3009. EXEMPTION OF CERTAIN RESEARCH AND EDUCATIONAL LICENSEES FROM ANNUAL CHARGES.

(a) IN GENERAL.—Section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)) is amended—

(1) in paragraph (1), by striking "Any licensee" and inserting "Except as provided in paragraph (4), any licensee"; and

(2) by adding at the end the following new paragraph:

"(4) EXEMPTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

"(B) RESEARCH REACTOR.—For purposes of subparagraph (A), the term 'research reactor' means a nuclear reactor that—

"(i) is licensed by the Nuclear Regulatory Commission under section 104 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a thermal power level of 10 megawatts or less; and

"(ii) if so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

"(I) a circulating loop through the core in which the licensee conducts fuel experiments;

"(II) a liquid fuel loading; or

"(III) an experimental facility in the core in excess of 16 square inches in cross-section.".

(b) APPLICABILITY.—The amendments made by this section shall apply to annual charges assessed under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)) for fiscal year 1992 or any succeeding fiscal year.

SEC. 3010. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITIONS.—

(1) FARMOUT AGREEMENT.—Section 101 of title 11, United States Code, is amended—

(A) by redesignating paragraph (22) and all that follows through the last paragraph (57) as paragraphs (23) through (62), respectively, and

(B) by inserting after paragraph (21) the following:

"(22) 'farmout agreement' means written agreement in which—

"(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

"(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property;".

(2) CONFORMING AMENDMENTS.—(A) Section 362(b)(6) of title 11, United States Code, is amended—

(i) by striking "section 101(34)" and inserting "section 101", and

(ii) by striking "section 101(35)" and inserting "section 101".

(B) Section 546(e) of title 11, United States Code, is amended—

(i) by striking "section 101(34)" and inserting "section 101", and

(ii) by striking "section 101(35)" and inserting "section 101".

(C) Section 548(d)(2)(B) of title 11, United States Code, is amended—

(i) by striking "section 101(34)" and inserting "section 101", and

(ii) by striking "section 101(35)" and inserting "section 101".

(D) Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(i) in clause (iii) by striking "section 101(24)" and inserting "section 101",

(ii) in clause (iv)(I) by striking "section 101(41)" and inserting "section 101", and

(iii) in clause (v) by striking "section 101(50)" and inserting "section 101".

(E) Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(i) in clause (iv) by striking "section 101(24)" and inserting "section 101",

(ii) in clause (v)(I) by striking "section 101(41)" and inserting "section 101", and

(iii) in clause (viii) by striking "section 101(50)" and inserting "section 101".

(b) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end,

(2) in paragraph (3) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

"(A) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

"(B) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a)(3) of this title.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

TITLE XXXI—FEDERAL AND STATE LANDS

SEC. 3101. RIGHTS-OF-WAY ON CERTAIN FEDERAL LANDS.

(a) EXTENT OF RIGHTS.—(1) Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended by adding at the end of subsection (b)(1) thereof the following: "Any right-of-way granted or issued under this section shall convey only the rights specifically described therein, and shall not convey or be construed to imply conveyance of any other rights to the use of the affected lands or the resources of such lands.".

(2) Section 501 of such Act is amended as follows:

(A) Insert in subsection (a), after "public lands" the following: "(as defined in section 103(e) of this Act)".

(B) In paragraph (4) of subsection (a), strike "Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791) and insert in lieu thereof "Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a-825r).".

(b) ENERGY-RELATED RIGHTS-OF-WAY.—Section 501 of the Federal Land Policy and Management Act of 1976 is amended by adding at the end thereof a new subsection, as follows:

"(d)(1) Under this section, a right-of-way on public lands or lands within the National Forest System may be granted or issued for the construction or operation of a non-Federal system (including any dam, diversion, or appurtenant project works) for the generation, transmission, or distribution of electrical energy only if the Secretary or the Secretary of Agriculture, as appropriate, finds that the use of such lands for the construction or operation of the facilities involved in such system—

"(A) is consistent with applicable management plans for such lands, and will not interfere with or be inconsistent with the protection and utilization of such lands for the purposes for which such lands are managed; and

"(B) will not result in substantial degradation of natural or cultural resources, scenic or recreational values, watershed resources, or fish and wildlife populations or habitat affected by the proposed system or affected by the cumulative effects of the proposed system and other uses of such lands or adjacent lands.

"(2)(A) The Secretary concerned shall provide for early and continued public participation in connection with consideration of an application for a right-of-way under this subsection by making a copy of such application available for public inspection in the vicinity of the affected lands for at least 90 days prior to acting on the application and by conducting at least 1 public meeting thereon at a time and location likely to assure public participation.

"(B) All information, including documents and testimony, related to the concerned Secretary's decision on an application under this subsection shall be available for public inspection in regional or local offices of the Bureau of Land Management or Forest Service, and at the same time as such Secretary decides whether or not to grant or issue the requested right-of-way, such Secretary shall publish in the Federal Register an appropriate document stating and explaining the basis for such decision.

"(3)(A) If facilities of a system described in paragraph (1) would be located on lands under the administrative jurisdiction of a single agency of the United States, that agency shall have the principal role in preparing any analysis, under applicable law, of the effects of construction and operation of such facilities on the environment. If such facilities would be located on lands under the administrative jurisdiction of more than 1 such agency, each such agency involved may enter into an agreement among themselves in order to avoid duplication of responsibility or effort, to expedite the consideration of applications for rights-of-way or other rights with respect to use of such lands, to issue joint regulations in appropriate cases, and to assure that decisions about such system are based on a comprehensive review of possible effects on Federal lands and resources.

"(B) Any analysis described in subparagraph (A) of this paragraph shall be prepared by an agency of the United States with administrative jurisdiction over affected lands, or by an independent contractor selected by such an agency, and not by the applicant for a right-of-way under this subsection or by any other party selected or reimbursed by such applicant.

"(C) Nothing in this paragraph shall be construed as precluding an agency of the United States from requiring an applicant for a right-of-way under this section or any other party to provide any necessary information in connection with an analysis described in subparagraph (A) or in connection with decisions about any other aspect of a system described in paragraph (1) of this subsection.".

(c) EFFECTIVE DATE AND IMPLEMENTATION.—(1) The amendments to the Federal Land Policy and Management Act of 1976 made by this section shall not apply to any project for which the land-management agency has completed a final review of an application for a right-of-way prior to the enactment of this section.

(2) No later than 1 year after the date of enactment of this Act, the Secretaries of the Interior and Agriculture shall issue joint regulations to:

(A) establish procedures for appropriate public participation in decisions relating to applications for rights-of-way of the type covered by section 501(d) of the Federal Land Policy and Management Act of 1976; and

(B) establish procedures to coordinate, so far as possible, the timing of review by such Secretaries regarding such applications with review of related projects by other Federal agencies.

SEC. 3102. DAMS IN NATIONAL PARKS.

(a) PROHIBITION.—(1) Except as provided in paragraph (2), no individual corporation, partnership, Federal or State agency, political subdivision, or any other legal entity may commence construction of—

(A) any new dam or other new impoundment within the external boundaries of any unit of the National Park System; or

(B) any new dam or other new impoundment which, after the date of enactment of this Act, will inundate any land within the external boundaries of any unit of the National Park System.

(2) The provisions of this subsection shall not apply to a project developed by the National Park Service that the Secretary of the Interior determines necessary to meet the purposes for which the affected unit of the National Park System was established if such project would not degrade the resources or values of such unit.

(b) DEFINITIONS.—For purposes of this section, the following terms shall have the following meanings:

(1) The term "new dam or other new impoundment" means any facility for impoundment or obstruction of the flow of water, construction of which commences after the enactment of this Act.

(2) The term "impoundment" means the formation of a body of water upstream from a dam or other structure caused by the construction or operation of the dam or other structure.

(3) The term "inundate" means to permanently or intermittently cover land with water.

(c) CONCURRENCE.—Notwithstanding any other provision of law, no department or agency of the United States shall renew or reissue any license, or issue a new license, for any dam or other facility for impoundment or obstruction of the flow of water that is located on or that inundates any land within the National Park System, if such action would result in new or increased effects on the resources and values of such land, unless the Secretary of the Interior concurs in such action.

(d) SCOPE.—The prohibition of this section shall be in addition to, and not in lieu of, any other prohibition or restriction on activities within any unit of the National Park System.

(e) OTHER PROJECTS.—Nothing in this section prohibits the Secretary of the Army or any other Federal department or agency from undertaking a study of any project or from submitting a recommendation to Congress for the authorization or licensing of such project.

SEC. 3103. STATE OR LOCAL GOVERNMENT LANDS.

Section 21 of the Federal Power Act is amended as follows:

(1) In the first sentence after the word "right" the first place it appears insert ", temporarily during project construction,".

(2) In the first sentence after the word "damage" insert "(and to restore and repair),".

(3) After the first sentence insert: "The term 'unimproved dam site' shall not include any site or area that was acquired by a State or local government or agency thereof solely

for the purposes of a public park, recreation, or wildlife refuge before the date such licensee is issued a license by the Commission and is owned and operated for such purposes, except that nothing in this sentence shall preclude a State or local government from consenting to the acquisition of such site or area with the licensee.".

The amendments made by this section to section 21 of the Federal Power Act shall apply to the exercise of eminent domain by any licensee under such section after the date of enactment of this Act.

SEC. 3104. COORDINATION WITH FEDERAL AGENCIES.

Section 6(g) of the Land and Water Conservation Fund Act of 1965 is amended by inserting the following at the end thereof: "If a State has enacted statutory provisions providing for the permanent protection of the natural, ecological, cultural, scenic, or recreational resources of designated river segments within that State, if such protection is part of a comprehensive Statewide plan approved by the Secretary of the Interior under section 6, and if such provisions prohibit the development of new hydroelectric power projects on such designated segments, neither the Secretary nor any other officer or agent of the United States (other than the Secretary of the Army or the Chief of the United States Soil Conservation Service) shall assist or issue an original license or an exemption for the construction of any new hydroelectric power project if the project is located wholly within that State and if such assistance, license, or exemption would be inconsistent with such prohibition. The preceding sentence shall not apply to any project authorized for construction by the Secretary of the Army before, on, or after the date of the enactment of this sentence and not subsequently deauthorized pursuant to the provisions of title X of Public Law 99-662 or any other provision of law.".

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I have discussed this matter with the members of the Finance Committee, and after doing so, a majority of the members of that committee have authorized me to withdraw and modify the reported committee amendments. Therefore, on behalf of the committee, I withdraw the first two reported committee amendments which are amendments to the table of contents of H.R. 776, and I modify the third reported committee amendment. I send the modified committee amendment to the desk.

The PRESIDING OFFICER. The chairman as authorized by the committee has a right to make those actions. The amendment is so modified.

The third reported committee, as modified, is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be referred to as the "National Energy Security Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—FINDINGS AND PURPOSES

Subtitle A—Findings and Purposes

Sec. 1101. Findings.
Sec. 1102. Purposes.

Subtitle B—Climate Protection Goals, Least-Cost Energy Strategy, and Director of Climate Protection

Sec. 1201. Climate protection goals and policies.
Sec. 1202. Least-cost energy strategy.
Sec. 1203. Director of Climate Protection.
Sec. 1204. Repeal.

Subtitle C—Energy Goals

Sec. 1301. Energy goals.
Sec. 1302. Reports.

TITLE II—DEFINITIONS

Sec. 2101. Definitions.

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A—Alternative Fuel Fleets

Sec. 4101. Definitions.
Sec. 4102. Federal fleets.
Sec. 4103. State fleets.
Sec. 4104. Private and municipal fleets.
Sec. 4105. Rules of general applicability.
Sec. 4106. Exemptions.
Sec. 4107. Vehicle conversions.
Sec. 4108. Credits.
Sec. 4109. Reports.
Sec. 4110. Resale of alternative fuel vehicles.
Sec. 4111. Federal agency promotion, education, and coordination.
Sec. 4112. Agency incentives program.
Sec. 4113. Recognition and incentive awards program.
Sec. 4114. Measurement of alternative fuel use.
Sec. 4115. Information collection.
Sec. 4116. General Services Administration report.
Sec. 4117. United States Postal Service report.
Sec. 4118. Enforcement.
Sec. 4119. Implementation.
Sec. 4120. School bus fleet financial assistance program.

Subtitle B—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure Development, and Conforming Amendments

PART A—ELECTRIC AND ELECTRIC-HYBRID VEHICLE DEMONSTRATION

Sec. 4201. Short title.
Sec. 4202. Definitions.
Sec. 4203. Program and solicitation.
Sec. 4204. Selection of proposals.
Sec. 4205. Discount payments to users.
Sec. 4206. Cost-sharing.
Sec. 4207. Reports to Congress.
Sec. 4208. Authorization.

PART B—ELECTRIC AND ELECTRIC-HYBRID VEHICLE INFRASTRUCTURE DEVELOPMENT

Sec. 4211. Short title.
Sec. 4212. Definitions.
Sec. 4213. Data acquisition to support infrastructure development and markets for use of electric vehicles and electric-hybrid vehicles.
Sec. 4214. State infrastructure development plans.
Sec. 4215. Electric utility and other industry infrastructure development projects.
Sec. 4216. Cost-sharing.
Sec. 4217. Compliance with existing law.
Sec. 4218. Authorization.

PART C—AMENDMENT TO THE ALTERNATIVE MOTOR FUELS ACT

Sec. 4221. Amendments to the Energy Policy and Conservation Act.
Sec. 4222. Amendments to the Motor Vehicle Information and Cost Saving Act.

Subtitle C—Alternative Fuels

Sec. 4301. Short title.
Sec. 4302. Findings.
Sec. 4303. Purposes.
Sec. 4304. Definitions.
Sec. 4305. Replacement and alternative fuel program.
Sec. 4306. Alternative fuel demand estimates.
Sec. 4307. Voluntary supply commitments.
Sec. 4308. Secretarial authority.
Sec. 4309. Authorization.

Subtitle D—Mass Transit and Training

Sec. 4401. Mass transit program.
Sec. 4402. Training program.

TITLE V—RENEWABLE ENERGY

Subtitle A—CORECT and COEECT

Sec. 5101. Duties of CORECT and COEECT.
Sec. 5102. Information and technical program.
Sec. 5103. Comprehensive energy technology evaluation.
Sec. 5104. Conforming amendment.

Subtitle B—Renewable Energy Initiatives

Sec. 5201. Renewable energy development, technology export training, and commercialization.
Sec. 5202. Report on waste minimization technologies in industry.
Sec. 5203. Amendments to the Energy Policy and Conservation Act.
Sec. 5204. Spark M. Matsunaga Renewable Energy and Ocean Technology Center.
Sec. 5205. Renewable energy technical achievement award.
Sec. 5206. Renewable energy research.
Sec. 5207. Establishment of the solar assistance financing entity.

Subtitle C—Hydropower

Sec. 5301. Streamlining regulation under the Federal Power Act.
Sec. 5302. Hydroelectric projects.
Sec. 5303. Improvement at existing Federal facilities.
Sec. 5304. Water conservation and energy production.
Sec. 5305. Projects on fresh waters in the State of Hawaii.
Sec. 5306. Certain projects in the State of Alaska.
Sec. 5307. Extension of time limitation for certain projects in Arkansas.
Sec. 5308. Federal projects in the Pacific Northwest.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Industrial, Commercial and Residential

Sec. 6101. Building energy efficiency codes.
Sec. 6102. Residential energy efficiency ratings and mortgages.
Sec. 6103. Manufactured housing energy efficiency.
Sec. 6104. Improving efficiency in energy intensive industries.
Sec. 6105. Report.
Sec. 6106. Voluntary guidelines for industrial plants.
Sec. 6107. Energy efficiency labeling for windows and window systems.
Sec. 6108. Energy efficiency information.
Sec. 6109. Energy efficiency labeling for lamp and luminaires.
Sec. 6110. Commercial and industrial equipment standards.
Sec. 6111. Energy efficiency of showerheads.
Sec. 6112. Vibration technology study.
Sec. 6113. Energy conservation standards for commercial and industrial electric motors.
Sec. 6114. Energy conservation standards for small electric motors.
Sec. 6115. Energy conservation standards for certain lamps.

Sec. 6116. Energy conservation standards for high intensity discharge lamps.
Sec. 6117. Report on the potential of cooperative advanced appliance development.

Subtitle B—Federal Energy Management

Sec. 6201. Definitions.
Sec. 6202. Federal energy cost accounting and management.
Sec. 6203. Federal energy cost budgeting.
Sec. 6204. Inspector General review and agency accountability.
Sec. 6205. Intergovernmental energy management planning and coordination.
Sec. 6206. Procurement and identification of energy efficient products.
Sec. 6207. General Services Administration Federal buildings fund.
Sec. 6208. Federal energy management training.
Sec. 6209. Federal facility energy manager recognition and incentives award program.
Sec. 6210. Identification and attainment of agency energy reduction and management goals.
Sec. 6211. United States Postal Service building energy survey and report.
Sec. 6212. Federal building energy consumption targets.
Sec. 6213. Utility incentive programs.
Sec. 6214. Report by General Services Administration.
Sec. 6215. United States Postal Service energy management report.
Sec. 6216. Amendments to part 3, title V of NECPA.
Sec. 6217. Congressional office building energy improvement assessment.
Sec. 6218. Study of Federal purchasing power.
Sec. 6219. Energy management goals for the United States Postal Service.
Sec. 6220. Energy performance contracts.
Sec. 6221. Energy efficient products.
Sec. 6222. Energy analysis and diagnostic centers program.
Sec. 6223. Energy audit teams.
Sec. 6224. Government contract incentives.

Subtitle C—Utilities

Sec. 6301. Encouragement of investments in conservation and energy efficiency resources and study of certain State ratemaking policies.
Sec. 6302. Conservation grants to State regulatory authorities.
Sec. 6303. Integrated resource planning by customers of power marketing administrations.
Sec. 6304. Tennessee Valley Authority integrated resource planning and implementation.

Subtitle E—State, Local, Insular and Tribal Energy Assistance

Sec. 6501. Insular areas energy assistance program.
Sec. 6502. State buildings energy incentive fund.
Sec. 6503. Private sector investments in low income weatherization.
Sec. 6504. Training of building designers and contractors.
Sec. 6505. Energy education and teacher training.
Sec. 6506. Tribal government energy assistance program.
Sec. 6507. State energy conservation plan requirement.
Sec. 6508. Use of solar thermal water heaters for low income weatherization.
Sec. 6509. Building retrofit standards.
Sec. 6510. Use of wood-burning heating appliances for low income weatherization.
Sec. 6511. Promoting energy resource development and energy vertical integration on Indian reservations.

Subtitle F—LIHEAP Options Pilot Program

Sec. 6601. Short title.
Sec. 6602. Study.
Sec. 6603. Authority for pilot programs.
Sec. 6604. Definitions.
Sec. 6605. Sustainable energy transition pilot program.
Sec. 6606. Grants to States to promote utility industrial efficiency programs.

Subtitle G—Consultative Commission on Western Hemisphere Energy and Environment

Sec. 6701. Findings.
Sec. 6702. Consultative Commission on Western Hemisphere Energy and Environment.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

Sec. 8101. Short title.
Sec. 8102. Findings, purposes, and definitions.
Sec. 8103. Program, goals, and plan.
Sec. 8104. Commercialization of advanced light water reactor technology.
Sec. 8105. Prototype demonstration of advanced nuclear reactor technology.
Sec. 8106. Authorization.

TITLE IX—NUCLEAR REACTOR LICENSING

Sec. 9101. Short title.
Sec. 9102. Combined licenses.
Sec. 9103. Post-construction hearings on combined licenses.
Sec. 9104. Rulemaking.
Sec. 9105. Amendment of a combined license pending a hearing.
Sec. 9106. Judicial review.
Sec. 9107. Conforming amendment.
Sec. 9108. Effect on pending proceedings.

TITLE X—URANIUM

Subtitle A—Uranium Enrichment

Sec. 10101. Short title.
Sec. 10102. Deletion of section 161 v.
Sec. 10103. Redirection of the uranium enrichment enterprise of the United States.
Sec. 10104. Treatment of the Corporation as being privately owned for purposes of the applicability of environmental and occupational safety laws.
Sec. 10105. Miscellaneous provisions.
Sec. 10106. Limitation on expenditures.
Sec. 10107. Severability.
Sec. 10108. Effective date.
Sec. 10109. Payment of cost of transfer.

Subtitle B—Uranium

PART 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

Sec. 10211. Short title.
Sec. 10212. Findings and purpose.
Sec. 10213. Definitions.

PART 2—URANIUM REVITALIZATION

Sec. 10221. Voluntary overfeed program.
Sec. 10222. National Strategic Uranium Reserve.
Sec. 10223. Responsibility for the industry.
Sec. 10224. Government uranium purchases.
Sec. 10225. Secretary's authority to make regulations.

PART 3—REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

Sec. 10231. Remedial action program.
Sec. 10232. Regulations.
Sec. 10233. Authorization.

PART 4—IMPORTS OF URANIUM, ENRICHED URANIUM, AND URANIUM ENRICHMENT SERVICES

Sec. 10241. Findings and purposes.
Sec. 10242. Definitions.
Sec. 10243. United States International Trade Commission investigation.
Sec. 10244. Uranium purchase reports.
Sec. 10245. Regulatory treatment of uranium purchases.
Sec. 10246. United States purchase of enriched uranium.

TITLE XI—NATURAL GAS

Sec. 11101. Optional certificate procedures.
Sec. 11102. Transportation of natural gas under the NGPA.
Sec. 11103. NEPA compliance.
Sec. 11104. Rates and charges.
Sec. 11105. Utilization of rulemaking procedures.
Sec. 11106. Review of commission orders.
Sec. 11107. Limited antitrust relief for independent gas producer cooperatives.
Sec. 11108. Vehicular natural gas jurisdiction.
Sec. 11109. Streamlined certificate procedures.
Sec. 11110. Gas delivery interconnection.
Sec. 11111. Deregulation of pipeline sales of natural gas.
Sec. 11112. Fuel Use Act amendment.

TITLE XII—OUTER CONTINENTAL SHELF

Subtitle A—Coastal Communities Impact Assistance

Sec. 12101. Definitions.
Sec. 12102. Impact assistance formula and payments.
Sec. 12103. Uses of funds.
Sec. 12104. Obligations of eligible counties and States.
Sec. 12105. Audit.
Sec. 12106. Regulations.

Subtitle B—Coastal Resources Enhancement Fund

Sec. 12201. Definitions.
Sec. 12202. Establishment of fund.
Sec. 12203. Block grants.
Sec. 12204. Requirements on the use of block grants.
Sec. 12205. Local governments.
Sec. 12206. Audit.
Sec. 12207. Rules and regulations.

Subtitle C—Relationship to other law

Sec. 12301. Relationship to other law.
Sec. 12302. Relationship to other funds.

Subtitle D—Prohibition of leasing and preleasing activity

Sec. 12401. Leasing moratoria.
Sec. 12402. Prohibition of leasing and preleasing activity.
Sec. 12403. Florida moratorium.
Sec. 12404. Buyback of certain leases.
Sec. 12405. Report.

TITLE XIII—RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION ACTIVITIES

Sec. 13101. Energy research, development, demonstration, and commercialization priorities.
Sec. 13102. Management plan.
Sec. 13103. Natural gas end-use technologies.
Sec. 13104. Natural gas supply enhancement.
Sec. 13105. High efficiency heat engines.

Sec. 13106. Oil shale research and development.
Sec. 13107. Western oil shale research and development.
Sec. 13108. High-temperature superconducting electric power system.
Sec. 13109. Renewable energy research and development programs.
Sec. 13110. Energy efficiency research and development programs.
Sec. 13111. Natural gas and electric heating and cooling technologies.
Sec. 13112. Fusion.
Sec. 13113. Electric vehicle, electric-hybrid vehicle, and associated equipment research and development.
Sec. 13114. Advanced oil recovery research, development and demonstration.
Sec. 13115. Tar sands.
Sec. 13116. Telecommuting study.
Sec. 13117. Study of minimization of nuclear waste.
Sec. 13118. Nuclear waste management plan.
Sec. 13119. Math and science education program.
Sec. 13120. State, definition of.
Sec. 13121. Nuclear waste negotiator.
Sec. 13122. Energy subsidy study.
Sec. 13123. Midcontinent Energy Research Center.
Sec. 13124. Domestic oil supply enhancement.

TITLE XIV—COAL, COAL TECHNOLOGY, AND ELECTRICITY

Subtitle A—Coal and Coal Technology

Sec. 14101. Coal research, development and demonstration program.
Sec. 14102. Non-fuel use of coal.
Sec. 14103. Coal refining program.
Sec. 14104. Underground coal gasification.
Sec. 14105. Low-rank coal research and development.
Sec. 14106. Magnetohydrodynamics.
Sec. 14107. Coal fired locomotives.
Sec. 14108. Coal exports.
Sec. 14109. Clean Coal Technology Export Coordinating Council.
Sec. 14110. Coal fuel mixtures.
Sec. 14111. National clearing house.
Sec. 14112. Study of utilization of coal combustion byproducts.
Sec. 14113. Establishment of data base and study of coal transportation rates.
Sec. 14114. Assistance to small coal operators.

Subtitle B—Electricity

Sec. 14202. Excess capacity study.
Sec. 14203. Calculation of avoided cost.
Sec. 14204. Clean coal technology regulatory incentives.

Subtitle C—Innovative Technology Transfer

Sec. 14301. Innovative clean coal and renewable energy technology transfer program.
Sec. 14302. Conventional coal technology transfer.

TITLE XV—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

Sec. 15101. Exempt wholesale generators.
Sec. 15102. Ownership of exempt wholesale generators and qualifying facilities.
Sec. 15103. Prevention of stranded investment.
Sec. 15104. Prevention of sham wholesale transactions.
Sec. 15105. Protection against abusive affiliate transactions; State authorities; Federal restriction; reciprocal arrangements prohibited.
Sec. 15106. State authority.
Sec. 15107. State consideration of the effects of power purchases on utility cost of capital; consideration of the effects of leveraged capital structures on the reliability of wholesale power sellers; and consideration of adequate fuel supplies.
Sec. 15108. State commission access to books and records; public access to records and information; definition.
Sec. 15109. Public utility holding companies to own interests in cogeneration facilities.

TITLE XVI—STRATEGIC PETROLEUM RESERVE

Sec. 16101. Oil security protection.

TITLE XVII—STRATOSPHERIC OZONE DEPLETION

Sec. 17101. Findings.
Sec. 17102. Sense of the Senate.

TITLE XVIII—INDIAN ENERGY RESOURCE DEVELOPMENT COMMISSION

Sec. 18101. Short title.
Sec. 18102. Establishment.
Sec. 18103. Membership of the Commission.
Sec. 18104. Commission staff
Sec. 18105. Duties of the Commission.
Sec. 18106. Powers of the Commission.
Sec. 18107. Report.
Sec. 18108. Definition of "Indian Lands".
Sec. 18109. Authorization.
Sec. 18110. Termination.

TITLE XIX—GENERAL PROVISIONS

Sec. 19101. Support for United States workers.
Sec. 19102. Amendment to title 11 of the United States Code.
Sec. 19103. Limits on participation by companies.
Sec. 19104. Emergency petroleum supply.
Sec. 19105. Alternative minimum tax.
Sec. 19106. Radiation exposure compensation.
Sec. 19107. Alternative transportation fuels and electric vehicles.
Sec. 19108. National security tax shift.
Sec. 19109. Strategic diversification.
Sec. 19110. NRC fees.

TITLE XX—REVENUE PROVISIONS

Sec. 20101. Amendment of 1986 Code.

Subtitle A—Energy Conservation and Production Incentives

Sec. 20111. Treatment of employer-provided transportation benefits.
Sec. 20112. Exclusion of energy conservation subsidies provided by public utilities.
Sec. 20113. Treatment of clean-fuel vehicles.
Sec. 20114. Credit for electricity produced from certain renewable sources.
Sec. 20115. Repeal of minimum tax preferences for depletion and intangible drilling costs of independent oil and gas producers and royalty owners.
Sec. 20116. Increased base tax rate on ozone-depleting chemicals.
Sec. 20117. Treatment of certain ozone depleting chemicals.
Sec. 20118. Permanent extension of energy investment credit for solar, geothermal, and ocean property.
Sec. 20119. Nuclear decommissioning funds.
Sec. 20120. Alcohol fuels.
Sec. 20121. Determination of independent producers.
Sec. 20122. Tax-exempt financing for environmental enhancements of hydroelectric generating facilities.

Subtitle B—Other Revenue Provisions

Sec. 20131. Elimination of deduction for club membership fees.
Sec. 20132. Modifications to tax on insurance policies issued by foreign insurers.

Subtitle C—Health Care of Coal Miners

Sec. 20141. Short title.
Sec. 20142. Findings and declaration of policy.
Sec. 20143. Coal industry health benefits program.

TITLE I—FINDINGS AND PURPOSES

Subtitle A—Findings and Purposes

SEC. 1101. FINDINGS.—The Congress finds that—

(1) the achievement of energy security for the United States is essential to the health of the national economy and the maintenance of national security;

(2) as an energy-rich country that nonetheless depends on oil imports for an increasing share of oil use, United States energy security requires that the Nation reduce oil consumption, reduce oil imports, maximize domestic oil production, and particularly for transportation purposes, encourage use of energy sources other than oil;

(3) this can be accomplished with no significant adverse effect on the environment, and will stimulate economic growth, improve the competitiveness of United States industry in the global market, and reduce the possibility of global climate change; and

(4) the achievement of energy security for the United States will require that a long-term, comprehensive national energy policy be established and sustained.

SEC. 1102. PURPOSES.—The purposes of this Act are to—

(1) slow the Nation's increasing dependence on imported oil over the short-term, and in the long-term significantly reduce that dependence;

(2) reduce the consumption of oil in the transportation sector, and encourage development and use of alternative energy sources, particularly for transportation;

(3) encourage development and deployment of renewable energy sources in the United States and on an international basis in lesser-developed countries;

(4) streamline the hydroelectric licensing process and encourage hydroelectric development at Federal dams;

(5) encourage more efficient use of energy throughout the economy, including improvements in the industrial, commercial and residential sectors, increasing energy efficiency in Federal energy management, and encouraging more efficient energy use by electric utilities;

(7) encourage the production and use of nuclear power by providing for the commercialization of advanced nuclear reactor technologies and improving the nuclear reactor licensing process;

(8) enhance the competitive position of the Federal uranium enrichment enterprise;

(9) encourage increased utilization of natural gas and other domestic energy resources to displace imported oil and meet domestic energy demand in a manner consistent with environmental values;

(10) encourage the development of domestic energy resources on the Outer Continental Shelf;

(11) establish priorities for Federal energy research, development, demonstration, and commercialization;

(12) encourage enhanced oil and gas recovery from known and producing domestic reserves;

(13) enhance the role of coal and clean coal technology in meeting the Nation's energy needs;

(14) foster competition in the electric utility industry;

(15) provide enhanced oil security protection through the Strategic Petroleum Reserve; and

(16) encourage the Federal Government to play a lead role in the widespread commercialization of alternative fuel vehicles.

Subtitle B—Climate Protection Goals, Least-Cost Energy Strategy, and Director of Climate Protection

SEC. 1201. CLIMATE PROTECTION GOALS AND POLICIES.—(a) GOALS.—The goals of this subtitle are to—

(1) investigate the feasibility and economic, energy, social, environmental and competitive implications of the stabilization of the generation of carbon dioxide and other greenhouse gases in the United States;

(2) assess the feasibility of further limiting, or reducing, the generation of carbon dioxide and other greenhouse gases not controlled by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

(3) investigate the feasibility and economic, energy, social, and environmental implications of achieving a 20 percent reduction in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(4) investigate the feasibility and economic, energy, social, and environmental implications of stabilizing carbon dioxide emissions by the year 2005; and

(5) evaluate the potential social, economic, energy, and environmental implications of implementing the policies mentioned in paragraphs (1), (2), (3), and (4) in order to enable the United States to comply with any obligations under an international global climate change framework convention or agreement.

(b) POLICIES.—The least-cost energy strategy under section 1202 shall evaluate the economic, energy, social, environmental, technical, and competitive impacts of the implementation of policies to be considered in section 1201(a) that include, but are not limited to, policies that:

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of carbon dioxide and other greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without carbon dioxide and other greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(c) FRAMEWORK CONVENTION.—In order to promote international cooperation in addressing potential global climate change, it is the goal of the United States to establish by 1992, an international framework convention on global climate change through the activities of the Negotiating Committee for a Framework Convention of the United Nations International Environmental Program and the World Meteorological Organization and to secure the commitment of the community of nations to such convention.

SEC. 1202. LEAST-COST ENERGY STRATEGY.—(a) STRATEGY.—The first National Energy Policy Plan (the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and submitted by the President to Congress after the date of the enactment of this Act, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary.

(b) PRIORITIES.—(1) The least-cost energy strategy shall identify Federal priorities for the encouragement of the use of energy and energy efficiency resources. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, and environmental consequences of his choices. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(A) the energy production, utilization, and conservation objectives of the Plan;

(B) the stabilization and eventual reductions in the generation of carbon dioxide and other greenhouse gases mentioned in section 1201(a); and

(C) the energy efficiency, renewable energy, and oil reduction goals described in subtitle C.

(2) The least-cost energy strategy shall include—

(A) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, and utilization of such resources, including—

(i) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency in production, transportation, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(iii) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, and hydropower.

(B) a proposed two-year program for assuring adequate supplies of energy and energy efficiency resources under paragraph (1), and an identification of actions that can be undertaken within existing Federal authority; and

(C) recommendations for any new Federal authority needed to achieve the purposes of this Act.

(c) SECRETARIAL CONSIDERATION.—(1) In developing the least-cost energy strategy, the Secretary shall give full consideration to:

(A) the relative costs of energy and energy efficiency resources based upon a comparison of the estimated system costs of other similarly reliable and available resources; and

(B) the economic, energy, social and environmental consequences resulting from the establishment of any particular order of Federal priority.

(2) System costs under paragraph (1) are all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(3) When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever its estimated system cost is equal to the estimated system cost of the energy resource.

SEC. 1203. DIRECTOR OF CLIMATE PROTECTION.—(a) APPOINTMENT.—Within six months after the date of the enactment of this Act, the Secretary shall appoint within the Department, a Director of Climate Protection (the "Director"). The Director shall:

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change;

(2) monitor domestic and international policies for their effects on the generation of carbon dioxide and other greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Departmental programs.

(b) Beginning 18 months after the date of the enactment of this Act, and annually thereafter, the Director shall participate in the formulation of the least-cost energy strategy under section 1202, research and development priorities under section 13101, and the management plan under section 13102.

SEC. 1204. REPEAL.—Title III of the Energy Security Act (42 U.S.C. 7361, et seq.) is hereby repealed.

SUBTITLE C—ENERGY GOALS

SEC. 1301. ENERGY GOALS.—(a) IN GENERAL.—In order to focus and sustain a national effort toward achieving national energy security in an environmentally responsible manner, the United States should pursue the national energy goals listed in subsection (b) (referred to in this subtitle as "energy goals").

(b) GOALS.—

(1) REDUCED OIL CONSUMPTION.—The oil consumption of the United States should be reduced from the 1990 level of approximately 40 percent of the total United States energy resource consumption to 39 percent by 1995, 37 percent by 2000, 35 percent by 2005, and 33 percent by 2010.

(2) REDUCED OIL IMPORTS.—The annual net oil imports of the United States should be limited to 50 percent or less of United States oil consumption.

(3) INCREASED ENERGY EFFICIENCY.—The energy efficiency of the United States should be increased to 10 percent over the 1990 levels by 1995, 20 percent over the 1990 levels by 2000, 30 percent over the 1990 levels by 2005, and 40 percent over the 1990 levels by 2010.

(4) INCREASED UTILIZATION OF RENEWABLE ENERGY.—The portion of the energy consumption represented by renewable energy sources should increase from the 1990 level of approximately 8 percent to 9 percent in 1995, 10 percent in 2000, 12 percent in 2005, and 14 percent in 2010.

SEC. 1302. REPORTS.—(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress setting forth a plan for the achievement of the energy goals.

(2) CONTENTS.—In the report, the Secretary shall—

(A) make recommendations as to any additional statutory or budget authority that the Secretary determines is necessary to achieve the energy goals;

(B) describe the measures of energy efficiency that the Secretary has determined to be appropriate for each end use sector; and

(C) describe the plans developed by the Secretary for acquiring the necessary data to be used in determining the energy efficiency of each end use sector.

(b) PROGRESS REPORTS.—

(1) IN GENERAL.—Every 2 years after the initial report is submitted pursuant to subsection (a), the Secretary shall submit to Congress a report, separate from the National Energy Policy Plan submitted pursuant to section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), detailing the progress of the United States towards achieving the energy goals.

(2) CONTENTS.—In the report, the Secretary shall—

(A) analyze the progress towards meeting the energy goals, and, if an energy goal is not being met, identify barriers to the achievement of the goal; and

(B) make recommendations as to any change in statutory or budget authority that the Secretary determines is necessary for the timely achievement of the energy goals.

(c) ALTERNATE ENERGY GOALS.—If at any time the Secretary determines that achievement of the energy goals is impracticable, the Secretary shall, in the next report submitted pursuant to this section—

(1) state the reasons and provide an analysis for the determination; and

(2) propose alternate energy goals that the Secretary determines to be practicable.

TITLE II—DEFINITIONS

SEC. 2101. DEFINITIONS.—As used in this Act the term—

(a) "Secretary" means the Secretary of Energy, unless otherwise provided;

(b) "joint venture" means any agreement entered into under this Act by the Secretary with more than one or a consortium of non-Federal persons (including a joint venture under the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.)) for cost-shared research, development, or demonstration of technologies, but does not include procurement contracts, grant agreements, or cooperative agreements as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code, and joint ventures authorized herein shall be conducted in accordance with the procedures and requirements of paragraphs (b)(1), (b)(2) and (b)(5) of section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218);

(c) "non-Federal person" has the same meaning as set forth in subsection (3) of section 3 of the Renewable Energy and Energy Efficiency Technology Competiveness Act of 1989 (Public Law 101-218); and

(d) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union.

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A—Alternative Fuel Fleets

SEC. 4101. DEFINITIONS.—For the purposes of this subtitle—

(1) "Administrator" means the Administrator of the General Services Administration;

(2) "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; electricity including electricity from solar energy; and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;

(3) "alternative fuel vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel; or

(B) is a flexi-fueled vehicle;

(4) "comparable conventionally fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an alternative fuel vehicle as determined by the Secretary;

(5) "diesel truck" means a truck that has a gross vehicle weight over 8,500 pounds and under 26,000 pounds and is powered by diesel fuel;

(6) "Federal agency" means any executive department, military department, government corporation, independent establishment, executive agency, the United States Postal Service, the Congress, and the courts of the United States;

(7) "fleet" means a number of motor vehicles that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a Federal agency, State, or person. This term does not include—

(A) motor vehicles held for daily lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement vehicles;

(E) emergency vehicles;

(F) military vehicles that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) non-road vehicles, including farm and construction vehicles; or

(H) except for vehicles covered by section 4102 and section 4103, vehicles that under normal operations are garaged at a personal residence at night;

(8) "flexi-fueled vehicle" means a motor vehicle that can operate on alternative and non-alternative fuel;

(9) "motor vehicle" means—

(A) any four-wheel passenger automobile, as the term "passenger automobile" is defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2));

(B) any truck with a gross vehicle weight up to 26,000 pounds, including "light trucks," as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)) and "diesel trucks" as defined in this section;

(C) and any bus designed to transport more than ten persons;

(10) "person" means—

(A) any individual, corporation, partnership, or association;

(B) any municipality or political subdivision of a State;

(11) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more;

(B) at least 50 motor vehicles within the United States; and

(C) for the purposes of section 4108, 4109, and 4110, a "covered person" shall include the Postmaster General.

(12) "State" means a State, any agency of a State (but not a municipality or political subdivision of a State), or the District of Columbia.

SEC. 4102. FEDERAL FLEETS.—(a) Purchase Requirements.—

(1) The Federal Government shall purchase, lease, or otherwise acquire at least—

(A) 5,000 alternative fuel vehicles in 1993;

(B) 7,500 alternative fuel vehicles in 1994; and

(C) 10,000 alternative fuel vehicles in 1995.

(2) When any Federal agency purchases, leases, or otherwise acquires vehicles for a Federal fleet, in the years specified in this paragraph, at least the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

(A) in 1996, 25 percent;

(B) in 1997, 33 percent;

(C) in 1998, 50 percent;

(D) in 1999, 75 percent; and

(E) in 2000 and each year thereafter, 90 percent.

(b) PROGRAM CRITERIA.—The Secretary, the Administrator, in consultation with the head of each Federal agency, shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

(1) the procurement plans of State and local governments and other public and private institutions;

(2) the current and future availability of refueling and repair facilities;

(3) the reduction in emissions of the Federal motor vehicle fleet;

(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

(5) the needs of Federal, State, and local agencies; and

(6) the contribution to the reduction in the consumption of oil in the transportation sector.

(c) PROGRAM COORDINATION.—The Secretary shall work with the Administrator of General Services and the head of each Federal agency to plan effective coordination and cooperation by Federal agencies in the purchase, use, and refueling of alternative fuel vehicles acquired under this section or other provisions of law.

(d) REFUELING.—The Administrator of General Services, the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the United States House of Representatives, and the Architect of the Capitol, shall, to the maximum extent practicable, arrange for the fueling of alternative fuel vehicles acquired under this section at commercial fueling facilities that are open to the public and offer alternative fuels for sale to the public. If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fuel vehicles purchased under this title, the Administrator is authorized to enter into commercial arrangements with commercial fueling operators for the purpose of fueling Federal alternative fuel vehicles.

(e) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491), the Administrator of General Services shall not include the incremental costs of alternative fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator determines that appropriations provided pursuant to this section are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional vehicles.

(f) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this section shall be applicable only—

(1) to the portion of the cost of acquisition, maintenance, and operation of vehicles ac-

quired under this paragraph which exceeds the cost of acquisition, maintenance, and operation of comparable conventional vehicles;

(2) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional vehicles; and

(3) to the portion of the costs of acquisition of alternative fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional vehicles.

(g) VEHICLE COSTS.—The incremental cost of vehicles acquired under this section over the cost of comparable conventional vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

(h) ACQUISITION REQUIREMENT.—Federal agencies, to the extent practicable, shall obtain alternative fuel vehicles from original equipment manufacturers.

(i) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this section shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756).

(j) EXEMPTION.—Notwithstanding any other provision of this subtitle, the Postmaster General shall be exempt from the requirements of section 4102(b), 4102(c), and 4102(g).

SEC. 4103. STATE FLEETS.—When any State that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires motor vehicles for use in a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1995, 10 percent;

(2) in 1996, 15 percent;

(3) in 1997, 25 percent;

(4) in 1998, 50 percent;

(5) in 1999, 75 percent; and

(6) in 2000 and each year thereafter, 90 percent.

SEC. 4104. PRIVATE AND MUNICIPAL FLEETS.—When any covered person that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires vehicles for a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1998, 30 percent;

(2) in 1999, 50 percent; and

(3) in 2000 and each year thereafter, 70 percent.

SEC. 4105. RULES OF GENERAL APPLICABILITY.—(a) TREATMENT OF FRACTIONS.—If the number of vehicles purchased, leased, or otherwise acquired by a Federal agency, State, or covered person in any year when multiplied by the percentage specified in section 4102, 4103, or 4104 contains a fraction, the number of vehicles required to be alternative fuel vehicles shall be increased to the next whole number.

(b) FUEL USE REQUIREMENT.—The vehicles purchased pursuant to section 4102, 4103, or 4104 shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(c) DIESEL TRUCKS.—Any Federal agency, State, or covered person that operates a fleet that is subject to the requirements of section 4102, 4103, or 4104, respectively, and contains one or more diesel trucks may purchase, lease, or otherwise acquire diesel trucks after 1994 in proportion (relative to the total number of motor vehicles) to the number of diesel trucks in the agency, State, or person's fleet that is subject to the requirements of section 4102, 4103, or 4104 on the date of enactment of this subtitle, notwithstanding such sections.

(d) DELAYED PURCHASE OPTION.—Any covered person subject to section 4104 may postpone the acquisition of alternative fuel vehicles required to be acquired in 1998 and 1999, but after 1999, such person may only acquire alternative fuel vehicles until such person acquires a cumulative number of such vehicles which exceeds 150 percent of the cumulative number of alternative fuel vehicle purchases that would have been needed to meet the 1998 and 1999 requirements of section 4104. Such acquisitions shall be in addition to any acquisition requirements under section 4104 for years after 1999.

SEC. 4106. EXEMPTIONS.—(a) VEHICLE AND FUEL AVAILABILITY.—The Secretary shall exempt any Federal agency, State, or covered person from the requirements of section 4102, 4103, or 4104, respectively, in whole or in part, if the Secretary determines that:

(1) alternative fuel vehicles meeting the requirements of such Federal agency, State, or person are not available for purchase, lease, or acquisition by other means; or

(2)(A) commercial alternative fuel refueling facilities are not available to the Federal agency, State, or person in the area in which the vehicles are operated; and

(B) providing an alternative fuel refueling facility for such agency, State, or person's alternative fuel vehicles would be economically impracticable.

(b) DURATION OF EXEMPTIONS.—An exemption granted by the Secretary under subsection (a) shall be for an initial period of no more than 12 months and shall be renewable for additional periods of no more than 12 months.

SEC. 4107. VEHICLE CONVERSIONS.—The requirements of sections 4103 and 4104 may be met through the conversion of existing or new gasoline or diesel-powered vehicles to alternative fuel vehicles. For purposes of such sections, the conversion of a vehicle to an alternative fuel vehicle shall be treated as the purchase of an alternative fuel vehicle. However, if alternative fuel vehicles are not available from original equipment manufacturers, nothing in this section shall be construed to require any Federal agency, State or covered person subject to the fleet vehicle acquisition requirements under this title to convert existing or new gasoline or diesel-powered vehicles to alternative fuels vehicles or to purchase converted vehicles.

SEC. 4108. CREDITS.—(a) IN GENERAL.—The Secretary shall allocate a credit to a State or covered person that is subject to the requirements of section 4103 or 4104, respectively, if that State or person purchases an alternative fuel vehicle in excess of the number that State or person is required to purchase under section 4103 or 4104 or purchases an alternative fuel vehicle before the date that State or person is required to purchase an alternative fuel vehicle under such section.

(b) ALLOCATION.—In allocating credits under subsection (a), the Secretary shall allocate one credit for each alternative fuel vehicle the State or covered person purchases that exceeds the number of alternative fuel vehicles that State or person is required to purchase under section 4103 or 4104 or that is purchased before the date that State or person is required to purchase an alternative fuel vehicle under such section. In the event that a vehicle is purchased before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is purchased before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier purchased vehicle.

(c) USE OF CREDITS.—At the request of a State or covered person allocated a credit under this section, the Secretary shall treat the credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by that State or person when determining whether that State or person has complied with this subtitle in the year designated. A credit may be counted toward compliance for only one year.

(d) TRANSFERABILITY.—A State or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another State or person who is required to comply with this subtitle. At the request of the State or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by the State or person to whom the credit is transferred when determining whether that State or person has complied with this subtitle in the year designated. A transferred credit may be counted toward compliance for only one year.

SEC. 4109. REPORTS.—The Secretary may require a Federal agency, State, or covered person to file with the Secretary the reports the Secretary determines necessary to implement this subtitle.

SEC. 4110. RESALE OF ALTERNATIVE FUEL VEHICLES.—(a) Not less than three years from the date of purchase, the Administrator may resell any alternative fuel passenger automobile purchased pursuant to this subtitle. For purposes of this subsection, a "passenger automobile" means any passenger automobile as defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2)).

(b) Not less than six years, or 60,000 miles from the date of purchase, the Administrator may resell any alternative fuel light truck purchased pursuant to this subtitle. For purposes of this subsection, a "light truck" means any light truck as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)).

(c) The Administrator may resell or dispose of an alternative fuel passenger automobile or light truck at an earlier date if such vehicle is damaged in an accident, or if the Administrator determines selling such alternative fuel passenger automobile or light truck is in the best interests of the Federal alternative fuel vehicle program.

(d) The Administrator shall take all feasible steps to ensure that all alternative fuel vehicles sold under the provisions in (a) and (b) of this section shall remain alternative vehicles at time of sale.

SEC. 4111. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.—(a) PROMOTION AND EDUCATION.—The Administrator shall institute a program to promote programs and educate officials and employees of Federal agencies on the merits of alternative fuel vehicles. The Administrator shall provide and disseminate information to Federal agencies on the—

(1) location of refueling and maintenance facilities available to alternative fuel vehicles in the Federal fleet;

(2) range and performance capabilities of alternative fuel vehicles;

(3) State and local government and commercial alternative fuel vehicle programs;

(4) Federal alternative fuel vehicle purchases and placements;

(5) operation and maintenance of alternative fuel vehicles in accordance with the manufacturer's standards and recommendations; and

(6) incentive programs established pursuant to sections 4112 and 4113 of this Act.

(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Administrator shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fuel vehicles purchased through the Administrator. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 4102 of this Act.

(c) INTERGOVERNMENTAL COORDINATION.—The Administrator shall identify other Federal, State, and local efforts to promote and use alternative fuel vehicles. To the maximum extent practicable, the Administrator shall coordinate Federal alternative fuel vehicle procurement, placement, refueling and maintenance programs with those at the State and local level.

(d) POSTAL SERVICE COORDINATION.—To the maximum extent practicable, the Postmaster General shall coordinate its alternative fuel vehicle procurement, placement, refueling, and maintenance programs with those at the Federal, State, and local level. The Postmaster General shall communicate, share, and disseminate, on a regular basis, information on such programs with the Secretary, the Administrator, and heads of appropriate Federal agencies.

(e) POSTAL SERVICE PROGRAM CRITERIA.—The Postmaster General shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

(1) the procurement plans of State and local governments and other public and private institutions;

(2) the current and future availability of refueling and repair facilities;

(3) the reduction in emissions of the Postal fleet;

(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

(5) the operational requirements of the Postal fleet;

(6) the contribution to the reduction in the consumption of oil in the transportation sector.

SEC. 4112. AGENCY INCENTIVES PROGRAM.—(a) REDUCTION IN RATES.—To encourage and promote use of alternative fuel vehicles in Federal agencies, the Administrator may offer a five percent reduction in fees charged to agencies for the lease of alternative fuel vehicles below those fees charged for the lease of comparable conventionally fueled vehicles.

(b) FEDERAL EMPLOYEE POOLING AND DRIVER PROGRAM.—Notwithstanding the provisions of section 1344(a) of title 31, United States Code, Federal agencies may authorize Federal employees to use alternative fuel vehicles from their residence to their place of employment for purposes of—

(1) Federal employee carpooling of not less than four Federal employees for each trip; and

(2) refueling and maintenance, if the Federal agency head, or the designee of the agency head, determines that such services are not convenient to the location of place of employment.

SEC. 4113. RECOGNITION AND INCENTIVE AWARDS PROGRAM.—(a) AWARDS PROGRAM.—The Administrator shall establish an annual cash awards program to recognize those employees of the General Services Administration and other Federal agencies who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal Motor vehicles.

(b) CRITERIA FOR GENERAL SERVICES ADMINISTRATION EMPLOYEES.—The Administrator shall provide annual cash awards of not more than $2,000 each to three General Services Administration employees who best demonstrate a commitment—

(1) to the success of the Federal alternative fuels vehicle program through—

(A) exemplary promotion of alternative fuel vehicle use within the General Services Administration and other Federal agencies;

(B) proper alternative fuel vehicle care and maintenance;

(C) coordination with Federal, State, and local efforts:

(D) innovative alternative fuel vehicle procurement, refueling and maintenance arrangements with commercial entities; and

(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance and other conservation and awareness measures.

(c) LIMITATIONS ON AWARDS.—The three awards under paragraph (b) shall be awarded to three different employees each year. No employee may win a cash award in more than two consecutive years.

(d) AWARD TO REGIONAL GENERAL SERVICES ADMINISTRATION EMPLOYEES.—(1) In each standard Federal region where the General Services Administration operates alternative fuel vehicles, the Administrator shall offer two annual cash awards of not more than $1,000 to the regional General Services Administration employees who meet the criteria under paragraph (b).

(2) Employees who receive an award under subsection (b) may not receive an award under this section in the same fiscal year. No more than two awards shall be awarded under this subsection in each region in any fiscal year.

(e) AWARD TO FEDERAL AGENCY EMPLOYEES.—In each region where the General Services Administration operates alternative fuel vehicles, the Administrator shall provide one annual $2,000 cash award to the Federal employee (other than an employee of the General Services Administration) who demonstrates the greatest interest and commitment to alternative fuel vehicles by—

(1) making regular requests for alternative fuel vehicles for agency use;

(2) maintaining a high number of alternative fuel vehicles used relative to comparable conventionally fueled vehicles used;

(3) promoting alternative fuel vehicle use by agency personnel; and

(4) demonstrating care and attention to alternative fuel vehicles.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000 in fiscal year 1992, $35,000 in fiscal year 1993, and $45,000 in fiscal year 1994 to carry out the purposes of this section.

SEC. 4114. MEASUREMENT OF ALTERNATIVE FUEL USE.—The Administrator shall use such means as may be necessary to measure the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator.

SEC. 4115. INFORMATION COLLECTION.—The Secretary, in consultation with the Administrator, shall determine a representative sample of alternative fuel vehicles in the Federal fleet. Such a sample shall be sufficient to address at a minimum—

(1) the performance of such vehicles, including performance in cold weather and at high altitudes;

(2) the fuel economy, safety, and emissions of such vehicles; and

(3) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger vehicles and light duty trucks.

SEC. 4116. GENERAL SERVICES ADMINISTRATION REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator shall report to the Congress on the General Services Administration's alternative fuel vehicle program under this Act. The report shall contain information on—

(1) the number and type of alternative fuel vehicles procured;

(2) the location of alternative fuel vehicles by standard Federal region;

(3) the total number of alternative fuel vehicles used by each Federal agency;

(4) arrangements with commercial entities for refueling and maintenance of alternative fuel vehicles;

(5) future alternative fuel vehicle procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;

(7) coordination among Federal, State and local governments for alternative fuel vehicle procurement and placement;

(8) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator as measured under section 4114;

(9) a description of the representative sample of alternative fuel vehicles as determined under section 4115; and

(10) award recipients under this subtitle.

SEC. 4117. UNITED STATES POSTAL SERVICE REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fuel vehicle program. The report shall contain information on—

(1) the total number and type of alternative fuel vehicles procured prior to the date of the enactment of this Act (first report only);

(2) the number and type of alternative fuel vehicles procured in the preceding year;

(3) the location of alternative fuel vehicles by region;

(4) arrangements with commercial entities for purposes of refueling and maintenance;

(5) future alternative fuel procurement and placement strategy;

(6) the difference in cost between the purchase, maintanance and operation of alter-

native fuel vehicles and the purchase, maintanance, and operation of comparable conventionally fueled vehicles;

(7) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Postmaster General;

(8) promotions and incentives to encourage the use of alternative fuels in flexi-fueled vehicles; and

(9) an assessment of the program's relative success and policy recommendations for strengthening the program.

SEC. 4118. ENFORCEMENT.—(a) CIVIL PENALTIES.—A State or covered person who violates a requirement or prohibition of section 4103 or 4104, respectively, or 4105(b) is subject to a civil penalty of not more than $2,500 per violation. Each month in which a violation occurs constitutes a separate violation, unless the violator establishes that the vehicle necessary to comply with this subtitle could not be purchased, leased, or otherwise acquired in that month. The first month of a violation of the yearly acquisition requirements of section 4103 or 4104 is the month in which a State or person purchases, leases, or otherwise acquires vehicles that result in noncompliance with the yearly alternative fuel vehicle purchase requirement under that section. Each month in which compliance has not been achieved after the first month is a separate violation.

(b) CIVIL ACTIONS.—The Secretary may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess and recover any civil penalty under subsection (a) of this section. An action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business. The court in which the action has been brought may restrain a violation, require compliance, assess a civil penalty, collect any noncompliance assessment and nonpayment penalty owed the United States, and award any other appropriate relief. In such an action, subpoenaes for witnesses who are required to attend a district court in any district may run into any other district.

(c) MITIGATION OF PENALTIES.—In the determining the amount of a penalty to be assessed under this section, the court shall take into consideration, in addition to other factors justice may require, the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

SEC. 4119. IMPLEMENTATION.—(a) REGULATIONS.—Within 180 days after the date of enactment of this subtitle the Secretary shall issue regulations to implement this subtitle. Such regulations shall include measures to ensure that Federal agencies, States, and covered persons comply with the requirements of sections 4102, 4103, and 4104, respectively, and the criteria by which the Secretary will determine whether to exempt agencies, States, and covered persons from such requirements under section 4105. The regulations governing compliance with sections 4102, 4103, and 4104 shall be developed in consultation with the Secretary of Commerce and shall require that the procurement practices of manufacturers of alternative fuel vehicles and diesel trucks that are purchased, leased, or otherwise acquired in order to meet the requirements of such sections do not discriminate against United States manufacturers of motor vehicle parts.

(b) DELEGATION TO STATES.—The Secretary may delegate the administration and enforcement of this subtitle within any State to the Governor of such State if—

(1) the Governor certifies that the State has a program to administer and enforce the subtitle; and

(2) the Secretary finds that the State program is in accordance with the requirements of the subtitle.

(c) FINANCIAL ASSISTANCE.—There is authorized to be appropriated not more than $20,000,000 to remain available until expended for purposes of providing financial assistance to States to which the Secretary delegates administration and enforcement of this subtitle.

(d) STATE INCENTIVES.—Within 18 months after the date of enactment of this title, the Governor of each State in which there is located a fleet subject to the alternative fuel vehicle purchase requirements of section 4103 or 4104, shall submit to the Secretary a report concerning the incentives for alternative fuel vehicles considered or approved by the State. Each State subject to the requirements of this section shall consider:

(1) allowing public utilities to include in rates costs associated with the development and installation of alternative fuel facilities to the extent that such inclusion would not create competitive disadvantages for other market participants;

(2) exempting alternative fuel vehicles that operate only on alternative fuel from high occupancy vehicle and other such highway vehicle restrictions;

(3) exempting alternative fuel vehicles from State highway taxes, road tolls, vehicle and fuel sales taxes, and other State taxes or charges otherwise applicable to motor vehicles; and

(4) providing alternative fuel vehicles special parking at public buildings, airports, and transportation facilities.

SEC. 4120. SCHOOL BUS FLEET FINANCIAL ASSISTANCE PROGRAM.—There is authorized to be appropriated to the Secretary not more than $10,000,000 for each of the fiscal years 1993, 1994, and 1995 to remain available until expended for purposes of providing financial assistance to any State, including any agency, municipality or political subdivision of a State or the District of Columbia, to meet incremental costs attributable to the use by school buses of alternative fuels, as that term is defined in section 4101(1) of this subtitle, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas): *Provided*, That any conversion using funds authorized by this section must comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

SUBTITLE B—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure, Development, and Conforming Amendments

PART A—ELECTRIC AND ELECTRIC-HYBRID VEHICLE DEMONSTRATION

SEC. 4201. SHORT TITLE.—This part may be cited as the "Electric and Electric-Hybrid Vehicle Demonstration Act".

SEC. 4202. DEFINITIONS.—For the purposes of this part, the term—

(1) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the non-electric source of power in such vehicles;

(2) "comparable conventionally-fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an electric vehicle or electric hybrid vehicle, as determined by the Secretary;

(3) "discount payment" means that discount from the electric vehicle suggested retail price provided to the user of an electric vehicle or electric-hybrid vehicle as determined pursuant to section 4205 of this part;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current, including, photovoltaic arrays;

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power;

(6) "electric vehicle suggested retail price" or "electric-hybrid vehicle suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicles) of an electric vehicle or electric-hybrid vehicle set forth in a cooperative agreement under section 4203(b), not adjusted to reflect any discount payment that may be available under this part;

(7) "eligible metropolitan area" means—

(A) any ozone non-attainment area classified under subpart 2 of part D of title I of the Clean Air Act, as amended, as Serious, Severe, or Extreme as of the date of enactment of this part;

(B) any carbon monoxide nonattainment area with a carbon monoxide design value at or above 16.0 parts per million based on data available as of the date of enactment of this part, but does not include carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide exceedences; or

(C) any other metropolitan statistical area with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this part;

(8) "manufacturer" means a person or entity that produces an electric vehicle or electric-hybrid vehicle and is capable, if determined to be by the Secretary, of providing service and parts for such vehicle for a period of five years or more;

(9) "proposer" means a person or entity that submits a proposal to conduct a demonstration project under the program authorized by this part and may include a unit of State or local government;

(10) "retail price differential" means the difference between the comparable conventionally-fueled vehicle suggested retail price and the electric vehicle or electric-hybrid vehicle suggested retail price;

(11) "suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicle) of a commercially available conventionally-fueled vehicle, as determined by the manufacturer's established retail price, not adjusted to reflect any reductions in such price discounts that may be available; and

(12) "user" means a person or entity that purchases or leases an electric vehicle or electric-hybrid vehicle, including fleet operators.

SEC. 4203. PROGRAM AND SOLICITATION.—(a) PROGRAM.—The Secretary shall conduct a program to demonstrate electric vehicles, electric-hybrid vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, vehicle manufacturers, the electric utility industry, and such other persons as the Secretary deems appropriate. Such program shall be structured to evaluate the performance of such vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure for electric and electric-hybrid vehicle commercialization.

(b) SOLICITATION.—(1) Not later than one year after the date of enactment of this part, the Secretary shall solicit proposals to demonstrate electric vehicles, electric-hybrid vehicles or such vehicles and associated equipment in one or more eligible metropolitan areas.

(2) The solicitation shall require the proposer to include in the proposal a description of the proposal including the manufacturer or manufacturers of the electric or electric-hybrid vehicles; the intended users of the vehicles; the eligible metropolitan area or areas involved; the number of vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the retail price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; and any other information the Secretary requires to make selections under section 4204. If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric vehicles, electric-hybrid vehicles or associated equipment.

(c) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out the purposes of this part.

SEC. 4204. SELECTION OF PROPOSALS.—(a) SELECTION.—(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce and the Administrator of the Environmental Protection Agency, may, not later than 120 days after receipt of proposals under section 4203, select at least one, but not more than ten, proposals for negotiation of cooperative agreements to receive financial assistance under section 4205.

(2) Any proposal selected for negotiation under paragraph (1) must satisfy the limitations set forth in section 4205(c).

(3) If the Secretary intends to enter into four or more cooperative agreements, at least one such cooperative agreement shall be for a demonstration project located in an eligible metropolitan area referred to in section 4202(7)(C) and which is not located in a nonattainment area referred to in sections 4202(7) (A) or (B).

(b) CONSIDERATION.—In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(1) the ability of a proposer to undertake and complete the proposed demonstration project;

(2) the openness of a manufacturer's procurement practices to United States manufacturers of vehicle parts;

(3) the ability of a manufacturer, directly or indirectly, or in combination with the proposer, to develop, assist in the demonstration of, manufacture, distribute, sell or lease and provide service for, including the ability to provide warranties and to assure the availability of all parts, those electric vehicles or electric-hybrid vehicles that are proposed to be included in the demonstration project;

(4) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project is to be undertaken when compared with other proposals or other selected demonstration projects;

(5) the long-term technical and competitive viability of the electric and electric-hybrid vehicle, and the ability of the manufacturer of such vehicles to make and incorporate subsequent advancements, cost reductions, modifications, and technology improvements;

(6) the electric vehicle or electric-hybrid vehicle suggested retail price of the vehicles to be included in the demonstration project, the comparable conventionally-fueled vehicle suggested retail price, the proposed discount payment, and in the case of a demonstration project that includes a lease arrangement, the terms of such arrangement for the vehicle or associated equipment;

(7) the extent of involvement of State or local government and other persons in the demonstration project;

(8) whether the involvement of State or local government or other persons in the demonstration project (A) will permit a reduction of the Federal cost share per vehicle or (B) will otherwise be used to leverage the Federal contribution to be provided among a greater number of vehicles; and

(9) other criteria as the Secretary deems appropriate.

(c) CONDITIONS.—The Secretary shall include in any cooperative agreement under this section provisions intended to assure that—

(1) the vehicle or vehicles will be used primarily in the eligible metropolitan area or areas identified in the proposal and set forth in the final agreement made with the Secretary;

(2) the procurement practices of the manufacturer do not discriminate against United States manufacturers of vehicle parts;

(3) the number of vehicles to be included in the demonstration project shall be no less than 50 vehicles, except that the Secretary—

(A) may select and enter into a cooperative agreement for a demonstration project with fewer than 50 vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity of the proposals selected and that an adequate demonstration to accelerate the development and use of vehicles can be undertaken with fewer than 50 vehicles; and

(B) may permit a group of such vehicles to be used in an area outside such eligible metropolitan area or areas identified in such proposal if the Secretary determines that such proposal would further the purposes of this part.

(4) as a part of the demonstration project, the proposer shall seek to obtain from the user or users of the vehicles and to provide to the manufacturer information regarding operation, maintenance, and useability of the vehicle for five years after purchase or during the lease period; and

(5) the proposer shall provide such information regarding operation, maintenance and use of vehicles as the Secretary may request during the period of the demonstration project.

(d) ADDITIONAL DEMONSTRATIONS.—The Secretary may enter into more than ten cooperative agreements under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

SEC. 4205. DISCOUNT PAYMENTS TO USERS.—(a) CERTIFICATION.—The Secretary shall provide a discount payment to a proposer for reimbursement of the discount provided to the user, if the proposer certifies to the Secretary, in such form and in such manner and time as may be required by the Secretary, that—

(1) the electric vehicle or electric-hybrid vehicle has been purchased or leased by a user in accordance with the terms and conditions of the cooperative agreement referred to in section 4204; and

(2) the proposer has provided to the user a discount payment from the electric vehicle or electric-hybrid vehicle suggested retail price in accordance with the terms and conditions for the discount payment in the cooperative agreement under section 4204.

(b) PAYMENT.—Not later than 30 days after receipt from the proposer of certification that the Secretary determines satisfies subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment.

(c)(1) RESTRICTIONS ON DISCOUNT PAYMENTS.—The discount payment shall be no greater than the retail price differential or the price of the comparable conventionally-fueled vehicle, whichever is the lesser.

(2) The actual purchase price of the vehicle, adjusted to reflect the discount payment and any additional reduction in the actual purchase price of the vehicle that may result from contributions to a purchase price reduction provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally-fueled vehicle.

(3) The maximum Federal share of the discount payment that may be provided to reimburse a proposer for a discount payment provided to a user shall be no greater than $10,000 per electric vehicle or electric-hybrid vehicle.

(4) The aggregate discount payments paid to a proposer under this part may not exceed $3,000,000.

(d) LEASE AGREEMENTS.—For purposes of the discount payment, in the case of an electric vehicle or electric-hybrid vehicle included in a demonstration project that is the subject of a lease agreement, the Secretary shall provide a rebate in accordance with the terms of the cooperative agreement.

SEC. 4206. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

Sec. 4207. REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives on the progress being made, through the cooperative agreements under this part, to accelerate the development and use of electric vehicles and electric-hybrid vehicles.

SEC. 4208. AUTHORIZATION.—There is authorized to be appropriated to the Secretary

for fiscal years 1992, 1993 and 1994 such sums as may be necessary to carry out the purposes of this part, to remain available until expended.

PART B—ELECTRIC AND ELECTRIC-HYBRID VEHICLE INFRASTRUCTURE DEVELOPMENT

SEC. 4211. SHORT TITLE.—This part may be cited as the "Electric Vehicle and Electric-Hybrid Infrastructure Development Act".

SEC. 4212. DEFINITIONS.—For purposes of this part, the term—

(1) "infrastructure" includes, but is not limited to, those support and maintenance services and facilities, electricity delivery mechanisms and methods, treatment of investment in electric vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling and disposal, that may be required to enable electric utilities, automobile manufacturers and others, to support the operation, maintenance and utilization of electric vehicles, electric-hybrid vehicles, and associated equipment;

(2) "non-Federal person" means an entity not part of the Federal Government that is organized under the laws of the United States and located in the United States, the controlling interest (as defined by the Secretary) of which is held by United States nationals or permanent resident aliens, including—

(A) a for-profit business;

(B) a private foundation;

(C) a nonprofit organization such as a university;

(D) a trade or professional society; and

(E) a unit of State or local government.

(3) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electrical energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, the non-electric source of energy;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current but also relies on a non-electrical source of power.

SEC. 4213. DATA ACQUISITION TO SUPPORT INFRASTRUCTURE DEVELOPMENT AND MARKETS FOR USE OF ELECTRIC VEHICLES AND ELECTRIC-HYBRID VEHICLES.—(a) GENERAL.—Not later than 180 days after the date of enactment of this part, the Secretary, in consultation with appropriate State, regional and local authorities, shall establish a program for the collection and dissemination of information and data which would be useful to persons seeking to manufacture, sell, lease, own or operate electric vehicles and electric-hybrid vehicles. Such information and data—

(1) shall be sufficient to evaluate—

(A) the degree to which the availability of energy and fuel supplies may constrain the introduction of electric vehicles or electric-hybrid vehicles; and

(B) the electric vehicle or electric-hybrid vehicle trips made daily, miles driven per trip, projections as to the number of trips that could be accomplished in combination with mass transit so as to conserve energy; and

(2) may include other appropriate demographic and consumer preferences information necessary to make the evaluation under paragraph (1).

(b) CONSULTATION BY THE SECRETARY.—The Secretary shall consult with interested persons including, but not limited to, vehicle manufacturers, fleet operators, public utilities and State or local governmental entities, to determine the types of information and data to be collected and analyzed pursuant to the program authorized by subsection (a).

SEC. 4214. STATE INFRASTRUCTURE DEVELOPMENT PLANS.—(a) GUIDELINES.—(1) Within 180 days after the date of enactment of this part, the Secretary shall issue guidelines for use by States and local governmental entities to develop comprehensive infrastructure plans to support the deployment of electric vehicles and electric-hybrid vehicles. Such guidelines shall include sufficient information to help States to evaluate—

(A) the availability of the necessary infrastructure to provide electricity and other forms of energy in the quantities and at the locations required to support operation of electric vehicles or electric-hybrid vehicles;

(B) the development of electric vehicle and electric-hybrid vehicle incentives and implementation programs designed to accelerate the introduction and use of such vehicles; and

(C) such studies that may be conducted or information that may be acquired with respect to how the production, development, or use of electric vehicles and electric-hybrid vehicles are likely to affect the more efficient use of energy resources and thereby enhance national energy security.

(2) Such guidelines also shall address the development, modification, and implementation of State infrastructure plans and shall describe those program elements, as described in subsection (c) to be addressed in such plans.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall offer the Governor of each State, within 120 days of the date of issuance of the guidelines under subsection (a), the opportunity to request technical and financial assistance under subsection (c) for the formulation of a comprehensive infrastructure plan for such State in conformance with the guidelines issued under subsection (a). Such request shall include a determination by the Governor that—

(A) electricity and other forms of energy are likely to be available in sufficient quantities to support the introduction of electric vehicles and electric-hybrid vehicles in such State; and

(B) the introduction of electric vehicles or electric-hybrid vehicles in such State is feasible.

(2)(A) If the Secretary is satisfied that the determination of a Governor under paragraph (1) is consistent with the purposes of this part, the Secretary shall offer the Governor of such State the opportunity to submit, within 180 days after submission of the determination under paragraph (1), a comprehensive infrastructure plan for approval under subsection (c)(2).

(B) Any plan developed under subparagraph (A) shall be developed in consultation with local governmental entities and shall include—

(i) the anticipated number and schedule for introduction of electric vehicles or electric-hybrid vehicles in such State;

(ii) provisions intended to ensure that electricity and other forms of energy will be available in sufficient quantities to support the anticipated quantities and schedule for introduction of electric vehicles or electric-hybrid vehicles;

(iii) provisions designed to assure the progress toward, and achievement of, the goal of introducing substantial numbers of electric vehicles and electric-hybrid vehicles in such State by the year 2001;

(iv) a detailed description of the requirements, including the estimated cost of implementation, of the infrastructure plan; and

(v) an assessment of whether accomplishing any of the goals in this subsection would require amendment to State law or regulation.

(c) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) Upon request of the Governor of any State who has submitted the assessment and made the determination under subsection (b), the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to electric vehicles and electric-hybrid vehicles;

(B) financial assistance for the purpose of the development of such plan; and

(C) financial assistance for the purpose of the implementation of such plan as approved by the Secretary pursuant to this section.

(2) In determining whether to approve a State infrastructure plan submitted under subsection (b)(2), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this section, the Secretary shall consider:

(A) energy and environmental-related impacts of introduction and use of electric vehicles or electric-hybrid vehicles included in the proposed infrastructure plan;

(B) the availability of electricity and other forms of energy required to support varying numbers of electric vehicles or electric-hybrid vehicles;

(C) the number of electric vehicles or electric-hybrid vehicles likely to be introduced by the year 2001 and the availability of electricity and other fuels resulting from successful implementation of the plan; and

(D) such other factors as the Secretary considers appropriate.

(d) REPORT.—The Secretary shall report annually to the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this part.

SEC. 4215. ELECTRIC UTILITY AND OTHER INDUSTRY INFRASTRUCTURE DEVELOPMENT PROJECTS.—(a) GENERAL.—The Secretary shall undertake cooperative agreements with one or more non-Federal persons, including fleet operators, to provide the infrastructure necessary to support the use of electric vehicles or electric-hybrid vehicles.

(b) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, to carry out the purposes of this section.

(2) Within 180 days after proposals have been solicited, the Secretary shall select from among those proposals submitted under this section and thereafter enter into negotiations. If, after negotiation, the Secretary determines that a proposal meets the purposes of this section, he may enter into a cooperative agreement with the non-Federal person submitting such proposal.

(3) The Secretary shall undertake no more than five cooperative agreements under this section. The proposals to be selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(4) The aggregate Federal financial assistance for each cooperative agreement under this part may not exceed $3,000,000.

(c) PROPOSALS.—The infrastructure proposals under this section may address—

(1) the addition to existing facilities of the capability to service electric or electric-hybrid vehicles, and to provide or service associated equipment, as well as the installation of charging facilities where such service might be required for the use and operation of electric vehicles or electric-hybrid vehicles;

(2) the feasibility of designing rate structures, rate levels, ratemaking procedures, billing systems and financing methods, related to investment by electric utilities in infrastructure capital-related expenditures and public information programs conducted by electric utilities regarding use of electricity, the conservation of electric energy and the use of electric vehicles or electric-hybrid vehicles;

(3) the development of associated safety and health procedures; and

(4) such other requirements as the Secretary considers necessary in order to address the infrastructure needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric vehicles or electric-hybrid vehicles.

SEC. 4216. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreements under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

SEC. 4217. COMPLIANCE WITH EXISTING LAW.—Nothing in this part shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this part, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

SEC. 4218. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this part.

PART C—AMENDMENT TO THE ALTERNATIVE MOTOR FUELS ACT

SEC. 4221. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—(a) Section 400AA(a) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6374 (a)(1)) is amended by striking out "or natural gas dual energy vehicles." and inserting in lieu thereof "natural gas dual energy vehicles, electric vehicles, or electric-hybrid vehicles.".

(b) Section 400AA(g) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6374 (g)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(7) the term 'natural gas' includes liquified petroleum gas, including propane;

"(8) the term 'electric vehicle' means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

"(9) 'electric-hybrid vehicle' means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power.".

(c) Section 400AA(i) of the Energy Policy and Conservation Act (42 U.S.C. 6374(i)) is amended by adding at the end thereof the following new paragraph:

"(3) For the purposes of this section, there is authorized to be appropriated for the fiscal years 1994, 1995, and 1996 such sums as may be necessary to carry out the provisions of this section.".

SEC. 4222. AMENDMENTS TO THE MOTOR VEHICLE INFORMATION AND COST SAVING ACT.—(a) Section 513(c) of the Motor Vehicle Information and Cost Savings Act (Pub. L. No. 92-513; 15 U.S.C. 2013(c)) is amended in the first sentence by inserting after "natural gas" each place it occurs the parenthetical "(including liquefied petroleum gas)".

(b) Section 513(d) of said Act (Pub. L. No. 92-513; 15 U.S.C. 2013(d)) is amended by inserting after "natural gas" the first time it occurs the following parenthetical, "(including liquefied petroleum gas)".

Subtitle C—Alternative Fuels

SEC. 4301. SHORT TITLE.—This subtitle may be cited as the "Replacement and Alternative Fuels Act of 1992".

SEC. 4302. FINDINGS.—The Congress finds and declares that—

(1) United States national security demands that we reduce our dependency on imported oil;

(2) domestic resources are available to substantially reduce our dependency on imported oil;

(3) the transportation sector, currently 95 percent dependent on oil, accounts for more than 60 percent of our national oil consumption;

(4) a comprehensive energy program, including the stimulation of the production and use of automobiles and off-road vehicles capable of using alternative fuels, is needed to reduce pollution as well as reduce our dependency on imported oil;

(5) such program should be designed to create a positive impact on the economy, our national trade balance, and our national budget; and

(6) such program should allow market forces, within appropriate environmental parameters, to affect the selection of replacement or alternative fuels.

SEC. 4303. PURPOSES.—The purposes of this subtitle are to—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit;

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

SEC. 4304. DEFINITIONS.—For purposes of this subtitle—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alcohol" means methanol, ethanol, or other alcohol that are suitable for use by themselves or in combination with other fuels as a motor fuel;

(3) the term "conventional petroleum" means imported or domestic petroleum derived from oil wells, including stripper wells;

(4) the term "domestic" means derived from resources within the 50 States or the territories of the United States;

(5) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle, as the term "motor vehicle" is defined in section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(6) the term "alternative fuel" means a motor fuel not designed to be mixed with gasoline, including liquefied petroleum gas, natural gas, "neat" alcohol, hydrogen, coal-derived liquid fuels, electricity; and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;

(7) the term "replacement fuel" means a motor fuel capable of mixing with gasoline or diesel, including alcohol and ethers or products derived from alcohol;

(8) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A); and

(9) the term "provider" means—

(A) any person engaged in the refining of crude oil to produce motor fuel;

(B) any importer of motor fuel;

(C) any person engaged in the transportation and sale of natural gas or liquefied petroleum gas for use as a motor fuel;

(D) any person engaged in the production of alcohol or hydrogen for sale and use as a motor fuel; and

(E) any utility engaged in the generation and sale to the public of electricity.

SEC. 4305. REPLACEMENT AND ALTERNATIVE FUEL PROGRAM.—(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use of domestically produced replacement and alternative fuels. Such program shall promote the replacement of conventional petroleum motor fuels with replacement and alternative fuels to the maximum extent practicable. Such program shall, to the extent practicable, seek to ensure the availability of those replacement and alternative fuels that will have the greatest impact in improving air quality in urban areas, along transportation corridors, and nationwide.

(b) DEVELOPMENT PLAN.—Under the program established under subsection (a), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of appropriate agencies, shall review appropriate information and—

(1) estimate the production capacity in the United States for replacement fuel and alternative fuel needed to implement the provisions of this subtitle;

(2) determine the technical and economic feasibility of producing in the United States sufficient replacement fuels and alternative fuels, by the calendar year 2010 to replace 30 per centum or more, on an energy equivalent basis, of the projected consumption of motor fuel in the United States for that year;

(3) assess the suitability and cost-effectiveness of raw materials, other than conventional petroleum, for the production in the United States of replacement and alternative fuels;

(4) assess the suitability and cost-effectiveness of the means and methods of developing

and encouraging the production, distribution, and use of replacement and alternative fuels; and

(5) identify ways to encourage the development of reliable replacement fuel and alternative fuel industries in the United States, and the technical, economic, and institutional barriers to such development.

SEC. 4306. ALTERNATIVE FUEL DEMAND ESTIMATES.—(a) ANNUAL ESTIMATES.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary, in consultation with the Administrator and appropriate State and Federal officials, shall estimate—

(1) the number of each type of alternative fuel vehicles likely to be in use in the United States during the following calendar year;

(2) the probable geographic distribution of such vehicles; and

(3) the amount of each type of alternative fuel that is needed to fuel such number of vehicles.

(b) PROVIDER CERTIFICATIONS.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary shall require providers of domestic replacement and alternative fuels to certify to the Secretary the amount of each type of replacement and alternative fuel that such provider plans to produce.

SEC. 4307. VOLUNTARY SUPPLY COMMITMENTS.—The Secretary shall undertake to obtain commitments from providers of domestic replacement and alternative fuels to produce and offer for sale to the public sufficient amounts of domestic replacement and alternative fuels to meet the needs of vehicles requiring such fuels.

SEC. 4308. SECRETARIAL AUTHORITY.—(a) NOTIFICATION OF CONGRESS.—In the event that the Secretary determines under this subtitle that the amount of replacement and alternative fuels available in any area of the United States is insufficient to meet public demand and the Secretary is unable to obtain voluntary commitments under section 4307 to supply such demand, the Secretary shall provide written notice to Congress.

(b) SUBMITTAL OF PLAN.—Not later than thirty days after submitting notice under subsection (a), the Secretary shall submit a plan setting forth the actions the Secretary may take to require providers of motor fuels to make available to the public adequate domestic supplies of the replacement or alternative fuel of which there is a shortage. In developing any such plan, the Secretary shall consult with providers of motor fuels to consider alternative means of securing adequate supplies of such fuel and shall give providers an opportunity to comment on any specific proposed requirements to make such fuel available.

(c) IMPLEMENTATION OF PLAN.—The Secretary may implement a plan under subsection (b) sixty calendar days after it has been submitted to Congress in accordance with this section.

(d) PERSONS SUBJECT TO REQUIREMENT.—In exercising the authority under this section, the Secretary shall impose the requirement of providing the required amount of replacement or alternative fuel proportionately on all appropriate providers of motor fuels in a fair and equitable manner.

SEC. 4309. AUTHORIZATION.—There is authorized to be appropriated to the Secretary to carry out this subtitle not to exceed $10,000,000 for each of the fiscal years 1992 through 1996.

Subtitle D—Mass Transit and Training

SEC. 4401. MASS TRANSIT PROGRAM.—(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with this Act and the Alternative Motor Fuels Act of 1988 (Public Law 100-494), enter into cooperative agreements and joint ventures proposed by municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b) COST-SHARE.—(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government entity agrees to provide at least 25 percent of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 4402. TRAINING PROGRAM.—(a) PROGRAM.—The Secretary of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) CONSISTENCY.—The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494).

(d) AUTHORIZATION.—There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

TITLE V—RENEWABLE ENERGY

Subtitle A—CORECT AND COEECT

SEC. 5101. DUTIES OF CORECT AND COEECT.—Section 256 of Part B of Title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking subsection (d) and inserting the following in lieu thereof:

"(d)(1) DUTIES.—There shall be established two interagency working groups (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT)). These interagency working groups shall, in consultation with the representative industry groups and relevant agency heads, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and technologies, respectively. The Secretary of Energy shall chair each group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working groups, with or without reimbursement, as may be necessary to carry out their functions and undertake other actions or activities, consistent with existing laws and regulation, as, in the judgement of the Secretary, may be necessary to achieve the purposes of this section.

"(2)(A) ADDITIONAL DUTIES OF CORECT.—CORECT, through its member agencies, shall promote the development and application in lesser-developed countries of renewable energy resource products and technologies that—

"(i) promote the use of hybrid fossil-renewable energy systems;

"(ii) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, windpower, small-scale hydropower, solar, geothermal and other renewable energy resource technologies; and

"(iii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and cost-effective renewable energy resource technologies.

"(B) In addition, CORECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of renewable energy resource technologies, to export their products and technologies;

"(ii) provide staffing to support the authority and responsibilities described in this section;

"(iii) provide technical and financial support for the establishment and sponsorship by United States' firms of training programs, workshops, and other educational programs on renewable energy technologies for representatives of lesser-developed countries and their firms; and

"(iv) augment budgets for the trade and development programs of the member agencies of the Council in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy resource technologies.

"(3)(A) ADDITIONAL DUTIES OF COEECT.—COEECT, through its member agencies, shall promote the development and application in lesser-developed countries of energy efficiency resource products and technologies that—

"(i) reduce dependence on unreliable sources of energy by encouraging the use of energy efficiency resource products and technologies; and

"(ii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical energy efficiency resource products and technologies including services.

"(B) In addition, COEECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of energy efficiency resource products and technologies, to export their products and services; and

"(ii) provide staffing to support the authority and responsibilities described in this section.

"(4) TRAINING AND ASSISTANCE.—In furthering the purposes of this section, CORECT

and COEECT shall, through their member agencies—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial and technical assistance to nonprofit institutions that support the export and marketing efforts of domestic renewable energy and energy efficiency service companies, and develop environmentally responsible renewable energy and energy efficiency projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit;

"(D) provide assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States, and such other personnel as the Council deems appropriate, in order to provide information about renewable energy and energy efficiency products and technologies to foreign governments or other potential project sponsors;

"(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(5) OUTREACH.—CORECT and COEECT, through their member agencies, may establish renewable energy and energy efficiency industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning renewable energy and energy efficiency products, technologies, and industries of the United States to territories, foreign governments, industries, and other entities.".

SEC. 5102. INFORMATION AND TECHNICAL PROGRAM.—Section 256(c)(2)(D) of part B of title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding after clause (ii) the following new clause:

"and

"(iii) information on the specific renewable energy and energy efficiency technology needs of lesser-developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource products, processes and technologies, and the status of ongoing technology assistance programs shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary,

"(iv) expand training and information dissemination programs in cooperation and participation with industry using existing technology transfer programs for such sums that may be necessary in fiscal years 1993, 1994, 1995, and

"(v) assist existing renewable energy industry consortia and State energy offices to work cooperatively with existing technology transfer programs.".

SEC. 5103. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.—Section 256 of part B of title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking subsections (g) and (h) and inserting in lieu thereof subsections (g) and (h) as follows:

"(g)(1) Not later than June 1, 1992, and biennially thereafter, the Secretary, in consultation with member agencies, shall prepare and submit to Congress a report evaluating the range of energy efficiency and renewable energy resource technologies available to meet the energy needs of lesser-developed countries. This report also shall provide information on the specific energy and energy conservation needs of lesser-developed countries, an inventory of United States products and technologies available to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy and energy efficiency programs.

"(2) The report should also include an evaluation of current renewable energy and energy efficiency resource technology export efforts, their success in meeting program objectives, and recommendations for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy and energy efficiency resources and technologies in lesser-developed countries;

"(B) given the credit and capital restrictions for meeting energy demands in the lesser-developed countries, focus on technologies that are both appropriate and cost-effective;

"(C) assist lesser-developed countries in meeting their existing energy needs rather than creating new needs, in order to ensure immediate income-generating and timely use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local energy resource needs;

"(E) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country non-governmental organizations and project technical personnel;

"(G) provide mechanisms for assisting United States manufacturers, particularly smaller manufacturers, of energy efficiency and renewable energy resource technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives, such as shared savings contracts, loan guarantees, and tax incentives, to promote technology transfer to lesser-developed countries.

"(h) AUTHORIZATION.—(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated to the Secretary for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.".

SEC. 5104. CONFORMING AMENDMENT.—Section 203(a) of the Department of Energy Organization Act (Public Law 95-91; 42 U.S.C. 7133) is amended by adding a new paragraph (12) at the end thereof:

"(12) the export and promotion to lesser-developed countries of domestic energy resource technologies and products, including renewable energy, energy efficiency, and clean coal technologies, and the development of policies and programs designed to enhance the knowledge of foreign governments and companies, and relevant international lending institutions regarding domestic energy resource technologies and products.".

Subtitle B—Renewable Energy Initiatives

SEC. 5201. RENEWABLE ENERGY DEVELOPMENT, TECHNOLOGY EXPORT TRAINING, AND COMMERCIALIZATION.—(a) JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT AND TECHNOLOGY EXPORT TRAINING.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding new subsections (f), (g), and (h) as follows:

"(f) ADDITIONAL JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT.—

"(1) OIL DISPLACEMENT BY BIOFUELS ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of biofuels energy systems technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the development of biofuels energy systems for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(2) OIL DISPLACEMENT BY HIGH TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of high-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of high-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(3) OIL DISPLACEMENT BY LOW-TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of low-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purposes of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of low-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(4) OIL DISPLACEMENT BY SOLAR WATER HEATING.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of solar water heating technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling

technologies for solar water heating for commercial application in institutional water heating and process heat uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(5) DIESEL FUEL OIL DISPLACEMENT BY PHOTOVOLTAIC AND WIND ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of photovoltaic and wind energy systems in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for photovoltaic and wind energy systems for commercial application in electric power generation uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(6) DIESEL FUEL OIL DISPLACEMENT BY DIRECT COMBUSTION OR GASIFICATION OF BIOMASS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of technologies for the direct combustion or gasification of biomass in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for direct combustion or gasification of biomass, including waste wood, for industrial process heat and electric power generation for commercial application in uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(7) OIL DISPLACEMENT BY FUEL CELLS TECHNOLOGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of fuel cells technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(g) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY EXPORT TRAINING.—

"(1) The Secretary shall solicit proposals for and provide financial assistance to at least two joint ventures for the training of individuals from lesser-developed countries at a location or locations in the United States, at least one of which shall be in the operation and maintenance of renewable energy equipment and at least one of which shall be in the operation and maintenance of energy efficiency equipment, in accordance with the provisions of this subsection.

"(2) The purpose of joint ventures supported under this subsection shall be to train individuals, including engineers and other professionals, in the operation and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping and the production of electric power in remote areas, in order to enhance the prospects that such equipment can be used to displace the use of diesel fuel oil in developing countries.

"(3) There is authorized to be appropriated to the Secretary not to exceed $6,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.

"(h) UTILITY-SCALE PHOTOVOLTAIC JOINT VENTURES.—

"(1) The Secretary shall solicit proposals and provide financial assistance for at least one joint venture for a utility-scale photovoltaic project of at least ten megawatts.

"(2) In general, the goals of joint ventures under this subsection shall include—

"(A) the integration of photovoltaics in approaches to the transmission and delivery systems;

"(B) the development of cost-saving adjuncts to utility delivery such as sub-station upgrades, peak power, and large-scale voltage line augmentation; and

"(C) the incorporation of new photovoltaic innovations into standard utility rate-making practices.

"(3) Joint ventures supported under this subsection may include participants that are considered to be end-users of the technology such as rural electric cooperatives, public utilities, investor-owned utilities, and independent power producers.

"(4) In selecting joint ventures for support under this subsection, the Secretary shall consider giving preference to proposals for projects that would be located in States where State law would allow inclusion of the project in the rate base or would otherwise allow for favorable regulatory treatment or return on investment.

"(5) There is authorized to be appropriated to the Secretary not to exceed $9,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.".

(b) Section 6(d)(1) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended as follows:

(1) after the semicolon by deleting the word "or"; and

(2) by inserting after paragraph (B) a new paragraph (C) as follows: "; or (C) there is insufficient Federal funding to adequately fund each of the joint venture technologies as required under subsection (b)(1),".

(c) CONFORMING AMENDMENTS.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended as follows:

(1) By replacing the phrase "subsection (c)" with the phrase "subsections (c), (f), (g) and (h)" in the first sentence of paragraph (b)(1).

(2) By substituting a new paragraph (4) of subsection (b) to read as follows:

"(4) DRAFT SOLICITATIONS AND PUBLIC COMMENT.—The Secretary shall issue a draft solicitation for joint ventures under subsection (c) by September 30, 1990 and a draft solicitation for joint ventures under subsections (f), (g), and (h) by September 30, 1992. After any such draft solicitation has been issued, the Secretary shall provide for a period of public comment before the issuance of a final solicitation.".

(3) By striking the phrase "subsection (c)" everywhere it appears in subsection (d) and replacing it with "subsections (c) or (f), (g), and (h)".

(4) By inserting after the word "shall" in paragraph (b)(5), the word "not".

(d) RENEWABLE ENERGY COMMERCIALIZATION.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding at the end the following new section:

"SEC. 11. COMMERCIALIZATION.—"(a) DEFINITIONS.—For the purposes of this section the term—

"(1) 'qualified borrower' means an enterprise, that engages in the production and sale of electricity, thermal energy or other forms of energy using a renewable energy technology, or a manufacturer of renewable energy equipment who wishes to finance improvements in, or expansion of, facilities for the manufacture of renewable energy technologies;

"(2) 'renewable energy technology', with respect to a participant in any provision under this section, means any technology that produces, or uses as its principal energy source, biomass, geothermal, photovoltaic, wind, or solar thermal (including solar water heating, solar industrial process preheat, and solar industrial process heat); and

"(3) 'Federal share' means that portion of the interest on a loan financed by a private lender that is paid by the Federal Government, subject to subsection (b).

"(b) BUY DOWN AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with private lenders to pay the Federal share of the interest on loans made to qualified borrowers for the purpose of financing the manufacture, construction or acquisition of equipment that principally utilizes a renewable energy technology. Buy down agreements entered into by the Secretary, may be implemented either directly through private lenders for Federal facilities or indirectly through an appropriate State energy office.

"(2) RESTRICTION.—Interest rate buy down agreements under this section shall not apply to projects where electricity is sold to electric utilities under section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

"(3) FEDERAL SHARE.—The Federal share of interest on a loan shall be determined by the Secretary on the basis of—

"(A) the need of the borrower for the assistance;

"(B) the degree to which financing of the project will assist in the regional diversification and commercialization of renewable energy resources in the United States; and

"(C) the achievement of the purposes and goals of this section.

"(4) LOAN TERMS.—The Secretary may enter into an agreement under paragraph (1) to pay the Federal share of interest on not less than ten separate loans that—

"(A)(i) have a principal amount of at least $250,000 and less than $1,000,000 and have a maturity of not less than fifteen years; or

"(ii) have a principal amount of at least $1,000,000, and have a maturity of not less than twenty years;

"(B) carry an interest rate no greater than five percent above the prime rate or at an interest rate that the Secretary determines to be reasonable; and

"(C) contain such other terms and conditions that the Secretary deems appropriate.

"(c) REPORT.—Not later than two years after the date of enactment of this section and annually thereafter, the Secretary shall report to Congress on the projects funded under this section and the progress being made toward accomplishing the goals and purposes of this section.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.".

(e) ADDITIONAL DUTIES OF JOINT VENTURE ADVISORY COMMITTEE.—Section (b)(3) of the Renewable Energy and Energy Efficiency Technology competitiveness Act of 1989 (Public Law 101-218) is amended by adding a new subparagraph as follows:

"(C) Not later than 18 months after the date of the enactment of the National Energy Security Act of 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the joint venture program under this section including specific recommendations for improvements or changes to the program and solicitation process.".

(f) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended:

(A) in paragraph (1) by inserting "three-year" before "management plan"; and

(B) by deleting paragraph (5) and inserting the following new paragraphs (5) and (6) in lieu thereof:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under sections 4, 5, and 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of this paragraph, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

SEC. 5202. REPORT ON WASTE MINIMIZATION TECHNOLOGIES IN INDUSTRY. (a) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report evaluating opportunities to minimize waste outputs from production processes in industries in the United States including activities of the United States Government.

(b) CONTENTS.—The report required by this section shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected timeframes for their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or State regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary deems necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

SEC. 5203. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 362(d) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6322(d)) is amended by redesignating paragraphs (12) and (13) as paragraphs (14) and (15), respectively, and adding new paragraphs (12) and (13) as follows:

"(12) support for pre-feasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

"(13) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Department of Agriculture programs including the Rural Electrification Administration and the Farmers Home Administration;".

SEC. 5204. SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER.—(a) FINDINGS.—The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a longstanding champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transportation fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) PURPOSE.—It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) ESTABLISHMENT.—The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (referred to as the "Center").

(d) ADMINISTRATION.—(1) Not later than 180 days after the date of enactment of this section, the Secretary shall seek to enter into a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) ACTIVITIES.—The Center may carry out research, development, and technology transfer activities on—

(1) solar and renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean resource concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) MATCHING FUNDS.—To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, and such sums as are necessary thereafter for the purposes of this section.

SEC. 5205. RENEWABLE ENERGY TECHNICAL ACHIEVEMENT AWARD.—(a) PROGRAM.—Within one year after the date of enactment of this Act, the Secretary, in consultation with the National Academy of Sciences, shall establish a program to reward outstanding achievement in each of the following technologies: solar thermal, photovoltaics, wind, biomass, geothermal, and such other renewable energy technologies as the Secretary deems appropriate.

(b) TECHNICAL ACHIEVEMENT MILESTONES.—The Secretary, in consultation with the National Academy of Sciences, shall establish a milestone for technical achievement for the year 2010 for each technology listed in subsection (a). The Secretary shall also establish criteria necessary to determine whether the technical achievement milestones have been met. Such criteria shall include:

(1) the cost of power delivered under each technology;

(2) the efficiency of each technology's energy conversion;

(3) the potential for large-scale commercial production; and

(4) such other criteria as the Secretary deems appropriate.

(c) AWARD.—The Secretary, in consultation with the National Academy of Sciences, shall award up to $5,000,000 in each renewable energy technology category to the first person who is a United States citizen and has been determined by the Secretary to have met the technical achievement milestones described under subsection (b).

(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section.

SEC. 5206. RENEWABLE ENERGY RESEARCH.—(a) IN GENERAL.—Section 4 of the Renewable Energy and Energy Efficiency and Technology Competitiveness Act of 1989 (42 U.S.C. 12003) is amended—

(1) in subsection (a), by adding at the end of the subsection the following new paragraph:

"(5) RENEWABLE ENERGY RESEARCH PROGRAM.—In general, the goal of the Renewable Energy Research Program shall be to advance research and development concerning the production of ethanol. Research, development, and demonstration programs under the Renewable Energy Research Program shall include programs related to the following topics relating to the production of ethanol:

"(A) The conversion of corn fiber to ethanol.

"(B) The production of olefins (including isobutylene) from biomass.

"(C) The minimization of contamination to improve yields.

"(D) The recovery of enzymes and yeasts.

"(E) The improvement of distillation.

"(F) The use of membrane technology.

"(G) Value added uses of carbon dioxide.

"(H) Chemical production from corn components.

"(I) The minimization of by-products that foul processes and reduce ethanol yields.

"(J) Pretreatment processes."; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by inserting "the Renewable Energy Research Program" after "the Ocean Energy Systems Program"; and

(B) in paragraph (3)—

(i) by striking "and" at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting "and"; and

(iii) by adding at the end of the paragraph the following new subparagraph:

"(D) not to exceed $50,000,000 shall be available for the Renewable Energy Research Program.".

(b) PROGRAM TRANSFER.—The Secretary is authorized to transfer such research, development, and demonstration programs from the Biofuels Energy Systems programs as are appropriate to the Renewable Energy Research Program established under subsection (a) of this section.

SEC. 5207. ESTABLISHMENT OF THE SOLAR ASSISTANCE FINANCING ENTITY.—(a) PROGRAM.—The Secretary of Housing and Urban Development shall hereby establish the "Solar Assistance Financing Entity" hereafter referred to as "SAFE". SAFE shall be based on the provisions in the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3603(a)).

(b) PURPOSE.—The purpose of SAFE shall be to assist in the financing of solar and renewable energy building technology applications through increased loan amortizations (from non-Federal sources) and joint ventures. Schools and hospitals shall be considered eligible for loans for purposes of this program.

(c) FUNDING.—Funding pursuant to this section shall be administered and distributed through one of the following agencies:

(1) State agencies, or divisions of State agencies, responsible for developing the State energy conservation plan pursuant to section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322);

(2) State government offices administered by the Department of Housing and Urban Development; or

(3) an Agency authorized to specifically carry out the purposes of this section.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Energy shall issue any regulations necessary to carry out the purposes of this section.

(e) APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated not to exceed $10,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995.

Subtitle C—Hydropower

SEC. 5301. STREAMLINING REGULATION UNDER THE FEDERAL POWER ACT.—The Federal Power Act, as amended (16 U.S.C. 791a et seq.) is further amended by inserting in section 4 ", and for the purposes of subsections (h) and (i), the Commission shall" after "empowered" and inserting the following after subsection (g):

"(h) Establish procedures that, to the extent practicable, provide for the earliest identification and performance of all studies and analyses required to be performed in conjunction with an application for a license under this part.

"(i) Within one year after enactment of this subsection, enter into memoranda of understanding with each Secretary under whose supervision a reservation falls which provides for:

"(1) timely submission by the Secretary to the Commission of any proposed terms and conditions which are relevant to the Secretary's statutory responsibilities for the reservation with respect to the proposed project;

"(2) establishment and implementation of a process for resolution of disputes, if any, between the Commission and the Secretary concerning conditions proposed by the Secretary in connection with the licensing of a project; and

"(3) identification and implementation of measures to avoid duplication of effort, delay, and costs to all parties in connection with the licensing of a project.".

SEC. 5302. HYDROELECTRIC PROJECTS.—(a) MEMORANDA OF UNDERSTANDING.—The Commission and all relevant Federal agencies are directed to enter into memoranda of understanding which will establish procedures for a consolidated review to the fullest extent possible under the National Environmental Policy Act of 1969 of Federal actions affecting the authorization of hydroelectric projects subject to the jurisdiction of the Commission.

(b) THIRD PARTY CONTRACTING.—(1) Where environmental documents are prepared in connection with an application for a license under part 1 of the Federal Power Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work, to prepare such environmental document. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(2) Where an environmental assessment is prepared in connection with an application for a license under part 1 of the Federal Power Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

SEC. 5303. IMPROVEMENT AT EXISTING FEDERAL FACILITIES.—(a) STUDIES OF OPPORTUNITIES FOR INCREASED HYDROELECTRIC GENERATION.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform reconnaissance level studies of cost effective opportunities to increase hydropower production at existing federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within two years after the date of enactment of this Act and transmitted to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and to the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural, or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs and the economic and environmental consequences of such measures.

(b) EXCEPTION FOR PREVIOUS STUDIES.—In those cases where studies of the type required by this section have been prepared by any agency of the United States and published within the ten years prior to the date of enactment of this Act, the Secretary may choose not to perform new studies but incorporate the information developed by such studies into the study reports required by this section.

(c) AUTHORIZATION.—There is authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 5304. WATER CONSERVATION AND ENERGY PRODUCTION.—(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

(1) an analysis of the technical, environmental, and economic feasibility of reducing

the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

(c) CONSTRUCTION.—Upon a finding of feasibility by the Secretary of the Interior, and agreement with the affected Power Marketing Administrator, and the expiration of ninety days during which the feasibility investigation related thereto has lain before the Congress, the Secretary of the Interior, acting pursuant to the Federal reclamation laws, is authorized to construct, operate and maintain the water conservation features described by and justified in the feasibility investigations prepared pursuant to subsection (a) of this section.

(d) FINANCING.—Revenues received by the respective Federal Power Marketing Administrators from the marketing of hydroelectric energy made available as a result of the water conservation activities undertaken pursuant to this section shall be disposed of by the respective Federal Power Marketing Administrators pursuant to applicable Federal power marketing law.

(e) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

(f) Without further appropriation and without fiscal year limitation and notwithstanding subsections (b) and (d) of this section, the Secretary of the Interior is authorized to design, construct, operate and maintain water conservation features that the Secretary and the Administrator of the Bonneville Power Administration determine necessary or appropriate at Federal Reclamation projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)) pursuant to subsection (a), with any funds that the Administrator determines to make available to the Secretary for such purposes. The Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, notwithstanding any other provision of law, no sequestration order, including a sequestration of discretionary spending, shall reduce expenditures from the Bonneville Power Administration Fund or reduce the expenditures of the Secretary from Fund transfers made pursuant to this section: *Provided further*, That any application of a sequestration order shall apply only to non-Bonneville Power Administration Fund transfers: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

SEC. 5305. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.—(a) GENERAL LICENSING AUTHORITY.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii), or upon".

(b) MANDATORY LICENSING AUTHORITY.—Section 23(b) of the Federal Power Act (16 U.S.C. 817(b)) is amended by striking "United States, or upon" and inserting "United States (except fresh waters in the State of Hawaii), or upon".

SEC. 5306. CERTAIN PROJECTS IN THE STATE OF ALASKA.—The following projects located entirely within the State of Alaska are removed from jurisdiction of the Federal Energy Regulatory Commission and all applicable laws and regulations relating to such jurisdiction:

(1) a project located at Sitka, Alaska, with application numbered UL89-08-000; and

(2) a project located at Juneau, Alaska, with preliminary permit numbered 10681-000; and

(3) a project located near Nondalton, Alaska, with application numbered EL88-25-001.

SEC. 5307. EXTENSION OF TIME LIMITATIONS FOR CERTAIN PROJECTS IN ARKANSAS.—(a) AUTHORIZATION OF EXTENSIONS.—Notwithstanding the time limitations of section 13 of the Federal Power Act, (16 U.S.C. 806) the Federal Energy Regulatory Commission upon the request of the licensee for FERC projects numbered 3033 and 3034 (and after reasonable notice) is authorized in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend—

(1) until August 10, 1994 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999 the time required for completion of construction of such project; and

(2) until August 10, 1996 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001 the time required for completion of construction of such project.

(b) TERMINATION OF AUTHORIZATION FOR EXTENSIONS.—The authorization for issuing extensions shall terminate three years after the date of enactment of this Act. The Commission to facilitate requests under this section may consolidate such requests.

SEC. 5308. FEDERAL PROJECTS IN THE PACIFIC NORTHWEST.—Without further appropriation and without fiscal year limitation, the Secretaries of the Interior and Army are authorized to design, construct, operate and maintain generation additions, improvements and replacements, at their respective Federal projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)), and to operate and maintain the respective Secretary's power facilities in the region that the respective Secretary determines necessary or appropriate and that the Bonneville Power Administrator subsequently determines necessary or appropriate, with any funds that the Administrator determines to make available to the respective Secretary for such purposes. Each Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, notwithstanding any other provision of law, no sequestration order, including a sequestration of discretionary spending, shall reduce expenditures from the Bonneville Power Administration Fund or reduce the expenditures of the Secretary from Fund transfers made pursuant to this section: *Provided further*, That any application of a sequestration order shall apply only to non-Bonneville Power Administration Fund transfers: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Industrial, Commercial and Residential

SEC. 6101. BUILDING ENERGY EFFICIENCY CODES.—(a) ESTABLISHMENT OF CODES.—Title III of the Energy Conservation and Production Act (Pub. L. No. 94-385), as amended, is amended by—

(1) amending section 303 by—

(A) striking paragraph (9),

(B) renumbering the subsequent paragraphs, and

(C) adding at the end the following new paragraphs—

"(13) the term "Federal building energy code" means an energy consumption goal to be met without specification of the methods, materials, or equipment to be employed in achieving that goal, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term "industry voluntary building energy code" means a building energy code developed and updated through an industry process, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; or other appropriate organizations."; and

(2) striking sections 304, 306, 308, 309, 310, and 311 and their captions and inserting the following in lieu thereof—

"FEDERAL BUILDING ENERGY CODE

"SEC. 304. (a) Within two years of enactment of the National Energy Security Act of 1992, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Association of Home Builders; the Illuminating Engineering Society; the American Institute of Architects; and the National Conference of States on Building Codes and Standards, shall issue by rule a Federal building energy code that assures the inclusion in Federal buildings of all energy efficiency measures that are technologically feasible and economically justified. This code shall become effective no earlier than six months and no later than two years after issued.

"(b) The Federal building energy code shall—

"(1) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of the industry voluntary building energy codes and standards,

"(2) include a method of compliance that uses the same format as that used by the industry voluntary building energy codes and standards, and methods which will enhance and facilitate the use of renewable technologies, and

"(3) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures to mitigate the levels of radon and other indoor air pollutants in cases where such pollutants may exist.

"(c) The Secretary shall identify and describe the basis for any substantive difference between the Federal building energy code and the industry voluntary building energy code.

"(d) The Secretary shall periodically, but no less than once every five years, review the Federal building energy code and shall, if significant energy savings would result, upgrade such code to include all new energy efficiency measures that are technologically feasible and economically justified.

"(e) Interim energy performance standards for new Federal residential and commercial buildings issued by the Secretary under this title as it existed before enactment of the National Energy Security Act of 1992 shall remain in effect until the head of a Federal agency required to adopt procedures under section 305(a) adopts those procedures.

"(f) the provisions of this section shall apply to the United States Congress.

"FEDERAL COMPLIANCE

"SEC. 305. (a) The head of each Federal agency and the Architect of the Capitol shall adopt procedures necessary to assure that new Federal residential or commercial buildings meet or exceed the Federal building energy code.

"(b) The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the Federal building energy code.

"(c) The head of each Federal agency that guarantees a mortgage for constructing a new building shall adopt the procedures necessary to assure that the building meets or exceeds the Federal building energy code.

"SUPPORT FOR INDUSTRY VOLUNTARY BUILDING ENERGY CODE

"SEC. 306. (a) Within one year of the enactment of the National Energy Security Act of 1992, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Conference of States on Building Codes and Standards; and any other appropriate building codes and standards organization, shall support the upgrading of an industry voluntary building energy code for new residential and commercial buildings. The support shall include—

"(1) a compilation of data and other information regarding building energy efficiency codes in the possession of the Federal government, State and local governments, and industry organizations;

"(2) assistance in improving the technical basis for the energy code;

"(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in the code;

"(4) assistance in identifying appropriate measures to mitigate the levels of radon and other indoor air pollutants; and

"(5) development of interim energy performance standards for new non-Federal residential buildings.

"(b) The Secretary, in consultation with the appropriate Federal agencies, shall periodically review the technical and economic basis of the industry voluntary building energy code. Based upon ongoing research activities and a review of appropriate industry energy standards, the Secretary shall—

"(1) recommend amendments to the industry voluntary building energy code including measures needed to mitigate the levels of radon and other indoor air pollutants in cases where such air pollutants may exist,

"(2) seek adoption of all technically feasible and economically justified energy efficiency measures, and

"(3) participate otherwise in any industry process for review and modification of the industry voluntary building energy code.

"ADOPTION INCENTIVES

"SEC. 307. (a) STATE REPORT.—Within two years of the enactment of the National Energy Security Act of 1992, each State shall submit a report to the Secretary on the type and status of, and compliance and enforcement procedures for building energy codes used within the State, including a list of the units of general purpose local government within the State that identifies which, if any, have adopted building energy codes.

"(b) AVAILABILITY OF INCENTIVE FUNDING.—If the Secretary certifies that a state or any units of general purpose local government which have jurisdiction regarding energy building codes, has adopted building energy codes at least as stringent as those of the industry voluntary energy building codes, then the Secretary shall provide incentive funding to that State or such units of general purpose local government to fund activities to further promote the adoption and implementation of the industry voluntary energy building codes. Such incentive funds shall be allocated from funds made available under subsection (c), on the basis of the average number of residential housing starts within such State or unit of general purpose local government during the previous three years. The Secretary may use up to five percent of the funds made available under subsection (c) for administration of activities conducted pursuant to this section.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to provide incentive funding to the States pursuant to this section.

"TECHNICAL ASSISTANCE

"SEC. 308. The Secretary may provide technical assistance to States, units of general purpose local government, and other appropriate organizations to promote the adoption and implementation of the voluntary energy building codes or to otherwise promote the design and construction of energy efficient buildings.

"REPORTS

"SEC. 309. The Secretary, in consultation with the appropriate Federal agencies, shall report annually to Congress on activities conducted pursuant to this title including:

"(1) the recommendations made regarding the prevailing industry voluntary building energy code under section 304(c);

"(2) a State-by-State summary of progress made in the adoption and implementation of the voluntary energy building codes or more stringent codes; and

"(3) recommendations to Congress on opportunities to further promote energy efficiency and other purposes of this part.".

(b) CONFORMING AMENDMENT.—The table of contents of the Energy Conservation and Production Act (Public Law 94-385) is amended by striking the items relating to sections 304, 306, 308, and 309, and inserting in lieu thereof the following—

"Sec. 304. Federal building energy code.
"Sec. 305. Federal compliance.
"Sec. 306. Support for industry voluntary building energy code.
"Sec. 307. Adoption incentives.
"Sec. 308. Technical Assistance.
"Sec. 309. Reports.".

SEC. 6102. RESIDENTIAL ENERGY EFFICIENCY RATINGS AND MORTGAGES.—(a) RATINGS.—Title II of the National Energy Conservation Policy Act (NECPA) (Public Law 96-619) is amended by adding a new part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) Within eighteen months of the date of enactment of the National Energy Security Act of 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development and other appropriate institutions, shall, by rule, promulgate voluntary guidelines that may be used by State and local governments, utilities, builders and others, that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The voluntary guidelines under subsection (a) shall:

"(1) provide for a uniform rating scale of the efficiency with which any residential building uses energy on an annual basis;

"(2) provide that such rating shall take into account local climate conditions and construction practices, and does not discriminate among fuel types, except that both active and passive solar energy collected on-site shall be credited toward the energy efficiency rating of such building;

"(3) that such rating shall take into account the benefits of peak load shifting construction practices;

"(4) provide that all residential buildings can receive a rating at the time of sale;

"(5) provide that the rating is prominently communicated to potential buyers and renters; and

"(6) provide that the rating system is consistent with, and supportive of, the uniform plan for energy efficient mortgages developed pursuant to Section 946 of the Cranston-Gonzales National Affordable Housing Act (Pub. L. No. 101-625).

"SEC. 272. TECHNICAL ASSISTANCE.

"Within eighteen months after the date of the enactment of the National Energy Security Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of residential energy efficiency rating systems based on the voluntary guidelines promulgated under this part.

"SEC. 273. AUTHORIZATION.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.".

(b) CONFORMING AMENDMENT.—The National Energy Conservation Policy Act (Public Law 95-619) is further amended by adding in the table of contents at the end of title II, the following items:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Rating guidelines.
"Sec. 272. Technical assistance.
"Sec. 273. Authorization.".

(c) ENERGY EFFICIENCY MORTGAGES.—The Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) is amended as follows:

(1) At the end of section 104 add the following new definition:

"(24) The term 'energy efficient mortgage' means a mortgage which provides financial incentives for the purchase of energy efficient homes, or which provides financial incentives to make energy efficiency improve-

ments in existing homes by incorporating the cost of such improvements in the mortgage."

(2) In section 946 make the following amendments:

(A) In subsection (a) strike the words "mortgage financing incentives for energy efficiency" and insert in lieu thereof "energy efficient mortgages";

(B) at the end of subsection (a) add the following new sentence:

"The plan shall be consistent with and mutually supportive of the Federal building energy code and the residential energy efficiency rating voluntary guidelines to be developed by the Secretary of Energy pursuant to the National Energy Security Act of 1992.".

(C) in subsection (b) after the word "include" add the words "but not be limited to";

(D) at the end of subsection (b) add the following new sentence:

"The Task Force shall determine whether a notification of the availability of energy efficient mortgages to potential home purchasers would promote energy efficiency in residential buildings, and if so, then the Task Force shall recommend appropriate notification guidelines, and member agencies are authorized to implement such guidelines.".

(d) ENERGY EFFICIENT MORTGAGE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs shall, within six months after the date of enactment of this Act, jointly establish an energy efficient mortgage pilot program in five States, to promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) the lender shall originate an otherwise normal VA or FHA home loan;

(B) the mortgagor's income and credit record is found to be satisfactory and his base loan application is approved; and

(C) the cost of cost-effective energy efficiency improvements do not exceed five percent of the property value (not to exceed $8,000) or $4,000, whichever is greater.

(3) ADDITIONAL.—When granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority to:

(A) permit the final loan amount to exceed the normal VA, FHA, loan limits by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, provided that the mortgagors request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary of Housing and Urban Development and the Secretary of Veterans' Affairs shall encourage participation in the energy efficient mortgage pilot program by:

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring all applicants for VA and FHA mortgages in those States participating under this pilot program to sign a statement stating that they have been informed of the program and understand the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than nine months after the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Veterans' Affairs and the Secretary of Energy, shall establish and implement a program for training personnel at relevent lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Housing and Urban Affairs and the Secretary of Veterans' Affairs shall prepare a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, as well as an assessment of the potential for expanding the pilot program nationwide.

(7) EXTENSION OF PROGRAM.—Not later than two years after the date of the implementation of the Energy Efficient Mortgage Pilot Program, the Secretary of Housing and Urban Development and the Secretary of Veterans' Affairs shall extend the pilot program nationwide unless the Secretary's can demonstrate to Congress that such an extension would not be practicable.

(8) DEFINITIONS.—As used in this subsection the term—

(A) "energy efficient mortgage" means a mortgage on a residential property that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan;

(B) "cost-effective" means those energy efficiency improvements to an attached or unattached single family residence that will produce an immediate and quantifiable positive cash flow and will result in monthly energy savings greater than the resulting increase in the monthly loan payment when 100 percent of the cost of improvements is added to the base loan;

(C) "base loan" means any FHA or VA loan that does not include the cost of cost-effective energy improvements; and

(D) "residential buildings" means any attached or unattached single family residence.

SEC. 6103. MANUFACTURED HOUSING ENERGY EFFICIENCY.—(a) AMENDMENTS TO CRANSTON-GONZALEZ.—Section 943 of the Cranston-Gonzalez National Affordable Housing Act, (Public Law 101-625), is amended by—

(1) striking the phrase "thermal insulation, energy efficiency" in subparagraph (d)(1)(D); and

(2) inserting a new subparagraph (E) as follows, and relettering the existing subparagraphs accordingly:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy efficiency applicable to manufactured housing;".

(b) DUTIES OF THE SECRETARY.—The Secretary shall assess the energy performance of manufactured housing and make recommendations to the Commission established under section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) regarding thermal insulation and energy efficiency improvements applicable to manufactured housing which are technically feasible and economically justified. The Secretary shall also test the performance and determine the cost-effectiveness of manufactured housing constructed to the standards established under such section.

(c) ELIMINATION OF FEDERAL PREEMPTION.—Notwithstanding the provisions of section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), if the Department of Housing and Urban Development has not issued, within one year of the date of enactment of this Act, regulations establishing thermal insulation and energy efficiency standards for manufactured housing promulgated (and effective before 1995) pursuant to section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) then States shall have the authorization to set such thermal insulation and energy efficiency standards for manufactured housing at levels at least as stringent as the thermal performance standards under ASHRAE 90-2.

SEC. 6104. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.—(a) SECRETARIAL ACTION.—The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Public Law 93-577) and other applicable laws, shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and indus-

trial processes that would benefit from the project.

(c) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, to carry out the purposes of this section.

SEC. 6105. REPORT.—The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of enactment of this Act, and every three years thereafter through the year 2004, a report setting forth energy efficiency policy options that would both decrease domestic oil consumption and overall domestic energy consumption by one, two, three, and four percent, per-year per-unit of GNP, through the year 2005, below the projected consumption for 2005. The Secretary shall evaluate, describe and rank these policy options according to their cost-effectiveness and their feasibility of implementation.

SEC. 6106. VOLUNTARY GUIDELINES FOR INDUSTRIAL PLANTS.—(a) VOLUNTARY GUIDELINES FOR ENERGY EFFICIENCY AUDITING AND INSULATING.—Within one year after the date of enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATION AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) ANNUAL REPORT.—The Secretary shall report annually to Congress on activities conducted pursuant to this section, including an evaluation of the effectiveness of these guidelines, and the responsiveness of the industrial sector to these guidelines.

(d) AUTHORIZATION.—There is authorized to be appropriated $750,000 annually to carry out the purposes of this section.

SEC. 6107. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, the Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a voluntary national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of the enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (hereinafter in this title referred to as EPCA) (Public Law 94-163).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules under section 324 of EPCA for the rating program established pursuant to either subsection (a) or (b) of this section, unless the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of EPCA, windows and window systems shall be considered covered products under section 322 of such Act unless excluded by the Commission pursuant to subsection (c) of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6108. ENERGY EFFICIENCY INFORMATION.—(a) DATA ON ENERGY EFFICIENCY.—Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (Public Law 93-275), and after consulting with State and Federal energy officials, representatives of energy-using classes and sectors, and representatives of energy policy public-interest or research organizations, the Administrator of the Energy Information Administration shall expand the scope and frequency of the data it collects and reports on energy use in the United States with the objective of significantly improving the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs. The Administrator shall take into account reporting burdens and the protection of proprietary information as required by law. In expanding the collection of such data to meet this objective, the Administrator shall consider—

(1) expanding data collection to include energy intensive sectors not presently covered in Energy Information Administration surveys;

(2) increasing the frequency with which the Energy Information Administration conducts end-use energy surveys among households, commercial buildings, and manufacturing;

(3) expanding the survey instruments to include questions regarding participation in government and utility conservation programs, the energy efficiency of existing stocks of equipment and structures, and recent changes in the technical efficiency and operating practices that affect energy use;

(4) expanding the time period for which fuel-use data is collected from individual survey respondents;

(5) expanding the sample sizes for fuel-use surveys in order to improve the accuracy of subgroups of energy users;

(6) expanding the scope and frequency of data collection on the energy efficiency and load-management programs, including the effects of building construction practices designed to obtain peak load shifting, operated by electric and gas utilities; and

(7) establishment of reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries.

(b) ANNUAL REPORT.—The Administrator shall report annually to Congress on the energy efficiency in classes and sectors of the economy and on any data resulting from this section.

(c) REPORT ON INDUSTRIAL REPORTING AND VOLUNTARY TARGETS.—Not later than one year after the date of enactment of this Act the Administrator shall report to Congress on the conclusions of the Administrator's consideration of establishing reporting requirements and voluntary energy efficiency improvement targets pursuant to paragraph (a)(7) of this section, including an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and including recommendations by the Administrator on proposals or activities to improve energy efficiency in energy intensive industries.

SEC. 6109. ENERGY EFFICIENCY LABELING FOR LUMINAIRES.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, and in consultation with the National Electric Manufacturers Association, industry representatives, and other appropriate organizations, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program for luminaires. Such program shall set forth information and specifications that will enable purchasers of luminaires to make informed decisions among the energy efficiency and cost of alternative luminaires.

(b) SECRETARIAL ACTION.—If a national energy efficiency rating and labeling program consistent with the objectives of subsection (a) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program for luminaires under section 323 of EPCA (Public Law 94-163).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission shall prescribe labeling rules under section 324 of EPCA for luminaires, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of luminaire (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of EPCA, luminaires shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c) of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6110.—COMMERCIAL AND INDUSTRIAL EQUIPMENT STANDARDS.—(a) Title III, part C, of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new section 344A:

"SEC. 344a—(a) DEFINITIONS.—For the purposes of this section:

"(1) the term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source), and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity); and

"(2) the term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source), and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at

or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(3) the term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.

"(4) the term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assembles specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability energy;

"(5) the term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heating availability by builder's choice of energy;

"(6) the term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it. For purposes of this section, the term warm air furnace includes combination warm air furnace/electric air conditioning units but excludes unit heaters, duct furnaces and units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(7) the term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections. For purposes of this section, the term packaged boiler excludes units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(8) the term 'storage water heater' means a waterheater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. For purposes of this section, the term storage water heater excludes (a) units with an input rating of 4000 Btu per hour or more per gallon of stored water; and (b) units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(9) the term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water. For purposes of this section, the term instantaneous water heater excludes units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)); and

"(10) the term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(b) INITIAL DETERMINATIONS.—The Secretary shall, within 12 months after the date of enactment of the National Energy Security Act of 1992, determine, with respect to utility distribution transformers; whether—

"(1) it is practicable to classify such products into types and to prescribe test procedures to measure energy use, energy efficiency, or estimated annual operating cost during a representative average use cycle or period of use which are not unduly burdensome to conduct; and

"(2) it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance, for those products which the Secretary has determined under paragraph (1) that it is practicable to classify and prescribe test procedures.

"(c) TEST PROCEDURES.—The Secretary shall, within 18 months after the date of enactment of the National Energy Security Act of 1992, prescribe test procedures for those lamps, motors, small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks for which specific efficiency standards are established by this Act. In addition, the Secretary shall, within 18 months after the date of enactment of this Act, prescribe test procedures for those utility distribution transformers for which he has determined under subsection (b) that classification into types and testing procedures are practicable and that it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance. In establishing these test procedures, the Secretary shall use existing and generally accepted industry testing procedures when practicable and consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. For small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks for which the Secretary establishes test procedures pursuant to this section, such test procedures shall be consistent with those generally accepted industry testing procedures or rating procedures, if any, developed by the Air Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers as in effect on the date of the enactment of the National Energy Security Act of 1992. If such an industry test procedure or rating procedure for such small commercial package air conditioning and heating equipment or large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks is subsequently amended the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that to do so would not meet the purposes and criteria of this section with respect to the product. If the Secretary issues a rule containing such a determination the rule may establish an amended test procedure for such product that meets the purposes and criteria of this section with respect to that product.

"(d) CLASSIFICATION AND STANDARDS.—(1) The Secretary, for those products for which test procedures have been prescribed under subsection (c), shall, within eighteen months thereafter:

"(A) determine types (or classes) for utility distribution transformers; and

"(B) develop energy conservation standards for each type (or class) of utility distribution transformers for which such standards would be technologically feasible and economically justified. Such standards shall become effective no less than eighteen months and no more than three years after development of such standards.

"(2) In establishing standards for utility distribution transformers, the Secretary shall use the criteria contained in sections 325 (l) and (m) of this Act.

"(3)(A) In establishing standards for utility distribution transformers, the Secretary shall first review existing and generally accepted industry voluntary energy efficiency standards for these products, if any, to determine whether the adoption of industry standards would be consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. In which case, the Secretary shall adopt such industry standards.

"(B) For small package air conditioning and heating equipment, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standards levels shall be as follows:

"(i) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0 for products manufactured on or after January 1, 1994.

"(ii) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7 for products manufactured on or after January 1, 1994.

"(iii) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(iv) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8 for products manufactured on or after January 1, 1994.

"(v) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6 for products manufactured on or after January 1, 1994.

"(vi) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db) for products manufactured on or after January 1, 1994.

"(vii) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment) for products manufactured on or after January 1, 1994.

"(viii) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rat-

ing of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment) for products manufactured on or after January 1, 1994.

"(ix) The minimum coefficient of performance of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water) for products manufactured on or after January 1, 1994.

"(C) For large package air conditioning and heating equipment, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1995. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db) for products manufactured on or after January 1, 1995.

"(ii) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9 for products manufactured on or after January 1, 1995.

"(iii) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86) for products manufactured on or after January 1, 1995.

"(D) For packaged terminal air conditioners and packaged terminal heat pumps the Secretary shall establish standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0—(0.16 Capacity [in thousands of Btu per hour]) EER (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature) for products manufactured on or after January 1, 1994. If a unit has a capacity of less than 7000 Btu per hour, then 7000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(ii) The minimum coefficient of performance of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 the minimum cooling EER as specified in subparagraph (i) at a standard rating of 47 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(E) For warm air furnaces and packaged boilers the Secretary shall establish standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent for products manufactured after January 1, 1994.

"(ii) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent for products manufactured after January 1, 1994.

"(iii) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent products manufactured after January 1, 1994.

"(iv) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent for products manufactured after January 1, 1994.

"(F) For storage water heaters, instantaneous water heaters, and unfired water storage tanks the Secretary shall establish standards at the Standard levels set forth for such products in ASHRAE/IES Standard 90.1–1989 addendum b. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994.

"(ii) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994. The minimum thermal efficiency of such units shall be 78 percent (at a 70 degree Fahrenheit water temperature difference).

"(iii) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994. The minimum thermal efficiency of such units shall be 78 percent (at a 70 degree Fahrenheit water temperature difference).

"(iv) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent (at a 70 degree Fahrenheit water temperature difference) for units manufactured on or after January 1, 1994.

"(v) Except as provided in subparagraph (vii), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent (at a 70 degree Fahrenheit water temperature difference) for units manufactured on or after January 1, 1994. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

"(vi) Except as provided in subparagraph (vii), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area (at an 80 degree Fahrenheit water-air temperature difference).

"(vii) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (i) through (iii) and subparagraphs (v) through (vi) if the tank surface area is thermally insulated to R–12.5 and if a standing pilot light is not used.

"(G) If ASHRAE/IES Standard 90.1 as in effect on the date of enactment of the National Energy Security Act of 1992 is subsequently amended with respect to any type or class of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, or unfired hot water storage tank, then the Secretary shall establish an amended uniform national standard for that product type or class at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1 unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that adoption of a standard more stringent than the amended ASHRAE/IES Standard 90.1 for such product type of class would result in significant additional conservation of energy and is technologically feasible and economically justified. If the Secretary issues a rule containing such a determination, the rule shall establish an amended uniform national standard for such product type or class if establishment of such standard will result in significant additional conservation of energy and if the establishment of such standard is technologically feasible and economically justified. In determining whether a standard is economically justified, the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(i) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(ii) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products which are likely to result from the imposition of the standard;

"(iii) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(iv) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(v) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(vi) the need for national energy conservation; and

"(vii) other factors the Secretary considers relevant.

The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph (d)(3)(G) if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types (or classes). A standard as amended by the Secretary under this subsection shall become effective for products manufactured on or after a date which is—

"(I) two years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1 for small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, and

"(II) three years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1 for large commercial package air conditioning and heating equipment,

except that an amended standard issued by the Secretary pursuant to a rule under this subparagraph (d)(3)(G) shall become effective for products manufactured on or after a date which is four years after the date the rule is published in the Federal Register.

"(H) The criteria specified in subparagraph (d)(3)(G) shall apply only to products listed in subparagraph (d)(3)(G).

"(4)(A) Standards prescribed or established under this subsection (d) shall, upon their effective date, preempt any State or local regulation concerning the energy efficiency or energy use of such products.

"(B) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt a standard for such a product in a building code for new construction if the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1: *Provided*, That such standard in the building code does not take effect prior to the effective date of amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt the standards of the State of California for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993, which standards are set forth in table C-6 of the California Code of Regulations, title 24, part 2, chapter 2-53.

"(D) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures and other requirements specified in section 327(d) of this Act.

"(5) Except as provided in subparagraphs (d)(3) (B) through (G), the Secretary shall periodically, but at least every five years, review and update any standards established pursuant to this section, and shall reevaluate whether standards are justified for those products for which standards were not adopted.

"(e) LABELING.—(1) The Federal Trade Commission shall, within twelve months after the date on which a test procedure is prescribed by the Secretary for a product (or class thereof) under subsection (c), prescribe a labeling rule for the product (or class thereof), except to the extent that, with respect to a product (or class thereof) the Commission determines that a labeling rule is not economically or technically feasible, would not result in significant energy savings and is not necessary for informational purposes.

"(2) If the Commission determines that labeling is not necessary under paragraph (1) and the Secretary prescribes standards under subsection (d), then the Commission, within twelve months after the date on which a standard is prescribed by the Secretary, shall prescribe a labeling rule designed solely to facilitate enforcement of the requirements of this section and other applicable provisions of law. A labeling rule for small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment shall be designed solely to facilitate enforcement of the regulations of this section and other applicable provisions of law.

"(3) In the case of products for which the Commission prescribes a labeling rule under paragraph (1) manufacturers and importers of such equipment shall establish efficiency ratings for each type of equipment in accordance with the applicable test procedures, and—

"(A) include the efficiency rating of the equipment on or near the permanent nameplate attached to each piece of equipment;

"(B) prominently display the efficiency rating of the equipment in new equipment catalogs used by the manufacturer or importer to advertise the equipment; and

"(C) such other markings as the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established under this Act.

In developing these labeling requirements for electric motors, the Commission shall take into consideration NEMA Standards Publication MG1-1987.

"(4) Effective 360 days after a test procedure rule applicable to any product is established under this subsection, no manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including any representation on a label), or

"(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly disclosed the results of such testing.

"(f) REQUIREMENT OF MANUFACTURERS.—For the purpose of requirements of this Act, manufacturers and private labelers are subject to the requirements of section 326 of this Act.

"(g) ENFORCEMENT.—After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(1) each product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of this Act a new covered product to which a rule under section 324 of this Act applies; and

"(2) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product manufactured after this date which is not in conformity with the applicable energy conservation standard prescribed for the product (or class thereof) under subsection (d). For purposes of section 333 of this Act, this paragraph shall be considered to be a part of section 332 of this Act.

"(h)(1) Effective on the effective date of this Act, this section preempts any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of energy consumption of any covered product if—

"(A) such State regulation requires testing or the use of any measure of energy consumption or energy descriptor in any manner other than that provided under this section; or

"(B) such State regulation requires disclosure of information with respect to the energy use or energy efficiency of any product subject to this section other than information required under this section.

"(2) For purposes of this section, the term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions.

"(i) ENERGY EFFICIENCY LABELING FOR COMMERCIAL OFFICE EQUIPMENT.—(1) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, and after consulting with appropriate industry representatives, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program including any necessary test procedures for commercial office equipment that is widely used and for which there is a potential for significant energy savings. The program shall set forth information and specifications that will enable purchasers of office equipment to make informed decisions about the energy efficiency and costs of alternative commercial office equipment.

"(2) SECRETARIAL ACTION.—If a national energy efficiency rating and labeling program consistent with the objectives of paragraph (1) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, prescribe, within one year, test procedures for such commercial office equipment under section 323 of this Act.

"(3) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the 'Commission') shall prescribe labeling rules under section 324 of this Act for commercial office equipment, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to commercial office equipment (or class thereof).

"(4) COVERED PRODUCTS.—For purposes of sections 323 and 324 of this Act, commercial office equipment shall be considered covered products under section 322 of this Act unless excluded by the Commission pursuant to subsection (c).

"(5) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as are necessary to carry out the purposes of this section.

"(j) STUDY OF UTILITY DISTRIBUTION TRANSFORMERS.—

"(1) Not later than eighteen months after the date of the enactment of the National Energy Security Act of 1992, the Secretary shall evaluate the practicability and cost-effectiveness and potential energy savings of replacing or upgrading existing utility distribution transformers during routine maintenance.

"(2) The Secretary shall report the findings of his evaluation to Congress with recommendations on how such energy savings, if any, could be achieved.".

(b) Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by striking "(v) air conditioning equipment;" and "(xi) furnaces;" and by redesignating items (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) therein as items (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively.

SEC. 6111. ENERGY EFFICIENCY OF SHOWERHEADS.—(a) STATEMENT OF PURPOSE.—Section 2 of EPCA (Public Law 94-163) is amended by—

(1) striking "and" at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting "; and"; and

(3) adding at the end thereof the following new paragraph:

"(8) to conserve energy and water by improving the water efficiency of showerheads.".

(b) DEFINITIONS.—Section 321(a) of EPCA (Public Law 94-163), is amended by adding at the end thereof the following new paragraph:

"(30) the term 'total water use' means the quantity of water directly used by a showerhead, determined in accordance with test procedures under section 323.".

(c) COVERAGE.—Section 322(a) of EPCA (Public Law 94-163), is amended by—

(1) redesignating paragraph (14) as paragraph (15); and

(2) inserting after paragraph (13) the following new paragraph:

"(14) Showerheads, except safety shower showerheads.".

(d) TEST PROCEDURES.—Section 323(b)(3) of EPCA is amended by striking "or estimated annual operating cost" and inserting "estimated annual operating cost, or, in the case of showerheads, total water use, in accordance with applicable American National Standards Institute (ANSI) flow rate standards".

(e) LABELING.—Section 324 of EPCA (Public Law 94-163), is amended—

(1) in subsection (a)(2) by adding at the end thereof the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (14) of section 322(a), requiring that a label state whether the product meets the standards under section 325(i), in accordance with American National Standards Institute (ANSI) marking and labeling requirements.";

(2) in subsection (a)(3) by striking "paragraph (14)" and inserting "paragraph (15)";

(3) in subsection (b)(1)(B) by striking "paragraph (14)" and inserting "paragraph (15)";

(4) in subsection (b)(3) by striking "paragraph (14)" and inserting "paragraph (15)"; and

(5) in subsection (b)(5) by striking "paragraph (14)" and inserting "paragraph (15)".

(f) STANDARDS.—Section 325 of EPCA (Public Law 94-163), is amended—

(1) by redesignating subsections (i), (j), (k), (l), (m), (n), (o), (p), and (q) as subsections (j), (k), (l), (m), (n), (o), (p), (q), and (r), respectively; and

(2) by inserting after subsection (h) the following new subsection:

"(i) STANDARDS FOR SHOWERHEADS.—(1) For a showerhead manufactured on or after July 1, 1992, the standard shall be one that ensures the maintenance of public health and safety, allowing a maximum rate of water use of—

"(A) 2.5 gallons per minute, when measured at a flowing water pressure of 80 pounds per square inch; or

"(B) if before March 1, 1992, the American National Standards Institute (ANSI) publishes an amended standard for showerheads prescribing a maximum rate of water use that is less than the rate prescribed by the ANSI standard in effect on the date of enactment of the National Energy Security Act of 1992, the rate prescribed in the amended standard becomes effective.

"(2)(A) If, after July 1, 1992, ANSI publishes an amended standard different from that in effect pursuant to paragraph (1), the Secretary, not later than 180 days after publication of the amended standard, shall publish a notice of the amended standard, and, subject to subparagraph (B), the amended standard shall be in effect for showerheads manufactured on or after the date that is 90 days after the date of the notice.

"(B) The Secretary may not prescribe an amended standard that increases the maximum rate of water use of showerheads over the rate allowed by the standard established under paragraph (1), unless the Secretary determines that it is in the interest of public health and safety.

(g) EFFECT ON OTHER LAW.—Section 327 of EPCA (Public Law 94-163), is amended—

(1) in subsection (c)—

(A) by striking "or energy use of such covered product" and inserting "energy use or total water use of the covered product";

(B) by striking "or" at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting "; or"; and

(D) by adding at the end thereof the following new paragraph:

"(4) is a State, regional, or local regulation that establishes flow rate requirements for showerheads that was prescribed or enacted before June 15, 1991."; and

(2) by adding at the end thereof the following new subsection:

"(h) LABELING OF SHOWERHEADS.—No State, regional, or local regulation concerning the labeling of showerheads shall be effective on or after the date that the Commission prescribes a label for showerheads pursuant to section 324(a)(2)(C).".

SEC. 6112. VIBRATION TECHNOLOGY STUDY.—(a) The Secretary of Energy shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand-side management; and

(2) evaluate the cost effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) The Secretary shall transmit to the Congress, within 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this subsection.

(d) The Secretary may, based on the findings and conclusions of such study, carry out at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

SEC. 6113. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL AND INDUSTRIAL ELECTRIC MOTORS.—

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (2)(A)(iii), by striking out "as defined in section 321(a)(2)" and inserting in lieu thereof "to which standards are applicable under section 325";

(2) in paragraph (3) by striking "the" and inserting "The" in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(8)(A) Except as provided in subparagraph (B), the term 'electric motor' means any motor which is a general-purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association (NEMA), Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.

"(B) The term 'electric motor' does not include any motor excluded by the Secretary, by rule, as a result of a determination that standards for such motor would not result in significant energy savings or that efficiency standards for such motor would not be technically feasible or economically justified.

"(C) The term 'definite-purpose motor' means any motor designed in standard ratings with standard operating characteristics or mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(D) The term 'special-purpose motor' means any motor with special operating characteristics or special mechanical construction, or both, designed for a particular application and not falling within the definition of a general-purpose or definite-purpose motor.

"(E) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the motor.

"(F) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed air-tight.

"(G) The term 'small electric motor' means a NEMA general-purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

"(H) The term 'efficiency' means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(I) The term 'nominal efficiency' means the average efficiency of a large population of motors of duplicate design as determined in accordance with National Electrical Manufacturers Association Standards Publication MG1-1987.

"(9) The term 'NEMA' means the National Electrical Manufacturers Association.

"(10) The term 'IEEE' means Institute of Electrical and Electronics Engineers.

"(11) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—Section 343 of such Act (42 U.S.C. 6314) is amended—

(1) by striking paragraph (a)(1) and inserting in lieu thereof the following:

"(a)(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section.";

(2) by adding at the end of subsection (a), the following new paragraph:

"(4) With respect to electric motors that are manufactured after the end of the 24-month period beginning on the date of the enactment of this paragraph and to which standards are applicable under section 342, the Secretary shall prescribe test procedures that take into consideration NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency."; and

(3) redesignate the first subsection 343(d) as 343(c).

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (e), (f), (g), (h), (i) and (j) respectively, and by inserting a new subsection (d) as follows:

"(d) In the case of electric motors, within 12 months after the Secretary establishes test procedures (as required in section 343(a)), manufacturers and importers of covered motors shall establish efficiency ratings for each type of motor in accordance with the applicable test procedures, and—

"(1) include the efficiency rating of the equipment on the permanent nameplate attached to each piece of equipment.

"(2) prominently display the efficiency rating of the equipment in equipment catalogs and other materials used to market the equipment.

"(3) such other markings that the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established in section 342(a).

In developing these labeling requirements for electric motors, the Secretary shall take into consideration NEMA Standards Publication MG1-1987.".

(d) STANDARDS.—Section 342 of such Act (42 U.S.C. 6313) is amended to read as follows:

"STANDARDS

"SEC. 342. (a) ELECTRIC MOTORS.—(1) Except for definite-purpose motors, special-purpose motors, and those motors exempted by the Secretary under the provisions of paragraph (2) of this section, any general-purpose electric motor manufactured or imported (alone or as part of another piece of equipment) after the 60-month period beginning on the date of enactment of the Energy Efficiency Standards Act of 1992, or 84-month period in the case of general-purpose motors which require listing or certification by a nationally recognized safety testing laboratory, shall have a nominal full-load efficiency of not less than the following:

"Nominal full-Load Efficiency

"Number of poles	Open Motors			Enclosed Motors		
	6	4	2	6	4	2
Motor h.p.						
1	80.0	82.5		80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	85.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary, may be rulemaking, exempt certain types or classes of motors from the standards specified in paragraph (b) of this section if the following apply—

"(i) efficiency standards for such motors would not result in significant energy savings because such motors either cannot be used in most general-purpose applications or are very unlikely to be used in most general-purpose applications; and

"(ii) efficiency standards for such motors would not be technically feasible or economically justified;

"(B) Within one year of the passage of this Act, motor manufacturers and importers shall petition the Secretary to request exemptions for motors that meet the criteria specified in paragraph (2)(A) of this section. Each request shall provide evidence that the motor meets the criteria for exemption.

"(C) Within two years of the passage of this Act, the Secretary shall rule on each request for exemption. In reaching his decision, the Secretary shall afford an opportunity for public comment.

"(D) For new motors developed after the date of enactment of this Act, manufacturers may petition the Secretary for exemptions from the standards established under this Act based on the criteria specified in paragraph (2)(A) of this section.

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is 5 years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is 5 years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT AND PREEMPTION.—Section 345 of such Act (42 U.S.C. 6316) is amended by—

(1) striking the designation "(a)";

(2) in the material preceding paragraph (1), by striking "sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (q) of section 325, and section 327";

(3) in paragraph (1) by—

(i) striking the words "and 324" and inserting in lieu thereof ", 324, and 325";

(ii) striking the words "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(4) in paragraph (3), by striking the word "and" at the end thereof;

(5) in paragraph (4), by striking the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (4) the following new paragraphs (5) through (8):

"(5) As of the date of enactment of the National Energy Security Act of 1992, no State or its subdivisions may enact, prescribe, or revise efficiency standards for any equipment for which efficiency standards are established under this Act.

"(6) As of the date of enactment of the National Energy Security Act, no State or its subdivisions may enact, prescribe, or revise labeling requirements for any equipment for which labeling requirements are established under this Act.

"(7) Notwithstanding paragraphs (5) and (6) of this section, States and their subdivisions may adopt efficiency requirements for new construction provided that such requirements are identical to standards established under this Act.

"(8) With respect to electric motors, the Secretary shall establish a technical performance audit program to ensure compliance with the prescribed testing and labeling standards."; and

(7) by striking out the title and inserting in lieu thereof "Administration, Penalties, Enforcement, and Preemption".

(f) AUTHORIZATION FOR APPROPRIATIONS.—Section 346 is amended by striking the existing text and inserting in lieu thereof the following: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this part.".

SEC. 6114. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.—Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.—

"(a) IN GENERAL.—(1)(A) The Secretary shall—

"(i) within 24 months after the date of the enactment of this Act, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technically feasible and economically justified, and would result in significant energy savings;

"(ii) within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under clause (i). Standards shall not apply to any small electric motor which is a component part of a product or equipment subject to the energy efficiency standards under this title; and

"(iii) any standard prescribed under (ii) of this Act shall apply to small electric motors manufactured, assembled or imported, 60 months after the date the final rule is published, or 84 months in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory.

"(B) For purposes of subparagraph (A):

"(i) the term 'energy conservation standard' means—

"(aa) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(bb) a design requirement for a product; and

"(ii) the term 'small electric motor' is a defined under section 340(8) of the Energy Policy and Conservation Act (42 U.S.C. 6311), as amended.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(l) of the Energy Policy and Conservation Act.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards for small electric motors are prescribed by the Secretary pursuant to paragraph (1)(A)(ii), prescribe labeling requirements for such electric motors.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer of the product shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (b)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies; and

"(B) it shall be unlawful for any manufacturer, importer or private labeler to distribute in commerce any new small electric motors for which an energy conservation standard is prescribed under subsection (a)(1)(A)(ii) which is not in conformity with the applicable labeling requirement and energy conservation standard.

"(2) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

SEC. 6115. ENERGY CONSERVATION STANDARDS FOR CERTAIN LAMPS.—(a) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1)(A) by striking the designation subsection "(a)"; and

(B) in the material following subparagraph (B), by striking out "ballasts distributed in commerce for personal or commercial use or consumption" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, and incandescent reflector lamps distributed in commerce for personal or commercial use.";

(2) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight shaped rapid start lamp (commonly referred to as four foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as two foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as eight foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1-1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as eight foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3-1978 (R1984) and related supplement ANSI C78.3a-1985.

"(B) the term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but excluding any lamp described in subsection (E) and any lamp designed and marketed for non-general lighting applications as follows—

"(i) fluorescent lamps designed to promote plant growth;

"(ii) fluorescent lamps specifically designed for cold-temperature installations;

"(iii) colored fluorescent lamps;

"(iv) impact-resistant fluorescent lamps;

"(v) reflectorized or aperture lamps;

"(vi) fluorescent lamps designed for use in reprographic equipment;

"(vii) lamps primarily designed to produce radiation in the ultra-violet region of the spectrum, and

"(viii) lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which a light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as reflector lamp), which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding 'ER' or 'BR') with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts; and

"(iii) any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) the term 'general service incandescent lamp' means incandescent lamps (other than miniature or photographic lamps) which can be used to satisfy the majority of lighting applications, but excluding any lamp described in subparagraph (E) and any lamp specifically designed for—

"(i) traffic signal or street light service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The term 'lamp' does not include any lamp manufactured or assembled in the United States for export and use outside the United States, or any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'average lamp efficacy' means the lamp efficacy readings taken over a twelve-month period of manufacture with the readings averaged over that period.

"(G) The term 'base' means the portion of the lamp which connects with the socket described in ANSI C81.61-1990.

"(H) The term 'bulb shape' means the shape of the lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1-1980(R1984).

"(I) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(J) The term 'correlated color temperature' means the absolute temperature of a black body whose chromaticity most nearly resembles that of the light source.

"(K) The term 'IES' means the Illuminating Engineering Society of North America.

"(L) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(M) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(N) The term 'lamp wattage' means the total electrical power consumed by the lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(O) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures as described in the IES Lighting Handbook—Reference Volume.

"(P) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(Q) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(R) The term 'manufacturer' means anyone who makes, assembles or imports any covered product.

"(S) The term 'medium base compact fluorescent' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for general service incandescent lamps.

"(T) The term 'transition period' means the period of time between the enactment of the National Energy Security Act of 1992 and the date on which the standard shall take effect.".

(b) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) General service fluorescent lamps and incandescent reflector lamps.".

(c) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended by adding the following new paragraph at the end of subsection (b):

"(6) With respect to fluorescent lamps and incandescent lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be implemented by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.".

(d) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Such rules shall provide that the labeling of any general service fluorescent lamps, medium base compact fluorescent lamps and general service incandescent lamp manufactured, assembled or imported after the 18-month period beginning on the date of the publication of such labeling rule will include conspicuously on the packaging of the lamp in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary for the consumers to select the most energy efficient lamps to meet their requirements. Labeling information for incandescent lamps will be based upon performance when operated at 120 volts input, regardless of the rated lamp voltage.".

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(15)";

(3) in paragraphs (1)(B), (3), and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(15)"; and

(4) in subsection (c)(7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13) and (14) of section 322(a)".

(e) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating clauses (i) through (q) as clauses (k) through (s); and

(2) by inserting after clause (h) the following:

"(i) GENERAL SERVICE FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS.—(1) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured, assembled or imported after the transition period for each category of lamps beginning on the date of the enactment of this subsection shall meet or exceed the following lamp efficacy and CRI standards. Beginning twelve months after the expiration of the transition period for each of the listed categories of lamps, no lamp in such category may be sold which does not meet or exceed the following lamp efficacy and color rendition index standards:

"FLUORESCENT LAMPS

"Lamp Type	Nominal Lamp Wattage	Minimum Average CRI	Minimum Average Lamp Efficacy (LPW)	Transition Period (months)
4 foot	>35W	69	75.0	36
Medium bi-pin	≤35W	45	75.0	36
2 foot	>35W	69	68.0	36
"U" shaped	≤35W	45	64.0	36
8 foot	65W	69	80.0	18
Slimline	≤65W	45	80.0	18
8 foot	>100W	69	80.0	18
High Output	≤100W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Transition Period (months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(2) Not less than 36 months after the date of enactment of the National Energy Security Act of 1992, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than 54 months after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(3) Not less than eight years after the date of enactment of the National Energy Security Act of 1992, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than nine and one-half years after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Twenty-four months after any labeling required by subsection (d) shall have taken effect, the Secretary shall initiate a rulemaking to determine if additional fluorescent and incandescent lamps should be subject to standards, and to publish, within 18 months of initiating such a rulemaking, a final rule including such standards, if warranted.

"(5) Any amendment prescribed under paragraph (4) shall apply only to products manufactured, assembled or imported after a date which is 36 months after the date the final rule is published.

"(6) In establishing or modifying any standard under this subsection, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1992.

"(7) With regard to any lamp covered by this subsection or section 6113 of the National Energy Security Act of 1992, it shall be the responsibility of the Secretary to inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of any covered product of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"Any other provision of Federal law or regulation to the contrary notwithstanding, the Secretary shall not be prohibited from modifying any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any covered product if such action is warranted as the result of other Federal action, such as but not limited to restrictions on materials or processes, which would have the effect of either increasing energy use or decreasing energy efficiency.

"(8) Concurrent with the effective date of lamp standards established pursuant to this subsection or section 6113 of the National Energy Security Act of 1992, a manufacturer shall file with the Secretary the report of the laboratory certifying compliance with the standard for each lamp. Such report shall include the lumen output and wattage consumption as an average of measurements taken over the preceding 12 month period.".

SEC. 6116. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—

"(a) IN GENERAL.—(1)(A) The Secretary of Energy shall—

"(i) within 18 months after the date of the enactment of this Act, prescribe testing requirements for those high-intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would result in significant energy savings; and

"(ii) within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those high-intensity discharge lamps for which the Secretary prescribed testing requirements under clause (i); and

"(iii) any standard prescribed under clause (ii) shall apply to products manufactured, assembled or imported 36 months after the date on which the final rule is published.

"(B) For purposes of subparagraph (A), the term 'energy conservation standard' means—

"(i) a performance standard that prescribed a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(ii) a design requirement for a product.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1992.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards are prescribed by the Secretary of Energy pursuant to paragraph (1)(A)(ii) for high-intensity discharge lamps, prescribe labeling requirements for such lamps.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer or importer of the product shall begin to label newly manufactured products with a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), each such product shall be considered, for purposes of paragraphs (1) and (2) of section 322(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies.

"(2) Twelve months after the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new high intensity discharge lamps which is not in conformity with the applicable labeling requirement and energy conservation standard prescribed under subsection (a)(1)(A)(ii).

"(3) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

SEC. 6117. REPORT ON THE POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT.—(1) Within 12 months after the date of enactment of this Act, the Secretary of Energy shall, in consultation with utilities and appliance manufacturers, prepare, and submit to Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

(2) Such report shall identify candidate high-efficiency appliances which meet the following criteria:

(A) that the potential exists for substantial improvement in the appliance's energy efficiency, beyond the minimum established in Federal and State law;

(B) that there is the potential for significant energy savings at the national or regional level;

(C) that such appliances are likely to be cost-effective for consumers;

(D) that electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances; and

(E) that manufacturers are unlikely to undertake development and commercialization of such appliances on their own, or development and production would be substantially accelerated by support to manufacturers.

(3) The plan shall also—

(A) describe the general actions the Secretary of Energy could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

(B) describe specific proposals for Department of Energy assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

(C) identify methods by which Federal purchase of highly efficient appliances could assist in the development and commercialization of such appliances; and

(D) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.

SUBTITLE B—FEDERAL ENERGY MANAGEMENT

SEC. 6201. DEFINITIONS.—For purposes of this subtitle—

(1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, any agency of the judicial branch of Government;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of the fundamentals of building energy systems; building energy codes and applicable professional standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(4) the term "Task Force" means the Interagency Energy Management Task force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 6202. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.—(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Office of Management and Budget, in cooperation with the Secretary, the General Services Administration, and the Department of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reporting quarterly and annual energy consumption and energy cost figures as required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, Congress and the general public.

(b) CONTENTS OF GUIDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.—Not later than December 31, 1992, and on each December 31 thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

(d) POSTAL SERVICE.—The United States Postal Service shall adopt regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates or manages. The regulations shall include establishing a monitoring system to determine which facilities are the most costly to operate; identify unusual or abnormal changes in energy consumption; and check the accuracy of utility charges for electricity and gas consumption.

SEC. 6203. FEDERAL ENERGY COST BUDGETING.—The President shall include in each budget submitted to the Congress under section 1105 of title 31, United States Code, a separate statement of the amount of appropriations requested, on an agency basis, for—

(1) energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), the Energy Policy and Conservation Act, and applicable Executive orders, including Executive Orders No. 12003 and No. 12579.

SEC. 6204. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.—(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.) as amended, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100-504) shall—

(1) identify agency compliance activities to meet the requirements of such section and any other matters relevant to implementing the goals of the National Energy Conservation Policy Act; and

(2) assess the accuracy and reliability of energy consumption and energy cost figures required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) PRESIDENTS COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives, on the review conducted by each Inspector General of each agency carried out under this section.

(c) INSPECTOR GENERAL REVIEW.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

SEC. 6205. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.—(a) CONFERENCE WORKSHOPS.—The General Services Administration, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The General Services Administration shall work and consult with other Federal agencies to plan for particular regional conferences. The General Services Administration shall invite State, local, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such State, local and county officials in the planning and organization of such workshops.

(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following, but may include other topics:

(1) developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region;

(2) the design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques;

(3) procurement and use of energy efficient products;

(4) alternative fuel vehicle procurement, placement, and usage;

(5) coordinated development with the private sector for the servicing, refueling, and maintenance of alternative fuel vehicles;

(6) dissemination of information on innovative programs, technologies, and methods which have proven successful in government; and

(7) technical assistance to design and incorporate effective energy management strategies.

(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—As a part of the first report to be submitted pursuant to section 6214 of this Act, the Administrator shall set forth the schedule for the Regional Energy Management Workshops. Not less than five workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purpose of this section.

SEC. 6206. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.—(a) PROCUREMENT.—The General Services Administration, in consultation with the Department of Defense and the Defense Logistics Agency, shall undertake a program to include energy efficient products on the Federal Supply Schedule and the New Item Introductory Schedule.

(b) IDENTIFICATION PROGRAM.—The General Services Administration, in consultation with the Department of Energy and the Defense Logistics Agency, shall implement a program to identify and designate on its respective Supply Schedules those energy efficient products which offer significant potential savings, as calculated using the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), unless such life cycle cost information is not readily available.

(c) GUIDELINES.—The Office of Federal Procurement Policy, in consultation with the General Services Administration, the Department of Energy, and the Department of Defense, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Department of Defense and the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) UNITED STATES POSTAL SERVICE GUIDANCE.—The USPS shall undertake a program to identify and procure energy efficient products for use in its facilities. The USPS shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by GSA and DLA to carry out the purpose of this section.

(e) REPORT TO CONGRESS.—As a part of the report to be submitted pursuant to section 6214 of this Act, the Administrator of General Services, in consultation with the Defense Logistics Agency and the Department of Energy, shall report on the progress, status, activities, and results of the programs under subsections (b) and (c) of this section. The report shall include, but not be limited to—

(1) the number, types, and functions of each new product under subsection (a) added to the Federal Supply Schedule and the New Item Introductory Schedule during the previous fiscal year, and the name of the product manufacturer;

(2) the number, types, and functions of each product identified under subsection (b), and efforts undertaken by the General Services Administration and the Defense Logistics Agency to encourage the acquisition and use of such products;

(3) the actions taken by the General Services Administration and the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(4) whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been added to the Federal Supply Schedule or New Item Introductory Schedule;

(5) an estimate of the potential cost savings to agencies and the Federal Government, taking into account the quantity of energy efficient products which could be utilized throughout the Government, that would be realized through implementation or installation of products identified in this section; and

(6) the actual quantity of such products acquired and an estimate of the energy savings achieved by the use of such products.

SEC. 6207. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.—Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end thereof the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D). Amounts deposited in the Federal Buildings Fund under this subparagraph shall be used to implement energy efficiency programs.

"(B) The Administrator may accept such goods or services, consistent with approved Federal energy management objectives, provided in lieu of any rebates or other cash incentives for energy savings under subparagraph (A).

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care, fitness, or other employee benefit programs.".

SEC. 6208. FEDERAL ENERGY MANAGEMENT TRAINING.—(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under section 6201(3). Such programs shall be managed—

(A) by the agency representative on the Task Force; or

(B) if an agency is not represented on the Task Force, by the designee of the head of the agency.

(2) Agencies shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study covering the areas described under section 6201(3) including, but not limited to courses offered by:

(A) a private or public educational institution;

(B) a Federal agency; or

(C) a professional association.

(b) AGENCY REPORT.—(1) Each agency listed in section 6208(a) shall, no later than 60 days following the enactment of this Act, report to the Task Force the following information:

(A) those individuals employed by the agency on the date of the passage of this Act who qualify as trained energy managers as defined under section 6201(3);

(B) the General Schedule (GS) or grade level at which each of these individuals are employed; and

(C) the facility or facilities for which these employees are responsible or otherwise stationed.

The Task Force shall provide a summary of these agency reports to the Committee on Governmental Affairs of the United States Senate and the Committee on Energy and Natural Resources of the United States Senate.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1)(A) Not later than September 30, 1992, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies described under subsection (a)(1) shall ensure that, no later than September 30, 1992, no fewer than two trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under subsection (c)(1)(B) shall not include those employees listed in the report in section 6208(b).

(2)(A) Not later than September 30, 1993, the departments and agencies described under subsection (a)(1) shall further upgrade their energy management capabilities by ensuring that no fewer than five trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under subsection (c)(2)(A) shall not include those employees listed in the report in section 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in subsections (c)(1)(B) and (c)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(d) DEPARTMENT OF DEFENSE REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the Department of Defense shall upgrade its energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the Department.

(B) The Department shall insure that, no later than September 30, 1992, no fewer than twenty trained energy managers are employed by the Department.

(C) Federal employees designated for energy training and counted under subsection (d)(1)(B) shall not include those employees listed in the report in section 6208(b).

(2)(A) Not later than September 30, 1993, the Department shall further upgrade its energy management capabilities by ensuring that no fewer than forty trained energy managers are employed by the Department.

(B) Federal employees designated for energy training and counted under subsection (2)(A) shall not include those employees listed in the report in section 6208(b).

(3) The Department may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goal established in subsections (d)(1)(B) and (d)(2)(A). Trained energy managers shall focus their efforts on improving energy efficiency in the following facilities:

(i) Department facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the Secretary of Defense as having significant energy savings potential.

(e) SPECIFIED AGENCY REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the General Services Administration, the Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies identified in subsection (e)(1)(A) shall insure that, no later than September 30, 1992, no fewer than ten trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under subsection (e)(1)(B) shall not include those employees listed in the report section 6208(b).

(2)(A) Not later than September 30, 1993, the General Services Administration, Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall further upgrade their energy management capabilities by ensuring that no fewer than twenty trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under subsection (e)(2)(A) shall not include those employees listed in the report in section 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in subsections (e)(1)(B) and (e)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(f) REPORTS OF AGENCIES.—Each agency shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each agency's report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 6209. FEDERAL FACILITY ENERGY MANAGER RECOGNITION AND INCENTIVES AWARD PROGRAM.—(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Office of Personnel Management and the Task Force, establish a financial award program to reward outstanding facility energy managers in Federal agencies, including the United States Postal Service, and other individuals making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

(b) SELECTION CRITERIA.—Not later than June 1, 1992, the Secretary shall issue procedures for implementing the conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors. Such criteria shall include—

(1) improved energy performance through increased energy efficiency;

(2) implementation of proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(3) effective training programs for facility energy managers, operators, and maintenance personnel;

(4) employee awareness programs;

(5) success in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(6) successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253); and

(7) success in the implementation of the guidelines under section 6202 of this Act.

(c) AWARD LIMIT.—No single award shall be greater than $2,500.

(d) REPORT.—Each year the Secretary shall publish and disseminate to Federal agencies, and to Congress as a part of the report required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258) a report to highlight and recognize the achievements of bonus award winners.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $250,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purposes of this section.

SEC. 6210. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.—Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note; Public Law 100-615) is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and inserting in lieu thereof "in consultation with the Task Force,";

(B) in paragraph (1) by striking out "and" after the semicolon;

(C) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)—

(A) in paragraph (1) by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, and the House of Representatives, within 180 days after the date of the enactment of the National Energy Security Act of 1992,"; and

(B) by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, a representative sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing;

"(B) Storage;

"(C) Office;

"(D) Services;

"(E) Schools;

"(F) Research and Development;

"(G) Industrial;

"(H) Prisons; and

"(I) Hospitals.";

(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, the Committee on Energy and Commerce of the House of Representatives, the Committee on Government Operations of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000 established under Executive Order No. 12759.".

SEC. 6211. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.—(a) IN GENERAL.—The USPS shall conduct an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the USPS in different areas of the country;

(2) making recommendations to the Postmaster General for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar USPS buildings; and

(3) determining barriers which may prevent USPS compliance with energy reduction goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Post Office and Civil Service Committee, within 180 days of enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of Postal facilities of the types and in the climates that consume the major portion of the energy consumed by the Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the Postal facility or the remaining term of a lease of a building leased by the Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the project to the Senate Committee on Governmental Affairs, the

Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on Post Office and Civil Service.

SEC. 6212. FEDERAL BUILDING ENERGY CONSUMPTION TARGETS.—Not later than two years after the date of the enactment of this Act, the Secretary shall consider, in consultation with the Administrator of General Services and the Task Force, establishing energy consumption targets for January 1, 2000, for each Federal agency to reduce energy consumption per square foot in Federal buildings based upon the information provided in the report under section 6210 of this Act. The United States Postal Service shall independently consider establishing its own energy consumption targets for January 1, 2000 based upon the information provided in the report under section 6211.

SEC. 6213. UTILITY INCENTIVE PROGRAMS.—(a) IN GENERAL.—Federal agencies are authorized and encouraged to participate in programs for energy conservation or the management of electricity demand conducted by gas or electric utilities and generally available to customers of such utilities.

(b) ACCEPTANCE OF FINANCIAL INCENTIVES.—Federal agencies may accept any financial incentive, generally available from any such utility, to adopt energy efficiency technologies and practices that the Secretary determines are cost effective for the Federal Government.

(c) NEGOTIATIONS.—Each Federal agency is encouraged to enter into negotiations with electric and gas utilities to design special demand management and conservation incentive programs to address the unique needs of facilities used by such agency.

(d) USE OF CERTAIN FUNDS.—(1) Fifty percent of funds from utility energy efficiency rebates shall, subject to appropriation, remain available for expenditure by the agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(2)(A) Agencies shall maintain strict financial accounting and controls for savings realized and all expenditures made under this section.

(B) Records maintained under subparagraph (A) shall be made available for public inspection upon request.

SEC. 6214. REPORT BY GENERAL SERVICES ADMINISTRATION.—Not later than six months after the date of enactment of this Act, and on each December 31, at least six months thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle. Such reports shall include, but not be limited to, the information requested under sections 6205(c) and 6206(d).

SEC. 6215. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.—Not later than one year after the date of the enactment of this Act, and on each January 1 thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Post Office and Civil Service of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate on the Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to, the following:

(1) actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) energy costs incurred in operating and maintaining all postal facilities; and

(5) the status of the energy efficient procurement program established under section 6206(d).

SEC. 6216. AMENDMENTS TO PART 3, TITLE V OF NECPA.—Part 3 of title V of the National Energy Conservation Policy Act (NECPA) (Public Law 95-619), as amended, is further amended as follows:

(a) In section 543, (1) strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. Federal agencies may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of technical assistance in complying with the requirements of this section. Within two years after the date of enactment of the National Energy Security Act of 1991, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, or the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following: "The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Security Act of 1992, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)":

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544, and".

(b) In section 544—

(1) strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof: "agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government leased space constructed after January 1, 1994, shall meet model Federal energy conservation performance standards for new commercial buildings promulgated pursuant to section 304 of the Energy Conservation and Production Act (Public Law 94-385).".

(c) In section 545 add after the word "measures" the following: "as needed to meet the requirements of section 543.".

(d) In section 548—

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following: "In addition to the plan required to be submitted to the Secretary pursuant to section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

(e) Renumber section 549 as section 551 and insert the following two new sections:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1993, the Secretary, in cooperation with the Administrator of the General Services Administration, shall establish a demonstration program to install, in Federally owned facilities, energy efficiency technologies which the Secretary has determined are ready for commercial demonstration and which were developed by entities that have received or are receiving Federal financial assistance for energy conservation research and development.

"(b) EVALUATION.—The Secretary and the Administrator shall evaluate the commercial viability of each type of energy efficiency technology so installed, including its technical feasibility, operational feasibility, and economic effectiveness. Installations of each technology shall include a sufficient number of applications to produce statistically reliable evaluation results based on the technologies' application in various climates and building situations.

"(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section no more than $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

"SEC. 550. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.

"(a) IN GENERAL.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, the Secretary shall establish guidelines for the transfer or loan of up to $1,000,000 per project to encourage any Federal agency to undertake energy efficiency projects in Federally owned facilities.

"(b) PROJECT SELECTION.—The Secretary shall establish procedures for the receipt of proposals under this section. The Secretary shall consider the following factors in determining whether to provide funding under subsection (a):

"(1) the cost-effectiveness of the project;

"(2) the proportion of energy and cost savings anticipated to the Federal Government;

"(3) the amount of funding committed to the project by the agency requesting financial assistance;

"(4) the extent that a proposal leverages financing from other non-Federal sources; and

"(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(c) REPORTS.—The Secretary shall report annually to Congress, in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include the projects funded and the projected energy and cost savings from installed measures.

"(d) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated, and to remain available until expended, not more than $200,000,000.".

(f) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act is amended to read as follows:

"Sec. 549. Demonstration of New Technology.

"Sec. 550. Federal Energy Efficiency Projects Funding.

"Sec. 551. Definitions.".

SEC. 6217. CONGRESSIONAL OFFICE BUILDING ENERGY IMPROVEMENT ASSESSMENT.—The Architect of the Capitol shall undertake a study to determine the feasibility and costs associated with compliance with part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq), and Executive Orders No. 12003 and No. 12579 for all facilities under the Architect's jurisdiction, taking into account particular needs with respect to the security and physical operation of the legislative branch of the Government. The Architect shall report the results of such study to the appropriate committees of Congress.

SEC. 6218. STUDY OF FEDERAL PURCHASING POWER.—(a) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency.

(b) REPORT.—The Secretary shall report to Congress on the results of the study within two years of the date of the enactment of this Act.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 6219. ENERGY MANAGEMENT GOALS FOR THE UNITED STATES POSTAL SERVICE.—(a) ENERGY PERFORMANCE GOAL FOR POSTAL FACILITIES.—(1) Not later than January 1, 2000, the United States Postal Service shall, to the maximum extent practicable, install in all facilities under its control, energy conservation measures with payback periods of less than ten years as calculated using methods and procedures developed pursuant to section 544 of the National Energy Conservation Policy Act. Within two years after the date of enactment of the National Energy Security Act of 1992, the USPS shall submit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on the Post Office and Civil Service a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

(2) The USPS may exclude from the requirements of paragraph (1) any facility or collection of facilities, and the associated energy consumption and gross square footage, if the Postmaster General finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The USPS shall identify and list in the report made under section 6215 the facilities designated by it for such exclusion. This section shall not apply to the USPS facilities that generate or transmit electric energy.

(b) IMPLEMENTATION STEPS—To achieve the goal established in subsection (a), the USPS shall—

(1) prepare or update, within 1 year after the date of the enactment of this Act, a plan describing how the USPS intends to meet such goal. The plan may be submitted as part of the report under section 6215. The plan shall include how the USPS will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

(2) perform energy surveys of USPS facilities and update such surveys periodically, but not less than every three years;

(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;

(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

SEC. 6220. ENERGY PERFORMANCE CONTRACTS.—

(a) Title VIII of the National Energy Conservation Policy Act (Public Law 99-412) is amended by striking "TITLE VIII—SHARED ENERGY SAVINGS" and inserting in lieu thereof "TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(b) Section 801 of such Act (42 U.S.C. 8287) is amended by striking the word "may" the first place it appears and inserting "shall, to the extent practicable," in lieu thereof; and by redesignating such section as subsection 801(a)(1) and adding the following new text:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by the government may not exceed the guaranteed energy savings during each contract year.

"(C) Federal agencies may incur obligations to finance a project provided guaranteed savings exceed the debt service requirements.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, in consultation with the Secretary of Defense, the Administrator of the General Services Administration, and the Administrator of NASA, within 90 days after the date of the enactment of the National Energy Security Act of 1992, shall develop appropriate procedures and methods for use by Federal agencies to select energy savings service contractors that will achieve the intent of this section in a cost-effective manner. The procedures and methods used for the calculation of energy savings shall be based on sound engineering practices, consideration of relevant variables such as application utility rate schedules, and fuel and utility billing cycles.

"(B) Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection by each Federal agency of a contractor to provide energy savings services.

"(C) The process developed pursuant to this section may constitute adequate price competition, no cost justification shall be required, and waiver of the cost pricing and cost accounting standards shall be permitted.

"(2) In carrying out paragraph (1), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing energy saving services;

"(B) designate from the statements received, with an update at least annually, those firms that are qualified to provide energy savings services;

"(C) select at least three firms from the list of qualified contractors to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project; and

"(D) select from such firms the most qualified firm to provide energy savings services pursuant to such energy savings contractual arrangement that the Secretary determines is fair and reasonable, taking into account—

"(i) the qualifications, prior experience and capabilities of a contractor to perform the proposed type of energy savings services; and

"(ii) the estimated value of the energy savings services to be rendered and the scope and nature of the project.

"(3) In carrying out paragraph (1), the Secretary also may provide for direct negotiations by Federal agencies for energy savings services with contractors that have been selected competitively and approved by any gas or electric utility serving the agency involved.

"(c) DEFINITION.—For the purpose of this title, the terms 'energy savings contract' or 'energy savings performance contract' means 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 savings measure. Such contracts may provide for appropriate software licensing agreements.

"(d) SUNSET AND REPORTING REQUIREMENTS.—

"(A) The authority to enter into new contracts under this provision shall cease to be effective three years from the date of enactment of this Act.

"(B) Beginning six months after the date of enactment of this Act, and every six months thereafter, for a period of three years from enactment of this Act, the General Accounting Office shall report on the implementation of this section. These reports shall include, but not be limited to, an assessment of the following issues:

"(i) the quality of the energy audits conducted for the Agencies;

"(ii) the government's ability to maximize energy savings;

"(iii) the total energy cost savings accrued by the agencies that have entered into such contracts;

"(iv) the total costs associated with entering into such contracts and having them performed;

"(v) a comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector;

"(vi) the number of firms selected as qualified firms under this section and their respective shares of awarded contracts;

"(vii) the number of firms engaged in similar activity in the private sector and their respective market shares;

"(viii) the number of applicant firms not selected as qualified firms under this section and the reason for their nonselection;

"(ix) the frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(C) Three years from enactment of this Act, the General Accounting Office shall provide a summary report on the efficacy of this section. In addition, the General Accounting Office shall provide recommendations for statutory or regulatory changes that may be necessary. In making such recommendations, the General Accounting Office shall consider whether the contracting procedures utilized under this section by agencies have been effective and whether continued use of those procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.".

SEC. 6221. ENERGY EFFICIENT PRODUCTS.—Whenever the Federal Government establishes a new requirement or initiates a new procurement for the acquisition of electric lamps, electric ballasts, electric motors and/or refrigeration equipment, the Federal Government shall, where cost effective, give preference to the procurement of the most energy efficient products available to meet its needs. The General Services Administration shall keep a record of the quantity, country of manufacture, and cost of items purchased under this section. The Secretary of Energy shall estimate the quantity and cost of energy saved annually due to this section.

SEC. 6222. ENERGY ANALYSIS AND DIAGNOSTIC CENTERS PROGRAM.—(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Energy an Energy Analysis and Diagnostic Centers program designed to assist qualifying commercial and industrial facilities to conserve energy and reduce operating costs by applying efficient technologies to their operations and buildings and to provide opportunities for students to gain experience in the field of energy management.

(b) QUALIFYING COMMERCIAL AND INDUSTRIAL FACILITIES.—For purposes of this section, qualifying commercial and industrial facilities are those facilities that meet at least three of the following four criteria:

(1) 500 or fewer employees;

(2) gross sales of not more than $75,000,000 per year;

(3) total energy costs of not more than $1,750,000 per year;

(4) an absence of in-house energy expertise.

(c) ADMINISTRATION.—(1) Not later than six months after the date of enactment of this section, the Secretary shall seek to enter into a management agreement with an appropriate institution to administer the program.

(2) For purposes of this section, an appropriate institution is a nonprofit institution with demonstrable expertise in engineering, physical science, communications, business, and such other disciplines as appropriate and with expertise in industrial manufacturing including new process and product research and development.

(d) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Within 9 months after the date of enactment of this section, the administering institution shall, under the direction of the Secretary and through a competitive bidding process, select not less than twenty five sites to be designated Energy Analysis and Diagnostic Centers. The sites shall be educational institutions such as universities, engineering and technical schools, and other institutions of higher learning with demonstrable capability to—

(A) perform energy audits for qualifying industrial facilities designed to assist such facilities to reduce their energy consumption and improve the efficiency of their energy usage;

(B) provide detailed reports to the qualifying industrial facility identifying energy conservation and efficiency opportunities; and

(C) provide such other service as the Secretary deems appropriate.

(e) DISSEMINATION OF INFORMATION.—Not less than every twelve months, the administering institutions shall synthesize from the reports of the Energy Analysis and Diagnostic Centers and make publicly available information concerning significant energy conservation opportunities: *Provided, however*, That all proprietary information shall be kept confidential.

SEC. 6223. ENERGY AUDIT TEAMS.—(a) ESTABLISHMENT.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities. Particular attention shall be given to exploiting expertise and resources that are not generally available in the private sector.

(b) MONITORING PROGRAMS.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 6224. GOVERNMENT CONTRACT INCENTIVES.—(a) ESTABLISHMENT OF CRITERIA.—Each agency, in consultation with the Federal Acquisition Regulations Council, shall establish criteria for the improvement of energy efficiency in Federal facilities operated by Federal Government contractors or subcontractors.

(b) UTILIZATION OF CRITERIA.—To encourage Federal contractors, and their subcontractors, which manage and operate federally-owned facilities, to adopt and utilize energy conservation measures designed to reduce energy costs in Government-owned and contractor-operated facilities and which are ultimately borne by the Federal Government. Each agency head shall utilize the criteria developed under subsection (a) in all cost-plus-award-fee contracts.

Subtitle C—Utilities

SEC. 6301. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES AND STUDY OF CERTAIN STATE RATEMAKING POLICIES.—(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(7) ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES.—

"(A) The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources and other demand side management measures are at least as profitable, taking into account income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generating equipment: *Provided*, That such energy conservation, energy efficiency resources and other demand side management measures are appropriately monitored and evaluated.

"(B)(i) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility is encouraged to make investments and expenditures for all cost-effective improvements in the energy efficiency of power generation, transmission and distribution.

"(ii) For purposes of meeting the standard provided in clause (i) of this subparagraph, each State regulatory authority shall consider the disincentives caused by existing ratemaking policies, as well as incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution technologies.

"(C)(i) Each State regulatory authority shall require each electric utility for which it has ratemaking authority to employ a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(ii) All plans or filings before a State regulatory authority to meet the requirements

of clause (i) of this subparagraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

"(iii) For purposes of clause (i) of this subparagraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

"(D) For purposes of implementing the provisions of this paragraph, any reference contained in this title 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 the National Energy Security Act of 1992.".

(b) The Public Utility Regulatory Policies Act of 1978 is further amended by inserting the following new paragraph at the end of subsection 111(c):

"(3) If a State regulatory authority implements a standard established by subsection (d)(7), such authority shall (A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and (B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) REPORT.—Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities require or permit rates charged by an electric utility to reflect least-cost planning;

(2) an evaluation by the Secretary of whether, and to what extent, least-cost planning is likely to result in—

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) an evaluation by the Secretary of whether, and to what extent, ratemaking methodologies implementing least-cost planning adequately take into account the impact of such measures on electric utilities' costs, operations, and rate of return on investment.

(4) an analysis by the Federal Trade Commission of the competitive impact of implementation of energy conservation, energy efficiency and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation or servicing of similar energy conservation, energy efficiency or other demand side management measures and whether any unfair, deceptive or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

(d) DEFINITION.—For purposes of subsection (b), the term "least-cost planning" means any standard, regulation, practice, or policy by which a State regulatory authority considers, or requires a State regulated electric utility to consider or implement, a plan for action (including, but not limited to, the construction of or purchase of electric energy from new generation facilities and investment in or expenditures for conservation, energy efficiency resources, or other demand-side management measures) to be taken by a State regulated electric utility for purposes of providing adequate and reliable service to its electric customers with the incurrence of lowest costs by such utility and its customers.

SEC. 6302. CONSERVATION GRANTS TO STATE REGULATORY AUTHORITIES.—(a) CONSERVATION GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $500,000 per authority, for purposes of encouraging the consideration of conservation, energy efficiency resources and other demand side management measures as a mechanism for modifying future electricity demand. Such grants may be utilized by a State regulatory authority to provide financial assistance to subgrantees of the Department of Energy's Weatherization Assistance Program to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine least-cost planning.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section. Such actions—

(1) shall include procedures to facilitate the participation of subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authority to examine least-cost planning, and

(2) may include provision for utility coverage of the costs of such subgrantees participation in such proceedings.

(c) SECRETARIAL ACTION.—In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority—

(1) to consider implementation of the ratemaking standard established in section 111(d)(7) of the Public Utility Regulatory Policies Act of 1978; and

(2) to achieve the purposes of this section.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) RULES.—The Secretary may prescribe such rules as may be necessary or appropriate for carrying out the provisions of this section.

(f) DEFINITIONS.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as defined in section 3 of the Public Utility Regulatory Policies Act of 1978.

(g) AUTHORIZATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6303. INTEGRATED RESOURCE PLANNING BY CUSTOMERS OF POWER MARKETING ADMINISTRATIONS.—(a) IN GENERAL.—Within six months after the date of enactment of this Act, the Southwestern Power Administration and the Southeastern Power Administration (hereinafter PMAs) shall each initiate a proceeding for purposes of considering the adoption of a requirement that each long-term firm power service contract entered into or amended subsequent to one year from the date of enactment of this Act between a nonregulated electric utility and such PMA contain an article requiring such utility to develop and implement to the extent practicable an integrated resource planning program. For purposes of this section—

(1) A "long-term firm power service contract" shall mean any contract for the sale by a PMA of firm capacity, with or without energy, which is to be delivered over a period of more than one year;

(2) The term "non-regulated electric utility" shall have the same meaning as provided in section 3(9) of the Public Utility Regulatory Policies Act of 1978. In the case of a contract between a PMA and a joint action agency or similar entity, the term shall include the entity's distribution or user members; and

(3)(A) An "integrated resource planning program" shall be one under which a nonregulated utility engages in a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk, and shall treat demand and supply resources on a consistent and integrated basis.

(B) For purposes of this paragraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(b) CONSIDERATIONS.—As part of a proceeding under subsection (a), each PMA shall consider a requirement that each contract article referred to in subsection (a) shall—

(1) require the nonregulated electric utility to establish an integrated resource planning program with specific goals;

(2) contain time schedules for meeting program goals and delineate actions to be taken in the event such goals are not met. Such actions may provide (A) for suspension of capacity and energy deliveries that would otherwise be supplied to the nonregulated electric utility under such contract, (B) for liquidated damages, and (C) for termination of such contract if compliance is not achieved within the period stated in such contract; and

(3) provide for review and modification of such program by the nonregulated utility every three years.

(c) PROCEDURES.—A proceeding under subsection (a) shall be conducted in accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Nothing in this section shall require a PMA to adopt either in whole or in part the requirements for contract articles described in subsections (a) and (b). To the extent that a PMA decides to adopt in whole or in part such requirements in a proceeding under subsection (a), it shall promulgate regulations implementing such requirements as part of the same proceeding.

(d) DETERMINATIONS.—If the Secretary determines that a PMA has conducted or is in the process of conducting, as of the date of enactment of this section, a proceeding that meets the requirements of this section, such PMA shall not be required to initiate a new proceeding, and the requirements of this section shall be deemed satisfied with respect to such PMA.

(e) EXCEPTION.—Nothing in this section shall authorize a PMA to require an article as described in subsection (b) of this section in a utility's long-term firm power services contract if any Federal agency requires such utility to prepare an integrated resource planning program.

SEC. 6304. TENNESSEE VALLEY AUTHORITY INTEGRATED RESOURCE PLANNING AND IMPLEMENTATION.—(a) IN GENERAL.—In the exercise of its functions the Tennessee Valley Authority shall employ an integrated resource planning program.

(b) DEFINITIONS.—For the purposes of this section the term: (1) "integrated resource planning program" shall be a program under which the Tennessee Valley Authority engages in a planning and selection process for new energy resources that evaluates the full range of existing and incremental resources, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis; and (2) "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) ASSISTANCE TO DISTRIBUTORS.—The Tennessee Valley Authority shall implement the provisions of this section in cooperation with its distributors and shall provide appropriate assistance to them. Such assistance may include publications, workshops, conferences, one-on-one assistance, equipment loans, technology-assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy-efficiency and renewable energy options and programs to customers.

(d) PUBLIC COMMENT.—Prior to the selection and addition of major new energy resources on the TVA system, TVA shall provide the public an opportunity for review and comment in the selection process.

Subtitle E—State, Local Insular, and Tribal Energy Assistance

SEC. 6501. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—(1) The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Public Law 93-577), may grant financial assistance to Insular area governments or private sector persons working in cooperation with Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular areas on imported fuels and promote development in the Insular areas.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy institutions.

(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to development or the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) DEFINITIONS.—For the purpose of this section, the term—

(1) "Insular area government" means American Samoa government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands; and

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (Public Law 96-597, as amended).

SEC. 6502. STATE BUILDINGS ENERGY INCENTIVE FUND.—Title III, part D, of the Energy Policy and Conservation Act (Public Law 94-163) is amended as follows:

(a) Designate the existing text of subsection 365(f) as paragraph (1) and insert the following new paragraph (2):

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated such sums as may be necessary, to remain available until expended, to carry out the purposes of section 363(f)."; and

(b) at the end of section 363 add the following new subsection (f):

"(f) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within the State, then beginning in fiscal year 1993, the Secretary may allocate funds appropriated pursuant to section 365(f)(2) to provide up to $1,000,000 to such State for deposit into a state revolving fund designed to finance energy efficiency improvements in State and local government buildings in such State. In making this determination the Secretary shall consider whether—

"(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, have adopted building codes at least as stringent as the industry voluntary building energy code as defined under title III of this Act;

"(2) such State has a program to finance energy efficiency improvement projects in State and local government facilities and buildings that includes a revolving fund to finance such projects; and

"(3) such State has raised funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions, sufficient to provide at least 75 percent of the total funds provided for deposit into such revolving fund.".

SEC. 6503. PRIVATE SECTOR INVESTMENTS IN LOW INCOME WEATHERIZATION.—Title IV of the Energy Conservation and Production Act (ECPA) (Public Law 94-385) is amended by adding the following new sections 414A and 414B:

"SEC. 414A. PRIVATE SECTOR INVESTMENTS.—(a) IN GENERAL.—The Secretary shall provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title to pay for the costs of the development and the initial implementation of partnerships, agreements or other arrangements with utilities, private sector interests or other institutions, pursuant to which financial assistance would be made available to make energy conservation improvements in low income housing. Financial assistance provided by the Secretary under this section may be used for the negotiation of partnerships, agreements and other arrangements; the presentation of arguments before State or local agencies; expert advice on the development of partnerships, agreements and other arrangements; or other activities reasonably associated with the development and initial implementation of such arrangements.

"(b) CONDITIONS.—Financial assistance provided under this section to institutions other than States shall, to the extent practicable, coincide with the timing of awards such institutions are receiving under sections 413 or 414 of this title. No less than 80 percent of the funds awarded under this section shall be provided to entities other than states. Recipients of assistance under this section shall have up to three years to carry out projects undertaken with such assistance.

"(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"SEC. 414B. TECHNICAL TRANSFER GRANTS.—(a) IN GENERAL.—The Secretary may provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title for the purpose of: evaluating technical and management measures which increase program and/or private entity performance in weatherizing low income housing; producing technical information for use by persons involved in weatherizing low income housing; exchanging information; and conducting training programs for persons involved in weatherizing low income housing. No less than 50 percent of the funds granted under this section shall be provided to entities other than states. Recipients of technical transfer grants may assign all or part of work under the grants to non-profit entities.

"(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6504. TRAINING OF BUILDING DESIGNERS AND CONTRACTORS.—Section 362 of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new paragraph at the end of subsection (d):

"(15) programs to provide training and education to building designers and contractors involved in building design or in the sale, installation and maintenance of energy systems and equipment. Such programs shall (A) enlist appropriate trade and professional organizations in the development and financing of this program; and (B) shall also include training workshops, practice manuals, and testing for each area of energy efficiency technology. Designers and contractors who have successfully completed a training course operated pursuant to this section

shall be presented a certificate of completion at the end of such course.".

SEC. 6505. ENERGY EDUCATION AND TEACHER TRAINING.—Section 363 of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new subsection:

"(f) ENERGY EDUCATION GRANTS.—(1) The Secretary shall provide competitive grants to supplement state program activities conducted pursuant to section 362(d)(4) to support projects designed to increase public awareness and understanding of energy issues, or to train educators to use existing energy related information for teaching purposes. The Federal contribution toward such projects may not exceed 75 percent of their total cost.

"(2) There is authorized to be appropriated such sums as may be necessary to implement the provisions of this section.".

SEC. 6506. TRIBAL GOVERNMENT ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act (Public Law 93-577), may grant financial assistance to tribal governments, or private sector persons working in cooperation with tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects to include research and research facilities on tribal lands. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial or management issues identified by the applicants for such grants.

(b) CONDITIONS.—Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

(c) CONSIDERATIONS.—In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to development or the quality of the environment of the affected tribal lands; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

(d) COST-SHARE.—With the exception of grants awarded for the purpose of feasibility studies and research programs, the Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

(e) DEFINITION.—For the purposes of this section—

(1) The term "tribal government" shall include Native Alaskan governments.

(2) The term "private sector person" shall include a consortium of Universities coordinated through Northern Arizona University.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the development and implementation phase of the program established by this section.

SEC. 6507. STATE ENERGY CONSERVATION PLAN REQUIREMENT.—Section 362 (c)(5) of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking the semicolon and the word "and" and inserting in lieu thereof the following: "and to turn such vehicle left from a one-way street onto a one-way street at a red stop light after stopping; and".

SEC. 6508. USE OF SOLAR THERMAL WATER HEATERS FOR LOW INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)(E)) is amended by inserting a new clause as follows and relettering accordingly: "solar thermal water heaters".

SEC. 6509. BUILDING RETROFIT STANDARDS.—(a) Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by renumbering paragraph (13) as paragraph (14) and inserting before the "; and" in paragraph (12) a new paragraph (13) as follows:

"(13) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of the building;".

(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding a new subsection (f) as follows:

"(f) Technical assistance pursuant to subsection (a) may include: (i) reports on experience with existing retrofit programs; and (ii) model State laws and proposed regulations relating to the development of building retrofit standards and regulations, including retrofit ordinances.".

SEC. 6510. USE OF WOOD-BURNING HEATING APPLIANCES FOR LOW INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended by inserting the following new clause and relettering accordingly:

"( ) wood-heating appliances".

SEC. 6511. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.—(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in conjunction with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes that wish to achieve self-determination in the energy area and that wish to promote the development of a vertically integrated energy industry on their reservations, in order to increase development of the substantial energy resources located on Indian reservations. Said program shall include but not be limited to the following components:

(1) The Secretary shall provide development grants to tribal governments to assist them to establish the legal and governmental infrastructure and obtain the managerial and technical capability they need to develop the energy resources on their reservations by themselves or through 51 per centum or more tribally owned and controlled joint ventures. Each grant shall be for a period of three years.

(2) The Secretary shall provide matching grants, not to exceed 50 per centum of the project costs, for projects located on Indian reservations that promote the vertical integration of the energy resources on Indian reservations, including but not limited to—oil refineries, the generation of electricity, natural gas distribution, and innovative uses of coal.

(3) The Secretary shall provide technical assistance and such other assistance as is appropriate to tribes on energy resource development and on the vertical integration of reservations energy resources.

(b) AUTHORIZATIONS.—There is hereby authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of subsection (a)(1) and $10,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a)(2).

Subtitle F—LIHEAP Options Pilot Program

SEC. 6601. SHORT TITLE.—This subtitle may be cited as the "Energy Options Study Act of 1992".

SEC. 6602. STUDY.—(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall conduct a study of the potential use of LIHEAP funds to purchase futures or options contracts for fuel through registered commodities brokers.

(1) The study shall examine any potential advantages of the use of such funds including—

(A) protection for Federal, State and local government entities which provide low-income fuel assistance from unanticipated surges in the price of fuel for residential use;

(B) more efficient use of such funds; and

(C) more fuel assistance for low-income persons without an increase in Federal expenditures.

(2) The study shall examine any potential disadvantages of the use of such funds including reduction in funds available for fuel assistance, and waste, fraud, or abuse.

(3) The study shall further examine—

(A) the extent to which new authority would be needed for the use of such funds;

(B) the extent to which the use of such funds would conflict with existing law governing the Federal budget;

(C) the extent to which the use of futures and options on futures could provide effective protection for consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk for residential use) from unanticipated surges in the price of fuel; and

(D) how government entities and consumer cooperatives or other organizations referred to in subparagraph (C) of this section could be educated in the prudent use of futures and options on futures to maximize their purchasing effectiveness and protect themselves against unanticipated surges in the price of fuel for residential use.

(b) REPORT.—The Secretary, no later than 12 months after the date of enactment of this Act, shall transmit the study required in this section to the Committee on Labor and Human Resources of the United States Senate, the Committee on Energy and Natural Resources of the United States Senate, and the United States House of Representatives.

SEC. 6603. AUTHORITY FOR PILOT PROGRAMS.—(a) PILOT PROGRAM.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program in cooperation with one or more governmental or tribal recipients of funds in which the recipient uses futures and options on futures in its fuel assistance program with the advice of the Secretary.

(b) EDUCATION.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program to educate governmental entities and consumer cooperatives or other organizations referred to in subparagraph (a)(3)(C) of section 6602 of this subtitle on the prudent and effective use of futures and options on futures to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(c) AUTHORIZATION.—There is authorized to be appropriated for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this section.

SEC. 6604. DEFINITIONS.—For purposes of this subtitle the terms—(1) "Secretary" means the Secretary of Health and Human Services.

(2) "LIHEAP funds" means funds appropriated under the Low-Income Energy Assistance Act of 1981 (Public Law 97-35; 42 U.S.C. 8621 et. seq.).

SEC. 6605. SUSTAINABLE ENERGY TRANSITION PILOT PROGRAM.—Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) is amended by adding at the end the following new section:

"SEC. 367. SUSTAINABLE ENERGY TRANSITION PILOT PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall provide financial and technical assistance to not more than four States, or regional consortia of States, to prepare State or regional sustainable energy transition strategies in accordance with subsection (b). If practicable, the Secretary shall require the submission of completed strategies not later than 2 years after the date of the award of any financial assistance under this section.

"(2) SELECTION.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations setting forth procedures and criteria for the selection of States and regional consortia that will participate in the sustainable energy transition pilot program established by this section.

"(B) CRITERIA.—In carrying out subparagraph (A), the Secretary—

"(i) may require such applications as the Secretary considers appropriate;

"(ii) shall consider the ability of each applicant to prepare a sustainable energy transition strategy; and

"(iii) shall attempt to obtain regional diversity among the selected applicants.

"(3) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall transmit a report detailing the Secretary's plan for conducting the pilot program to the Committee on Energy and Natural Resources of the Senate and the House of Representatives.

"(4) SUPPORT BY THE SECRETARY.—The Secretary may provide financial and technical support for the formation of regional consortia and consultative bodies, as necessary to carry out the purposes of this section.

"(b) CONTENT GUIDELINES.—

"(1) IN GENERAL.—Each sustainable energy transition strategy shall consist of a strategy under which the State or regional consortium shall—

"(A) propose policies to increase—

"(i) energy efficiency in the residential, commercial, industrial, and transportation sectors; and

"(ii) the proportion of energy supplied to these sectors from renewable sources; and

"(B) establish long-term (20-year) energy efficiency and renewable supply goals that seek to achieve the maximum technologically feasible energy efficiency and renewable energy production levels that are economically justified.

"(2) EVALUATION AND PROGRAM.—

"(A) EVALUATION.—Each sustainable energy transition strategy shall be based on a comprehensive evaluation that shall include—

"(i) an assessment of the baseline energy use within the State or region, categorized by energy consuming sector for the most recent year feasible;

"(ii) an assessment of the technical potential for improving energy efficiency and increasing the proportion of energy from renewable energy sources;

"(iii) an assessment of alternative plans for achieving the maximum potential for energy efficiency and renewable energy sources,

"(iv) an assessment of the existing barriers and incentives to improving energy efficiency and expanding renewable energy supply, including utility rates and other financial structures; and

"(v) an assessment of the social, economic, environmental, employment, and other impacts of the alternative plans examined.

"(B) PROGRAM.—Each sustainable energy transition strategy shall include the following:

"(i) A proposed program for achieving, or exceeding, the energy goals established, under paragraph (1)(B) and, over the 5-year period beginning 2 years after the date of the enactment of this section. In developing the program, the State or regional consortium shall specifically consider—

"(I) investments in locally available renewable energy supplies, energy efficiency and conservation, utility and transportation infrastructure, district heating and cooling, renewable energy and energy efficiency infrastructure, waste minimization, and recycling;

"(II) education and technical demonstration projects, public utility regulatory policies, transportation management and planning, education and training, and other programs that affect the development and adoption of energy technologies;

"(III) employment transition programs and policies for both individuals and communities affected by the transition to new energy sources, the depletion of fossil fuel resources, or other related economic changes; and

"(IV) other programs that the State or regional consortium considers appropriate to achieve the goals and purposes of this section.

"(ii) A proposal for evaluating the State's or regional consortium's progress towards achieving the goals of its sustainable energy transition strategy, including the quantitative measures of to be employed to evaluate the success and failure of specific programs and projects undertaken as part of the strategy.

"(3) CONSIDERATION OF COSTS.—In developing the sustainable energy transition strategy, the State or regional consortium shall evaluate, for the various technological options considered, their life cycle costs and the costs of compliance with environmental, public health, and other relevant laws and regulations considered likely to be imposed over the 20 years study period.

"(c) DEVELOPMENT AND SUBMISSION.—

"(1) IN GENERAL.—Except as otherwise provided in a regional consortium agreement, each sustainable energy transition strategy shall be developed and submitted by the State agency, or division of the agency, responsible for developing State energy conservation plans pursuant to section 364.

"(2) CITIZENS ENERGY COUNCILS.—Each State or regional consortium that prepares a sustainable energy transition strategy shall establish an advisory council to provide opportunities during the preparation of its strategy for participation by representatives of a wide range of social, economic, and community interests affected by the State's or regional consortium's sustainable energy transition strategy. Council members may receive financial assistance from the funds provided under this section only for travel and reasonable per diem expenses incurred in an official capacity.

"(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6606. GRANTS TO STATES TO PROMOTE UTILITY INDUSTRIAL EFFICIENCY PROGRAMS.—(a) DEFINITIONS.—For the purpose of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "industrial audit" means—

(A) identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental waste; and

(iii) technological improvements designed to increase competitiveness and achieve cost-effective product quality enhancement;

(B) identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and building envelope systems operating outside of the production process; and

(C) the identification of opportunities for using renewable energy technology both in the production process and in the systems described in subparagraph (B);

(3) the term "Secretary" means the Secretary of Energy; and

(4) the term "Utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy.

(b) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may make grants to States which pursuant to State law, (A) require utilities to provide financial and technical assistance to covered industries; and (B) offer incentives to utilities for providing such assistance.

(2) ELIGIBILITY CRITERIA.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants awarded under subsection (a). Such criteria shall require a State applying for a grant to demonstrate that such State, by State legislation or regulation—

(A) requires utilities to provide to covered industries served—

(i) industrial energy audits; and

(ii) financial incentives for implementing energy efficiency improvements; and

(B) allows utilities providing such assistance to—

(i) recover the costs of providing industrial audits; and

(ii) receive a reasonable rate of return on financial incentives provided.

(3) USE OF FUNDS.—Grants made pursuant to this section shall be used by a State to—

(A) make available to covered industries, through appropriate institutions such as Universities, nonprofit organizations, State and local government entities, and technical centers, information on energy efficient technologies;

(B) establish programs to train individuals in industrial energy audits; and

(C) assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this section shall be allocated each fiscal year among States meeting the

criteria of subsection (b) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each such State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

(5) COORDINATION WITH ENERGY ANALYSIS AND DIAGNOSTIC CENTERS.—In carrying out the functions described in subsection (c), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Design Centers of the Department of Energy.

(c) OTHER FEDERAL ASSISTANCE.—DIRECTORY.—The Secretary shall establish a nationwide directory of organizations experienced in emerging energy efficiency and waste reduction technologies. Such directory shall be made available to interested parties.

(d) REPORTS.—

(1) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(A) identifies barriers encountered in implementing the Act;

(B) makes recommendations for overcoming such barriers; and

(C) documents the results achieved as a result of the programs established and grants awarded pursuant to this Act.

(2) OTHER REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report which reviews any difficulties encountered by industry in implementing energy efficiency improvements recommended as a result of programs established pursuant to this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

Subtitle G—Consultative Commission on Western Hemisphere Energy and Environment

SEC. 6701. FINDINGS.—The Congress finds that—

SUBTITLE F—CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT

(1) there is growing mutual economic interdependence among the countries of North America and the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for each of these countries and for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must account for existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of Canada, Mexico, Venezuela, the United States and, as appropriate, other countries in the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) Although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would severely constrain future opportunities for sustainable economic development and growth in each of these countries;

(7) the energy sectors of the economies of Canada, Mexico, Venezuela, the United States and other energy producing countries of the Western Hemisphere are interdependent;

(8) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

SEC. 6702. CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT.—(a) DEFINITIONS.—For purposes of this subtitle—

(1) "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment; and

(2) "participating governments" refers to the governments of Canda, Mexico, Venezuela, the United States of America, and, as deemed appropriate by the President, other Western Hemisphere countries.

(b) NEGOTIATIONS.—The President is authorized and directed to initiate negotiations with the participating governments for the establishment of a multinational Consultative Commission on Western Hemisphere Energy and Environment.

(c) OBJECTIVES OF NEGOTIATIONS.—In the course of the negotiations, the President is encouraged to meet the following purposes—

(1) the objectives of the Commission shall be—

(A) to evaluate from the viewpoint of North America and the Western Hemisphere as a whole, the energy and environmental situations, trends and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world;

(2) the Commission shall include representatives of—

(A) the respective energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters;

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise; and

(D) a small secretariat chosen by the participating governments for their expertise in the areas of energy and the environment; and

(3) the Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(d) REPORT.—The President shall, within one year of the enactment of this legislation, report to the Congress on the progress toward the establishment of the Commission and achievement of the purposes of this section.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

SEC. 8101. SHORT TITLE.—This title may be cited as the "Civilian Advanced Nuclear Reactor Commercialization Act of 1992.".

SEC. 8102. FINDINGS, PURPOSES, AND DEFINITIONS.—(a) FINDINGS.—Congress finds that—

(1) energy generated from nuclear fission now supplants the burning of fossil fuels in an economical fashion and contributes substantially to safe and reliable supplies of electricity while reducing the rate and scope of environmental pollution and reducing dependence on foreign energy sources; and

(2) it is in the national interest for the Federal Government to provide leadership in encouraging advanced nuclear reactor technologies so that such technologies may be adopted as needed.

(b) PURPOSES.—The purposes of this title are to—

(1) require the Secretary to carry out the Department's civilian nuclear programs in a way that will lead toward commercialization of advanced nuclear reactor technologies; and

(2) authorize such activities to ensure the timely availability of advanced nuclear reactor technologies, including technologies that utilize standardized designs or exhibit passive safety features.

(c) DEFINITIONS.—For purposes of this title, the term—

(1) "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized, passively-safe reactors, for the generation of commercial electric power from nuclear fission;

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission.

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "Department" means the Department of Energy;

(4) "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(5) "certification" means approval by the Commission of a standardized design for a nuclear power plant.

SEC. 8103. PROGRAM, GOALS, AND PLAN.—(a) PROGRAM.—The Secretary shall carry out a comprehensive program in accordance with the provisions of this title to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost-effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, including consideration of the impact on the rate and scope of global climate change;

(2) utilize modular construction techniques;

(3) facilitate design, licensing, construction, and operation of a nuclear power plant using a standardized design;

(4) exhibit enhanced safety features; and

(5) incorporate features that advance the objectives of the Nuclear Nonproliferation

Act by discouraging diversion of fissile material for use in nuclear weapons.

(b) GOALS.—(1) The program authorized under subsection (a) shall be designed to accomplish the following goals—

(A) completion of necessary research and development and first-of-a-kind engineering on advanced light water reactor technologies that will support commercialization of these technologies by 1995;

(B) development and submission for certification by the Commission by 1995 of completed standardized designs for advanced light water reactor technologies that the Secretary determines exhibit some or all of the characteristics set forth in subsection (a);

(C) completion of necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology that will support selection in 1996 of one or both of these two technologies, as appropriate, for prototype demonstration pursuant to section 8105; and

(D) commercialization of advanced reactor technologies capable of providing commercial electric power to a utility grid as soon as practicable but no later than the year 2010.

(2) The program authorized under subsection (a) shall be carried out to the maximum extent possible through cost-shared programs with the private sector.

(c) PROGRAM PLAN.—(1) Within ninety days after the date of enactment of this title, the Secretary shall prepare and submit to Congress a detailed five-year program plan to carry out the purposes of this title. The plan shall include schedule milestones, Federal funding requirements, and requirements for private sector cost-sharing necessary for meeting the goals of subsection (b).

(2) In preparing the plan, the Secretary shall take into consideration—

(A) the need for, and the potential for adoption in the future by electric utilities or other entities, of advanced nuclear reactor technologies that are available or under development for the generation of energy from nuclear fission;

(B) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of these advanced nuclear reactor technologies when they may be needed;

(C) how the Federal Government can work most effectively in cooperation with the private sector toward accomplishment of the goals laid out in subsection (b); and

(D) potential alternative funding sources for carrying out the purposes of this title.

(3) The plan under this section shall be updated annually, if necessary, to reflect any schedule slippage, funding shortfalls, or other circumstances that might impact the ability of the Secretary to fulfill the goals outlined in subsection (b).

(4) In preparing the plan required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8104. COMMERCIALIZATION OF ADVANCED LIGHT WATER REACTOR TECHNOLOGY.—(a) CERTIFICATION OF DESIGNS.—In order to achieve the goal of certification of completed standardized designs by the Commission by 1995 as set forth in section 8103(b), the Secretary—

(1) shall conduct a program of technical and financial assistance to encourage the development and submission for certification of advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of calendar year 1995;

(2) may enter into cooperative agreements with one or more private parties who agree to seek certification by the Commission of advanced light water reactor designs that further the purposes of section 8103(a); and

(3) may support through cost-shared agreements the engineering and research and development necessary to achieve certification of advanced light water reactor designs that further the purposes of section 8103(a).

(b) SECRETARY'S REPORT TO CONGRESS.—The Secretary shall transmit to Congress with its annual budget request a report describing progress in implementing this section and plans for the current and subsequent fiscal years.

(c) REPORT TO CONGRESS FROM THE COMMISSION.—The Commission shall transmit to Congress with its annual budget request a report describing progress in the certification of standardized advanced light water reactor designs, plans for the current and subsequent fiscal years, and resource requirements necessary to comply with the schedules established by the Commission.

SEC. 8105. PROTOTYPE DEMONSTRATION OF ADVANCED NUCLEAR REACTOR TECHNOLOGY.—(a) SOLICITATION OF PROPOSALS.—(1) Within three years after the date of enactment of this title, the Secretary shall solicit proposals to carry out the preliminary engineering design of one or more prototype advanced nuclear reactor technologies (other than an advanced light water reactor) necessary to support a decision on whether to recommend construction of a full-scale prototype demonstration utilizing such a technology to achieve the purposes of this title.

(2) The engineering design proposals under paragraph (1) shall be for prototype advanced nuclear reactors that—

(A) to the maximum extent practicable, exhibit the characteristics set forth in section 8103(a); and

(B) are of sufficient size to address the requirements for certification by the Commission of a completed standardized design for an advanced nuclear reactor technology.

(b) RECOMMENDATION.—(1) No later than January 31, 1996, the Secretary shall make a recommendation to Congress on whether to build one or more full-scale prototype demonstration reactors utilizing advanced nuclear technology developed by the Department under the program authorized by this title.

(2) Any recommendation to build a prototype demonstration reactor shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on schedule milestones for licensing, construction, and operation; and

(C) estimate the funding requirements and specify the extent and nature of anticipated non-Federal support which shall be not less than 50 per centum of the costs of such demonstration.

(3) As part of the recommendation required under this section, the Secretary shall also submit to Congress any recommended changes in Federal statute or regulations that would improve the prospects of successful and timely licensing of any prototype demonstration reactor.

(c) SELECTION OF TECHNOLOGY.—Any technology selected by the Secretary for recommendation for prototype demonstration shall to the maximum extent possible exhibit the characteristics set forth in section 8103(a).

(d) OPPORTUNITY FOR PUBLIC COMMENT.—In developing the recommendation required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8106. AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this title.

TITLE IX—NUCLEAR REACTOR LICENSING

SEC. 9101. SHORT TITLE.—This title may be cited as the "Nuclear Reactor Licensing Act of 1992".

SEC. 9102. COMBINED LICENSES.—Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by—

(1) adding "and Operating Licenses" after "Permits" in the catchline;

(2) adding a subsection designator "a." before "All"; and

(3) adding the following new subsection:

"b. After holding a public hearing under section 189 a. (1)(A) of this Act, the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189 a. (1)(B).".

SEC. 9103. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.—Section 189 a. (1) of the Atomic Energy Act of 1954 is amended by:

(1) adding a subparagraph designator "(A)" before "In" and

(2) adding the following new subparagraph:

"(B)(i) Not less than one hundred and eighty days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185 b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within sixty days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under this subparagraph shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under this subparagraph, the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under this subparagraph, and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within one hundred and eighty days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 9104. RULEMAKING.—The Nuclear Regulatory Commission shall propose regulations implementing this title within one year of the date of enactment of this Act.

SEC. 9105. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.—Section 189 a. (2) of the Atomic Energy Act of 1954 is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 9106. JUDICIAL REVIEW.—Section 189 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 9107. CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by amending the item relating to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

SEC. 9108. EFFECT ON PENDING PROCEEDINGS.—The provisions of this title apply to all proceedings involving a combined license for which an application was filed after May 8, 1991.

TITLE X—URANIUM

Subtitle A—Uranium Enrichment

SEC. 10101. SHORT TITLE—This subtitle may be cited as the "Uranium Enrichment Act of 1992."

SEC. 10102. DELETION OF SECTION 161 V.—Section 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 10103. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

(a) inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

(b) adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

"a. to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"b. to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"c. to market and sell enriched uranium and uranium enrichment and related services to—

"(1) the Department for governmental purposes; and

"(2) qualified domestic and foreign persons;

"d. to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"e. to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long-term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"f. to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"g. to maintain a reliable and economical domestic source of enrichment services;

"h. to conduct its activities in a manner consistent with the health and safety of the public;

"i. to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"j. to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly-owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the Judgment Appropriation (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided in section 1404, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided*, however, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the rec-

ommendation of the Secretary and the Corporate Board as provided in section 1503 d., except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506 c. and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"a. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility.

"b. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"c. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"d. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504 b. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504 b. during their term of employment, regardless of any recommendation received or not received under this title.

"e. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"f. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"g. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"h. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"i. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"j. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"a. Officers and employees of the Corporation shall be officers and employees of the United States.

"b. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: *Provided*, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503 d. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"c. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (5 U.S.C. chapter 83, subchapter III) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (5 U.S.C. chapter 84). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be

entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"d. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"e. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"f. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"g. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as "AVLIS", technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided*, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection a., amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505 a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal

year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152 or 153 b.(1) of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility under section 183 of title 35, United States Code with respect to secrecy orders imposed under section 181 of such title.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b. (3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection a. that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection b., the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection a. As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed beginning in fiscal year 1997 to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. Beginning in fiscal year 1997, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial prop-

erty and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1997.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest. Nothing in this Act shall be considered to convey to any person other than the Corporation immunity from civil or criminal liability, or to create a defense to an action, under the antitrust laws.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1–7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12–27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8–9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT.—

"a. Three years after enactment of this title, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection a., the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT.—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402 j., such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection b.(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 10104. TREATMENT OF THE CORPORATION AS BEING PRIVATELY OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651–678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this subtitle, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 10105. MISCELLANEOUS PROVISIONS.—(a) AMENDMENT OF GOVERNMENT CORPORATIONS CONTROL ACT.—Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) OWNERSHIP OF ENRICHMENT PLANTS.—In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) TERMINATION OF AUTHORITY OF THE DEPARTMENT OF ENERGY.—In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) EXEMPTION FROM DEFENSE NUCLEAR FACILITIES SAFETY BOARD OVERSIGHT.—The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) EXEMPTION FROM GRAMM-RUDMAN-HOLLINGS ACT.—Subsection 905(g)(1) of Title 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) REPEAL OF PROHIBITION ON CONSIDERATION OF PRIVATIZATION.—Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

(g) AVLIS LICENSING.—The last sentence of section 11 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: "Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

SEC. 10106. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 10107. SEVERABILITY.—If any provision of this subtitle, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this title, or the application of the same shall not be thereby affected.

SEC. 10108. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this subtitle shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this title; *Provided, however*, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 a. of the Atomic Energy Act of 1954, as amended by this title.

SEC. 10109. PAYMENT OF COST OF TRANSFER.—(a) PAYMENT SUBJECT TO APPROPRIATION.—Notwithstanding section 1401 j. of the Atomic Energy Act of 1954 as amended by section 10103 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

Subtitle B—Uranium

PART 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

SEC. 10211. SHORT TITLE.—This subtitle may be cited as the "Uranium Security and Tailings Reclamation Act of 1992."

SEC. 10212. FINDINGS AND PURPOSE.—(a) FINDINGS.—The Congress finds for purposes of this subtitle that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing Nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942)—

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of parts 2 and 3 of this subtitle to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 10213. DEFINITIONS.—For purposes of this subtitle—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of Title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

PART 2—URANIUM REVITALIZATION

SEC. 10221. VOLUNTARY OVERFEED PROGRAM.—(a) ESTABLISHMENT.—The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding

program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) FINANCIAL INCENTIVE.—The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) ADDITIONAL PARTICIPATION.—In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) USE OF DOMESTIC URANIUM.—An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this title or domestic uranium actually produced by a domestic uranium producer before the enactment of this title and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) IMPLEMENTATION.—Within ninety days of the date of enactment of this title, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 10222. NATIONAL STRATEGIC URANIUM RESERVE.—There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this title, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this title shall be restricted to military purposes.

SEC. 10223. RESPONSIBILITY FOR THE INDUSTRY.—(a) CONTINUING SECRETARIAL RESPONSIBILITY.—The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: *Provided, however*, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 10224. GOVERNMENT URANIUM PURCHASES.—(a) USE OF DOMESTIC URANIUM.—After the date of enactment of this title, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this title.

(b) TVA EXEMPTION.—Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 10225. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.—The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

PART 3—REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

SEC. 10231. REMEDIAL ACTION PROGRAM.—(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 10232 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B) and (C) shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—*Provided however*, That (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 10233, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 10232. REGULATIONS.—The Secretary shall issue regulations governing reimbursement under section 10231. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 10231.

SEC. 10233. AUTHORIZATION.—There is authorized to be appropriated for purposes of this part not more than $300,000,000 increased annually as provided in section 10231 based upon an inflation index as determined by the Secretary.

PART 4—IMPORT OF URANIUM, ENRICHED URANIUM, AND URANIUM ENRICHMENT SERVICES

SEC. 10241. FINDINGS AND PURPOSES.—(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this part are to—

(1) determine whether any uranium or enriched uranium is being exported by nonmarket economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 10242. DEFINITIONS.—For purposes of this part, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have

the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 10243. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.—(a) REPORT.—(1) Within 120 days of his receipt from the United States International Trade Commission of its report under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) assessing the impact on the domestic uranium enrichment industry of imports into the United States of enriched and non-enriched uranium and uranium enrichment services from the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, the President, or his designee, shall transmit to the Congress a report that includes—

(A) the views of the executive branch on the Commission's report; and

(B) what action, if any, the President plans to take in response to the Commission's report concerning the impact of transactions in enriched and non-enriched uranium and the provision of uranium enrichment services by the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, on the domestic uranium enrichment industry, including but not limited to the status of any negotiations with such countries in regard to such transactions and provision of services.

(2) Should the President determine that no action by the executive branch is necessary in response to the Commission's report, his report to the Congress shall include a detailed statement of the reasons for such determination, including an explanation of why the absence of action by the executive branch will not adversely affect the economic well-being of the domestic uranium enrichment industry.

(b) COOPERATION.—The Secretary, the Administrator, and the Secretary of Commerce shall cooperate fully with the United States International Trade Commission in its investigation under section 332(g).

SEC. 10244. URANIUM PURCHASE REPORTS.—(a) ANNUAL REPORTS.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) COUNTRY OF ORIGIN.—For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined, or

(2) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 10245. REGULATORY TREATMENT OF URANIUM PURCHASES.—(a) ENCOURAGEMENT.—The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this part, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) REPORT.—Within one year of the date of enactment of this part, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this part.

(c) DEFINITION OF NON-AFFILIATE.—As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 10246. UNITED STATES PURCHASE OF ENRICHED URANIUM.—(a) AUTHORIZATION.—Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce productions costs and maintain competitive prices.

(b) USE OF URANIUM.—If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

TITLE XI—NATURAL GAS

SEC. 11101. OPTIONAL CERTIFICATE PROCEDURES.—(a) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—Section 7 of the Natural Gas Act, (15 U.S.C. 717f) is amended—

(1) by adding a new subparagraph (c)(1)(G) as follows—

"(G) Upon application the Commission shall issue a certificate of public convenience and necessity for the construction, extension and operation of facilities for the transportation or sale of natural gas without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities: *Provided*, That, subject to the provisions of subsection (k) of this section, the requirements of subsections (i) and (j) of this section are met. Such a certificate shall be non-exclusive and non-prejudicial to any other authorization under the Natural Gas Act or the Natural Gas Policy Act of 1978.";

(2) by adding the following three subsections after subsection (h)—

"(i) For the purposes of subparagraph (c)(1)(G) of this section—

"(1) The Commission shall issue a certificate of public convenience and necessity only if it finds that the construction, extension and operation of facilities shall not impair any certificate holder's ability to render adequate service to its customers, and only if, in addition to any other terms the Commission may attach, the following terms and conditions are attached to such certificate to satisfy the following requirements—

"(A) No costs or expenses incurred in relation to the construction, extension and operation of facilities, or the sale of such facilities, covered by a certificate issued pursuant to subparagraph (c)(1)(G) of this section may be included in the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(B) The holder of a certificate issued pursuant to subparagraph (c)(1)(G) of this section shall not be required to credit any revenues received in relation to providing service under such certificate, or the sale of facilities authorized under such certificate, when determining the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(C) Notwithstanding section 15(a) of this Act, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall not participate in any proceedings (other than those it may subsequently initiate) for the construction, extension or operation of facilities that would serve the same market served by the facilities authorized by the holder's certificate issued under subparagraph (c)(1)(G) of this section.

"(D) Under such rules and regulations as the Commission may prescribe, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall file with the Commission within such time and in such form as the Commission may prescribe, and shall keep open in convenient form and place for public inspection, copies of all agreements required to be filed with the Commission pursuant to subsection (j) of this section.

"(E) The holder of a certificate issued under subparagraph (c)(1)(G) of this section shall maintain a separate system of books, accounts and records for the facilities and services authorized under such certificate.

"(2) The Commission shall assure that all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section are negotiated at arms length.

"(3) The Commission shall provide reasonable public notice of the application for the issuance of a certificate of public convenience and necessity pursuant to subparagraph (c)(1)(G) of this section.

"(j) For purposes of subparagraph (c)(1)(G) of this section—

"(1) Not later than sixty days prior to the commencement of transportation or sales service pursuant to a certificate issued under subparagraph (c)(1)(G) of this section, or at such time as the Commission may find necessary and reasonable, the certificate holder shall file with the Commission copies of all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section. Subsequent to the commencement of transportation or sales service utilizing facilities operated under a certificate issued under subparagraph (c)(1)(G) of this section, the certificate holder shall file with the Commission not later than ten days prior to the initiation of any new service utilizing facilities authorized under such certificate a copy of any new or amended agreement entered into

by the certificate holder and any person, including any affiliate of the certificate holder, contracting for transportation or sales service utilizing facilities authorized under such certificate. The Commission shall keep and make available for public inspection all agreements required to be filed with the Commission pursuant to this paragraph.

"(2) The rates, charges, classifications or practices for the transportation or sale of natural gas contained in the agreements filed with the Commission pursuant to paragraph (j)(1) of this section shall be presumed to be just and reasonable. If, however, the Commission, after a hearing held upon the petition of a person who has made a bonafide offer to enter into a contract, or who has entered into a contract, for the transportation or sale of natural gas utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section, finds that the failure to provide a requested rate, charge, classification, or practice in connection with the requested transportation or sale of natural gas through facilities constructed, extended or operated under a certificate issued under subparagraph (c)(1)(G) of this section is unjust, unreasonable, unduly discriminatory or preferential, the Commission, considering all relevant factors, shall determine the rates, charges, classification or practices which are not unjust, unreasonable, unduly discriminatory or preferential to be observed and in force with respect to the transportation or sale of natural gas to be provided to the petitioner, and shall fix the same by order; *Provided*, That the Commission may not order the requested service to the extent that it finds that capacity is not available. Unless the Commission issues a final order on a petition filed pursuant to this paragraph within one hundred and twenty days after it is filed, such petition shall be deemed denied.

"(k) In any case where a certificate providing for construction or extension of facilities under subparagraph (c)(1)(G) of this section is opposed by a local distribution company on grounds that such certificate would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for a hearing on the record and shall decide by final order on rehearing issued within 90 days of the filing of such opposition whether such construction or extension of facilities pursuant to the certificate would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction or extension of facilities would result in the displacement of a sale or transportation service being provided by such local distribution company, the application for a certificate of public convenience and necessity filed pursuant to subparagraph (c)(1)(G) of this section shall, at the option of the applicant, be deemed filed for consideration pursuant to subparagraph (c)(1)(A) of this section. For purposes of this subsection, the term "local distribution company" shall have the same meaning as in section 2(17) of the Natural Gas Policy Act of 1978, and a holder of a service area determination under section 7(f) of this Act shall be considered a local distribution company."; and

(3) by adding at the end of subsection (b) the following: "This subsection does not apply to any facility or service certificated pursuant to subparagraph (c)(1)(G) of this section.".

(b) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 4 PROCEDURES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (e)—

"(f) Subsections (c), (d) and (e) of this section do not apply to the transportation or sale of natural gas through facilities authorized by a certificate of public convenience and necessity issued under section 7(c)(1)(G) of this Act.".

(c) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 5 PROCEDURES.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding the following after the period: "This subsection does not apply to any rate, charge, classification or practice by a natural-gas company in connection with the transportation or sale of natural gas through facilities authorized by a certificate issued under section 7(c)(1)(G) of this Act.".

SEC. 11102. TRANSPORTATION OF NATURAL GAS UNDER THE NGPA.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended by—

(a) striking "AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION " and inserting in lieu thereof "AUTHORIZATION OF CERTAIN SALES, TRANSPORTATION AND CONSTRUCTION";

(b) striking "Commission Approval of Transportation" and inserting in lieu thereof "Commission Approval of Transportation and Construction";

(c) striking paragraph (a)(1), and inserting in lieu thereof the following:

"(1) INTERSTATE PIPELINES.—

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

"(i) any intrastate pipeline,

"(ii) any local distribution company, or

"(iii) any other person including the interstate pipeline itself.

"(B) JUST AND REASONABLE RATES.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

"(C) NONDISCRIMINATORY TRANSPORTATION.—Any transportation authorized under subparagraph (A) shall not be unjust, unreasonable, unduly discriminatory or preferential (within the meaning of the Natural Gas Act).

"(D) CONSTRUCTION.—Upon sixty days notification to the affected State commission, an interstate pipeline may construct facilities for transportation service provided under this subsection: *Provided*, That construction under this subsection shall not occur in the event such construction would result in the displacement of a sale or transportation service being provided by a local distribution company, unless such local distribution company consents thereto. In any case where such construction is opposed by a local distribution company on grounds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for hearing on the record and shall decide by a final order on rehearing issued within ninety days of the filing of such opposition whether the construction would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the interstate pipeline may file an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act for authority to construct or extend such facilities. Activities authorized under this paragraph are not subject to State regulation. For purposes of this subparagraph, a holder of a service area determination under section 7(f) of the Natural Gas Act shall be considered a local distribution company." and by

(d) striking subparagraph (a)(2)(A), and inserting in lieu thereof the following:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

"(i) any interstate pipeline,

"(ii) any local distribution company served by an interstate pipeline, or

"(iii) any other person, including the intrastate pipeline itself, in interstate commerce (within the meaning of the Natural Gas Act).".

SEC. 11103. NEPA COMPLIANCE.—(a) MEMORANDA OF UNDERSTANDING.—The Commission and all relevant Federal agencies are directed to enter into memoranda of understanding which will establish procedures for a consolidated review to the fullest extent possible under the National Environmental Policy Act of 1969 of Federal actions affecting the authorization of natural gas facilities subject to the jurisdiction of the Commission.

(b) ENVIRONMENTAL IMPACT STATEMENTS.—Where environmental documents are prepared in connection with applications for authority to construct, extend or operate facilities under the Natural Gas Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work to prepare such environmental document. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(c) ENVIRONMENTAL ASSESSMENTS.—Where an environmental assessment is prepared in connection with applications for authority to construct, extend or operate facilities under this Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information forseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(d) ENVIRONMENTAL REVIEW.—Any environmental review undertaken by the Commission pursuant to the National Environmental Policy Act of 1969, or by a project sponsor must include those facilities subject to the Natural Gas Act and Natural Gas Policy Act of 1978, but will not include any re-

lated nonjurisdictional facilities unless the Commission's control and responsibility over those facilities is sufficient to cause the private action to become a Federal action. To determine whether sufficient control and responsibility by the Commission exists, the following factors must be considered:

(1) whether the regulated activity comprises merely a link in a corridor-type project;

(2) the extent of the nonjurisdictional facilities in the immediate vicinity of the regulated activity;

(3) the extent to which the entire project will be within the jurisdiction of the Commission; and

(4) the extent of cumulative Federal control and responsibility.

(e) As a part of a required NEPA review of proposed facilities, at the beginning, FERC shall meet with the applicant, other affected Federal, State and local agencies, affected Indian Tribes, if any, and other interested persons to identify issues to be analyzed and when serving as the lead agency, FERC may allocate assignments, and establish time frames necessary for the preparation of an Environmental Impact Statement (EIS).

(f) COMMUNICATIONS WITH THE COMMISSION.—The Federal Energy Regulatory Commission, within twelve months of the date of enactment of this Act, shall amend its rules governing ex parte communications to clarify that the prohibitions contained in such rules do not apply to communications between the Commission's environmental advisory staff and other Federal and State agencies that are cooperating agencies for purposes of compliance with title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331-35): *Provided*, That an accurate public record of all such communications shall be kept and made available, and any party to the proceeding with respect to which such communication was made may respond in writing to such communication.

SEC. 11104. RATES AND CHARGES.—(a) NOTICE OF CHANGES.—The first and third sentences of section 4(d) of the Natural Gas Act (17 U.S.C. 717c(d)) are amended by striking "thirty days' notice" and inserting in lieu thereof "sixty days' notice".

(b) JOINT RATES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following subsection after subsection (f), added by this title—

"(g) Under such rules and regulations as the Commission may prescribe to preclude anticompetitive conduct, natural-gas companies may jointly file with the Commission rates for the sequential transportation of natural gas through their facilities.".

(c) REPORTS TO CONGRESS.—

(1) REPORTS BY THE FERC.—Within six months of the date of enactment of this Act, the Federal Energy Regulatory Commission shall report to the Senate Committee on Energy and Natural Resources and the House of Representatives on the following—

(A) NATURAL GAS TRANSPORTATION.—The goals, objectives and results of the Commission's program for open access transportation of natural gas, the schedule for the program's complete implementation, and the Commission's criteria for—

(i) rate design reform;

(ii) comparability of service;

(iii) authorizing pipeline abandonment and defining pipeline service obligation; and

(iv) treatment of gas purchase contract buyout and buydown costs.

(B) PIPELINE MERCHANT FUNCTION.—The Commission's regulation under the Natural Gas Act (15 U.S.C. 717-17v) of interstate pipeline sale for resale activities (the merchant function) including—

(i) the implementation of gas inventory charges and the as-billed recovery of producer demand charges; and

(ii) the criteria for finding that market-based rates for interstate pipeline sales for resale can be deemed to be just and reasonable in circumstances where such sales are made in workably competitive markets, and given such a finding, the criteria for finding that profits and losses occasioned by such sales for resale should not be taken into account in setting the seller's rates for other services.

(C) NATURAL GAS RATEMAKING.—The Commission's criteria for establishing just and reasonable rates under section 4 of the Natural Gas Act—

(i) where the Commission finds that workable competition exists and comparable third-party transportation exist, including criteria for the establishment of market-based rates;

(ii) on a basis other than historical cost, including the criteria for incentive rates; and

(iii) to ensure that all throughput, under both long-term and short-term arrangements, is taken into account in the Commission's determination of used and useful plant for purposes of possible inclusion in rate base.

SEC. 11105. UTILIZATION OF RULEMAKING PROCEDURES.—The first sentence of section 403(c) of the Department of Energy Organization Act (42 U.S.C. 7173(c)) is amended to read as follows: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or to the establishment of rates and charges, the issuance of a certificate of public convenience and necessity, or the abandonment of facilities and services under the Natural Gas Act may be conducted by rulemaking procedures.".

SEC. 11106. REVIEW OF COMMISSION ORDERS.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) REHEARING.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 19(b) of the Natural Gas Act (15 U.S.C. 717r(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(b) NATURAL GAS POLICY ACT AMENDMENTS.—

(1) REHEARING.—Section 506(a)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(a)(2)) is amended by striking "Unless the Commission acts upon such application for rehearing within thirty days after it is filed, such application shall be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 506(a)(4) of the Natural Gas Policy Act (15 U.S.C. 3416(a)(4)) is amended by striking the first three sentences and inserting the following in lieu thereof: "Any person who is a party to a proceeding under this Act aggrieved by any final order issued by the Commission in such proceeding may obtain review of such order in the United States Court of Appeals for any circuit in which the party to which such order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. Review shall be obtained by filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 30 days after the final action of the Commission on the application for rehearing required under paragraph (2). The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(c) FEDERAL POWER ACT AMENDMENTS.—

(1) REHEARING.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 313(b) of the Federal Power Act (16 U.S.C. 825l(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the Circuit Court of Appeals of the United States for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commis-

sion upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

SEC. 11107. LIMITED ANTITRUST RELIEF FOR INDEPENDENT GAS PRODUCER COOPERATIVES.—(a) DEFINITIONS.—For the purposes of this section, the term—

(1) "antitrust laws" shall mean the Federal laws defined in section 2(37) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(37));

(2) "independent producer" means any person whose natural gas production does not exceed 6 million cubic feet per day: *Provided*, That any person who is an interstate pipeline, intrastate pipeline or local distribution company, as defined in sections 2 (15), (16), and (17) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 (15), (16), (17)), or who is an affiliate of such person, as defined in section 2(27) of the Natural Gas Policy Act of 1978, (15 U.S.C. 3301(27)), may not be considered an independent producer for the purposes of this section; and

(3) "independent producer cooperative" shall mean any group of independent producers formed and operated for the purpose of pooling natural gas to enable the cooperative members to bargain effectively for the sale of the natural gas to any person: *Provided*, That such group is not formed or operated for the purpose of raising prices.

(b) LIMITED ANTITRUST RELIEF.—In any civil action under the antitrust laws, the formation or operation of an independent producer cooperative shall be legal if the procompetitive effects outweigh the anticompetitive effects.

(c) SCOPE.—Nothing in this section shall be construed to make it unlawful for an operator or working interest owner of a well, lease, field, plant or producing unit to market, on behalf of other working interest and royalty owners, the natural gas produced from such well, lease, field, plant or producing unit.

SEC. 11108. VEHICULAR NATURAL GAS JURISDICTION.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended to add the following after subsection (c)—

"(d) The provisions of this Act shall not apply to any person by reason of, or with respect to, any sale or transportation of Vehicular Natural Gas if such person is (i) not otherwise a natural-gas company, or (ii) primarily subject to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of Vehicular Natural Gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended to add the following after subsection (9)—

"(10) 'Vehicular Natural Gas' means natural gas that is ultimately used as a fuel in a motor vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation of natural gas in closed containers, or the sale of natural gas, by any person who is not otherwise a public utility to any person for use by such person as a fuel in a vehicle shall not be deemed to be a transportation or sale of natural gas within the meaning of any State law, regulation or order in effect prior to January 1, 1989. The provisions of this section shall not apply to any State law, regulation or order that protects the public safety.

(c) NON-APPLICABILITY OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—

(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(4)) ("Act") solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Act (15 U.S.C. 79k(b)(1)), a company registered under such Act solely by reason of direct or indirect ownership of voting securities of one or more gas utility companies, or any subsidiary of such company, may acquire or retain, in any geographic area, any interest in any company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, installation, servicing, or financing of equipment related to the sale or consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Act (15 U.S.C. 79c) such company is exempt from registration.

(4) "Vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a motor vehicle.

SEC. 11109. STREAMLINED CERTIFICATE PROCEDURES.—(a) UNOPPOSED APPLICATIONS.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by—

(1) redesignating subparagraph (B) as subparagraph (C); and

(2) inserting after subparagraph (A) the following new subparagraph:

"(B) In any case not described in the proviso of subparagraph (A), the Commission shall file notice in the Federal Register of the proposed certificate of public convenience and necessity as soon as the required information in connection therewith has been received by the Commission. If no party has filed a protest or objection in response to such notice within sixty days after publication of such notice, the certificate of public convenience and necessity shall be deemed to be issued: *Provided*, That notwithstanding the filing of a protest or objection a certificate shall be deemed issued if all protests and objections are withdrawn.".

(b) EXPEDITED PROCEDURE FOR PROTESTS.—Within ninety days of the date of enactment of this Act, the Commission shall institute a rulemaking to establish a procedure for dealing expeditiously with protests which do not raise material issues of fact necessitating an evidentiary hearing.

(c) CERTIFICATE NOT REQUIRED FOR REPLACEMENT FACILITIES.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) The term 'facilities' as used in this subsection shall exclude facilities which constitute the replacement or repair of existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable, provided (1) that such replacement or repair does not result in a reduction or abandonment of service by means of such facilities, (2) that such replacement or repair has substantially equivalent designed delivery capacity as the particular facilities being replaced or repaired, and (3) that the cost of such replacement or repair shall not exceed $20,000,000 per project, as adjusted pursuant to the Implicit Price Deflator for GNP. Nothing herein shall preclude a natural-gas company from repairing or replacing facilities as may be necessary to meet the requirements of the Natural Gas Pipeline Safety Act of 1968.".

(d) CONCLUSIVE EVIDENCE OF NEED.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(E) In such hearing under subparagraph (C), proof of binding contractual commitments by bona fide shippers for firm natural gas service to be rendered utilizing the facilities proposed to be constructed or extended shall be conclusive evidence of the need for such proposed service and facilities, and shall be sufficient to dismiss any claim of mutual exclusivity by another applicant.".

(e) PHASED CERTIFICATE PROCEDURES.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(F) In such hearing under subparagraph (C), the Commission, where appropriate, may phase its consideration of issues raised in connection with the application and may issue an initial order containing preliminary findings with respect to such issues. Notwithstanding the preliminary findings in such initial order, the issuance of a certificate of public convenience and necessity will be subject to a final order based upon the complete record of the hearing under subparagraph (C).".

SEC. 11110. GAS DELIVERY INTERCONNECTION.—Section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a)) is amended by—

(a) redesignating subsection (a) as paragraph (a)(1); and

(b) inserting at the end the following new paragraph—

"(2) Upon the petition of any person, the Commission by order may direct an interstate pipeline as defined in section (2)(15) of the Natural Gas Policy Act of 1978, for the sole purpose of receiving natural gas from the petitioner, to establish, at petitioner's expense, and upon such reasonable terms as the Commission may prescribe, physical connection of the interstate pipeline's transportation facilities with the petitioner's production or gathering facilities, the petitioner's intrastate pipeline as defined in section 2(16) of the Natural Gas Policy Act of 1978 (limited to the production area as defined by the Commission), or the petitioner's pipeline certificated pursuant to subparagraph (c)(1)(G) of this section (limited to the production area as defined by the Commission): *Provided*, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel an interstate pipeline to establish physical connection when to do so would impair its ability to render adequate service to its customers.".

SEC. 11111. DEREGULATION OF PIPELINE SALES OF NATURAL GAS.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (g), as added by this title—

"(h) After a hearing held upon the application of a natural-gas company, if the Commission finds that the natural-gas company provides transportation for natural gas owned by any other person comparable to the transportation provided by the natural-gas company for natural gas that it sells for resale and finds that the market that the

natural-gas company is authorized to serve is competitive, the Commission may issue an order finding that the natural gas cost component of rates and charges made, demanded, or received by the natural-gas company for the sale for resale of natural gas are exempt from the jurisdiction of the Commission under this Act.".

SEC. 11112. FUEL USE ACT AMENDMENT.—Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 as amended (42 U.S.C. 8373) is amended by striking subsection (c) in its entirety.

TITLE XII—OUTER CONTINENTAL SHELF

Subtitle A—Coastal Communities Impact Assistance

SEC. 12101. DEFINITIONS.—For purposes of this subtitle only, the term—

(1) "coastline" has the same meaning that it has in the Submerged Lands Act (43 U.S.C. 1301 et seq.);

(2) "county" means a unit of general government constituting the local jurisdiction immediately below the level of State government. This term includes, but is not limited to, counties, parishes, villages and tribal governments which function in lieu of and are not within a county, and in Alaska, borough governments. If State law recognizes an entity of general government that functions in lieu of and is not within a county, the Secretary may recognize such other entities of general government as counties;

(3) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea or the Gulf of Mexico;

(4) "distance" means minimum great circle distance, measured in statute miles;

(5) "leased tract" means a tract, leased under the Outer Continental Shelf Lands Act for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram;

(6) "new revenues" means monies received by the United States as royalties (including payments for royalty taken in kind and sold pursuant to section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353)), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act, but only from leased tracts from which such revenues are first received by the United States after the date of enactment of this Act;

(7) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)), and of which the subsoil and seabed are subject to the jurisdiction and control of the United States; and

(8) "Secretary" means the Secretary of the Interior or the Secretary's designee.

SEC. 12102. IMPACT ASSISTANCE FORMULA AND PAYMENTS.—(a) There is established a fund in the Treasury of the United States, which shall be known as the "Coastal Communities Impact Assistance Fund" (hereinafter referred to in this section as "the fund").

(b) The Secretary of the Treasury shall invest excess monies in the fund, at the request of the Secretary, in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(c) Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), amounts in the fund, together with interest earned from investment thereof, shall be paid at the direction of the Secretary as follows:

(1) The fund shall consist of amounts deposited in the fund from new revenues received beginning with October 1, 1992, representing the amounts determined to be allocable to eligible coastal States and eligible counties pursuant to the formula contained in this section.

(2) The Secretary shall determine the new revenues from any 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. 1337(g)), the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State (hereinafter referred to as an "eligible coastal State").

(3) The Secretary shall determine the allocable share of new revenues determined under paragraph (2) by multiplying such revenues by 12.5 percent.

(4) The Secretary shall determine the portion of the allocable share of new revenues attributable to each eligible coastal State (hereinafter referred to as the "eligible coastal State's attributable share") based on a fraction which is inversely proportional to the distance between the nearest point on the coastline of the eligible coastal State and the geographic center of the leased tract or portion of the leased tract (to the nearest whole mile). Further, the ratio of an eligible State's attributable share to any other eligible State's attributable share shall be equal to the inverse of the ratio of the distances between the geographic center of the leased tract or portion of the leased tract and the coastlines of the respective eligible coastal States. The sum of the eligible coastal States' attributable shares shall be equal to the allocable share of new revenues determined under paragraph (3).

(5) Subject to appropriation, the Secretary shall pay from the fund 50 percent of the eligible coastal States' attributable share, together with the portion of interest earned from investment of the fund which corresponds to that amount, to that State.

(6) Within 60 days of enactment of this Act, the Governor of each eligible coastal State shall provide the Secretary with a list of all counties, as defined herein, that are to be considered for eligibility to receive impact assistance payments. This list must include all counties with borders along the State's coastline and may also include counties which are at the closest point no more than 60 miles from the State's coastline and which are certified by the Governor to have significant impacts from Outer Continental Shelf-related activities. For any such county that does not have a border along the coastline, the Governor shall designate a point on the coastline of the nearest county that does have a border along the coastline to serve as the former county's coastline for the purposes of this section. The Governor of any eligible coastal State may modify this list whenever significant changes in Outer Continental Shelf activities require a change, but no more frequently than once each year.

(7) The Secretary shall determine, for each county within the eligible coastal State identified by the Governor according to paragraph (6) for which any part of the county's coastline lies within a distance of 200 miles of the geographic center of the leased tract or portion of the leased tract (hereinafter referred to as an "eligible county") 50 percent of the eligible coastal State's attributable share which is attributable to such county (hereinafter referred to as the "eligible county's attributable share") based on a fraction which is inversely proportional to the distance between the nearest point on the coastline of the eligible county and the geographic center of the leased tract or portion of the leased tract (to the nearest whole mile). Further, the ratio of any eligible county's attributable share to any other eligible county's attributable share shall be equal to the inverse of the ratio of the distances between the geographic center of the leased tract or portion of the leased tract and the coastlines of the respective eligible counties. The sum of the eligible counties' attributable shares for all eligible counties within each State shall be equal to 50 percent of the eligible coastal State's attributable share determined under paragraph (4).

(8) Subject to appropriation, the Secretary shall pay from the fund the eligible county's attributable share, together with the portion of interest earned from investment of the fund which corresponds to that amount, to that county.

(9) Payments to eligible coastal States and eligible counties under this section shall be made not later than December 31 of each year from new revenues received and interest earned thereon during the immediately preceding fiscal year, but not earlier than one year following the date of enactment of this Act.

(10) The remainder of new revenues and interest earned in the fund not paid to an eligible State or an eligible county under this section shall be disposed of according to the law otherwise applicable to receipts from leases on the Outer Continental Shelf.

(11) The total amount in the fund shall not exceed $300,000,000 during any fiscal year: *Provided*, That in the event that the total amount of revenues which would otherwise be deposited in the Fund exceed $300,000,000, the Secretary shall provide each eligible State and eligible county the same percentage of $300,000,000 as such State or county would have received had there not been a cap.

SEC. 12103. USES OF FUNDS.—Funds received pursuant to this subtitle shall be used by the eligible coastal States and eligible counties for—

(a) projects and activities that protect or enhance air quality, water quality, fish and wildlife, wetlands, or other coastal resources;

(b) other activities of such State or county, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(c) administrative costs of complying with the provisions of this subtitle, including the costs associated with the audit required by section 12105.

SEC. 12104. OBLIGATIONS OF ELIGIBLE COUNTIES AND STATES.—(a) PROJECT SUBMISSION.—Prior to the receipt of funds pursuant to this subtitle for any fiscal year, an eligible county must submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the eligible county proposes to expend such funds. Such plan shall state the amounts proposed to be expended for each project or activity during the upcoming fiscal year.

(b) PROJECT APPROVAL.—Prior to the payment of funds pursuant to this subtitle to any eligible county for any fiscal year, the Governor must approve the plan submitted by the eligible county pursuant to subsection (a) and notify the Secretary of such approval. State approval of any such plan shall be consistent with any State wetlands plan, habitat plan, or environmental restoration plan in effect in such State and with all applicable State and Federal law. In the event that the Governor disapproves any such plan, the funds that would otherwise be paid to the eligible county shall be placed in escrow by the Secretary pending modification and approval of such plan, notwithstanding the provisions of section 12102(c)(10), at which time such funds together with interest thereon shall be paid to the eligible county.

(c) CERTIFICATION.—No later than 60 days after the end of the fiscal year, any eligible county receiving funds under this subtitle must certify to the Governor: (1) the amount of such funds expended by the county during the previous fiscal year; (2) the amounts expended on each project or activity; and (3) the status of each project or activity.

SEC. 12105. AUDIT.—(a) REQUIREMENT FOR AUDIT.—Under regulations promulgated by the Secretary, any coastal State that receives payments under section 12102 shall, for each fiscal year that it receives payments, provide that amounts received thereunder, including amounts paid to eligible counties of such State under section 12102, be subject to audit in accordance with chapter 75 of title 31, United States Code. The audit shall be submitted to the Secretary.

(b) CONTENTS OF AUDIT.—Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all amounts paid under section 12102 to such State for the fiscal year;

(2) include a statement of all amounts paid to eligible counties of such State pursuant to section 12102.

(c) PRELIMINARY DETERMINATION BY SECRETARY.—(1) After receiving a State's report under this section, the Secretary shall make a preliminary evaluation of each audit submitted pursuant to this section, and determine whether any portion of the amounts received has not been used as required by this subtitle. The Secretary shall publish notice of such determination in the Federal Register.

(2) If the Secretary determines under paragraph (1) that any portion of the amounts received under section 12102 has been misused, the Secretary may suspend, and place in escrow, an amount from any future payment due to the coastal State or eligible county charged with misusing the amounts under section 12102 which is equivalent to the amount misused, pending a final determination pursuant to subsection (d).

(d) FINAL DETERMINATION BY SECRETARY.—If the Secretary, after providing a State or eligible county with an opportunity for a hearing, makes a final determination that any portion of the amounts paid to such State or eligible county under section 12102 was not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State or eligible county that misused the funds the reasons for the determination and the exact amount that was misused; and

(2) take appropriate action to recover an amount from the State or eligible county that misused the funds equal to that determined to have been misused, including the withholding of such amount from that State or eligible county's future payment under section 12102 or of the amount which may have been suspended under subsection (c)(2). In no event shall funds be withheld from a State due to misuse of funds by an eligible county within such State, or from an eligible county in an instance where the State in which it is located has misused funds.

(e) DISPOSITION OF AMOUNTS WITHHELD.—(1) If no appeal of a final determination under subsection (d) is filed within 60 days following the notification described in subsection (d)(1), any amounts withheld or otherwise recovered by the Secretary under subsection (d)(2) shall be returned to the Coastal Communities Impact Assistance Fund.

(2) If an appeal of the final determination is filed within the 60-day period specified in paragraph (1), any amounts withheld by the Secretary shall be held in excrow until such time as a final determination is made of the appeal.

(3) In the event that amounts withheld under this section are subsequently paid to the State or eligible county from which they were withheld, such State or county shall also receive interest on such amounts.

SEC. 12106. REGULATIONS.—The Secretary may promulgate any necessary or appropriate regulations to implement this subtitle.

Subtitle B—Coastal Resources Enhancement Fund

SEC. 12201. DEFINITIONS.—For the purposes of this subtitle only, the following definitions apply:

(1) "Block Grant" means a Coastal Resources Enhancement Block Grant described in section 12203(a);

(2) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea or the Gulf of Mexico, if such State has a coastal zone management program approved by the Secretary;

(3) "coastal zone management program approved by the Secretary"; means—

(A) a coastal zone management program that is approved by the Secretary under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); or

(B) a coastal zone management program that is being developed by a coastal State, with respect to which the Secretary determines (in no more than 2 fiscal years for which a Block Grant is awarded) that such State is making satisfactory progress toward the development of a program approvable by the Secretary under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(4) "energy facilities" has the meaning given that term under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(5) "Enhancement Fund" means the Coastal Resources Enhancement Fund established pursuant to this subtitle;

(6) "leased tract" means a tract, leased under the Outer Continental Shelf Lands Act for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram;

(7) "local government" has the meaning given that term in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincorporated communities, including Alaska Native Villages;

(8) "new revenues" means monies from any 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. 1337(g)), the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State and received by the United States as royalties (including payments for royalty taken in kind and sold pursuant to 43 U.S.C. 1353), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act, but only from leased tracts from which such revenues are first received by the United States after the date of enactment of this Act;

(9) "proportionately" means in the same ratio as Block Grants would be apportioned among the coastal States if only on the basis of the formula established under section 12203(d) of this subtitle; and

(10) "Secretary" means the Secretary of Commerce or the Secretary's designee.

SEC. 12202. ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a Fund to be known as the Coastal Resources Enhancement Fund composed of 4 percent of new revenues. The Enhancement Fund shall not exceed $100,000,000 during any fiscal year.

SEC. 12203. BLOCK GRANTS.—(a) BLOCK GRANTS TO STATES.—Subject to the provisions of this section, for fiscal year 1992 and for each subsequent fiscal year, the Secretary shall award to each coastal State a Coastal Resources Enhancement Block Grant from the monies paid into the Enhancement Fund. The Block Grant shall include the amounts separately paid by the Secretary to the local governments of such State under section 12205.

(b) ALLOCATION REPORT.—(1) No coastal State may receive a Block Grant for a fiscal year unless such State has submitted to the Secretary a report for such fiscal year that—

(A) specifies the proposed allocation by such State of the Block Grant among the activities specified in paragraphs (1) through (4) of section 12204;

(B) prescribes the allocation of the local government portion of the Block Grant to specified local governments, for separate payment by the Secretary as provided in section 12205; and

(C) describes each proposed activity receiving funds provided by the Block Grant and the amounts proposed to be expended for each activity.

(2) In order to be eligible for a Block Grant and before submitting the report required under paragraph (1), each coastal State shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the State convenient for encouraging maximum public participation.

(c) STATE TRUST FUND.—No amount of a Block Grant shall be paid from the Enhancement Fund to a coastal State until the State has established a trust fund for the receipt of the portion of such Grant that is paid directly to the State.

(d) FORMULA.—The amount of each Block Grant awarded under subsection (a) shall be determined by the Secretary under a formula established by the Secretary which gives the following weighted consideration to each of the following criteria:

(1) A weight of 50 percent shall be given to the number, location, and impact of the energy facilities located within the coastal zone of each State during the fiscal year immediately preceding the fiscal year for which the grant is to be awarded;

(2) A weight of 25 percent shall be given on the basis of shoreline mileage; and

(3) A weight of 25 percent shall be given on the basis of coastal population.

(e) MINIMUM GRANT LEVELS.—(1) A coastal State shall receive not less than 1.62 percent of the total amount available for Block Grants under this section during any fiscal year.

(2) If, after the calculations required under subsection (d), any coastal State is to receive a Block Grant that is less than the minimum grant level established under paragraph (1), the Secretary shall increase such State's Block Grant to the minimum level. Amounts necessary to make such increases shall be derived by reducing proportionately the Block Grant of each State which, as determined under subsection (d), exceeds the minimum level under paragraph (1).

(f) MAXIMUM GRANT LEVELS.—If, after the calculations required under subsections (d) and (e), any coastal State would receive a Block Grant which is greater than 8 percent of the funds appropriated under this section, the Secretary shall reduce such State's Block Grant to 8 percent. The amounts resulting from such reduction shall be reallocated proportionately among States receiving less than 8 percent so such funds are more than the minimum grant levels under subsection (e).

(g) USE OF FUNDS.—As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Enhancement Fund during each fiscal year to carry out the purposes of, and in accordance with, this section.

SEC. 12204. REQUIREMENTS ON THE USE OF BLOCK GRANTS.—(a) Block Grants awarded to a State under section 12203(a), including the portion separately distributed to such State's local governments under section 12205, shall be used only for one or more of the following activities:

(1) Amelioration of any adverse environmental impacts that result from the siting, construction, expansion, or operation of energy facilities;

(2) Administrative costs such State or a local government of such State incurs in the energy leasing and energy permitting process under any applicable law, including but not limited to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(3) Other activities of such State, or a local government of such State, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(4) Projects and activities that protect or enhance air quality, water quality, fish and wildlife, wetlands, or other coastal resources.

Sec. 12205. LOCAL GOVERNMENTS.—(a) ALLOCATION.—The report submitted by each coastal State under section 12203(b) shall prescribe an allocation among its local governments of not less than one-third of each Block Grant proposed to be awarded to such State.

(b) SEPARATE DISTRIBUTION.—The portion of a State's Block Grant that the State prescribes for allocation to specific local governments shall be paid by the Secretary directly to each such local government.

SEC. 12206. AUDIT.—(a) REQUIREMENT FOR AUDIT.—Under regulations promulgated by the Secretary, any State awarded a Block Grant under section 12203(a) shall, for each fiscal year that it is awarded such Grant, provide that amounts received under such Grant, including amounts separately distributed to local governments of such State under section 12205, be subject to audit in accordance with chapter 75 of title 31, United States Code. The audit shall be submitted to the Secretary. The income derived for each fiscal year from such State's trust fund, as established under section 12203(c), shall be included in the audit required by this section.

(b) CONTENTS OF AUDIT.—Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all funds provided under the Block Grant received by such State for the fiscal year; and

(2) include a statement of all funds paid to the local governments of such State pursuant to section 12205.

(c) PRELIMINARY DETERMINATION BY SECRETARY.—(1) After receiving a State's audit under this section, the Secretary shall make a preliminary evaluation of each audit submitted pursuant to this section, and determine whether all or any part of the Block Grant has not been used as required by this subtitle. The Secretary shall publish notice of such determination in the Federal Register.

(2) If the Secretary determines under paragraph (1) that any portion of the Block Grant has been misused, the Secretary may suspend, and place in escrow, an amount from any future Block Grant which is equivalent to the amount misused, pending a final determination pursuant to subsection (d).

(d) FINAL DETERMINATION BY SECRETARY.—If the Secretary, after providing a State with an opportunity for a hearing, makes a final determination that all or any part of the Block Grant funds paid to such State or its local governments were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused, including the withholding of such amount from a State's future Block Grant or the amount which may have been suspended under subsection (c)(2).

(e) DISPOSITION OF WITHHELD FUNDS.—(1) If no appeal of a final determination under subsection (d) is filed within 60 days following the notification described in subsection (d)(1), any amounts withheld or otherwise recovered by the Secretary under subsection (d)(2) shall be returned to the Enhancement Fund.

(2) If an appeal of the final determination is filed within the 60-day period specified in paragraph (1), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

(3) In the event that any amounts withheld under this section are subsequently paid to the State from whose Block Grant they were withheld, such State shall also receive interest on such amount.

SEC. 12207. RULES AND REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary shall promulgate, after notice and opportunity for comment, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle C—Relationship To Other Law

SEC. 12301. RELATIONSHIP TO OTHER LAW.—The payment of funds pursuant to subtitles A and B of this title shall be in addition to any payments made to a State under any other provision of this Act or any other provision of law.

SEC. 12302. RELATIONSHIP TO OTHER FUNDS.—Nothing in subtitles A and B of this title shall reduce any amounts required to be credited to the Land and Water Conservation Fund, pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 to 4601-11), or to the Historic Preservation Fund, pursuant to the Historic Preservation Act (16 U.S.C. 470h), from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. To the extent that the crediting of such amounts into the Land and Water Conservation Fund or the Historic Preservation Fund makes monies otherwise payable under subtitles A and B of this title unavailable, payments to the States and local governments pursuant to such subtitles shall be reduced on a pro rata basis.

Subtitle D—Prohibition of Leasing and Preleasing Activity

SEC. 12401. LEASING MORATORIA.—The Secretary of the Interior shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) until after January 1, 2000, in the following areas placed under restriction in the President's moratorium statement of June 26, 1990: The North Atlantic Planning Area and the Washington and Oregon Planning Area.

SEC. 12402. PROHIBITION OF LEASING AND PRELEASING ACTIVITY.—The Secretary shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), with respect to the area seaward from the State of California and the State of New Jersey until after January 1, 2000.

SEC. 12403. FLORIDA MORATORIUM.—The Secretary of the Interior shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) until after January 1, 2000, with respect to that area offshore Florida south of 26 degrees north latitude and east of 86 degrees west longitude placed under restriction in the President's moratorium statement of June 26, 1990.

SEC. 12404. BUYBACK OF CERTAIN LEASES.—Notwithstanding the provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary of the Interior is authorized and directed, subject to the availability of funds appropriated for that purpose, to cancel and buyback leases issued under the Outer Continental Shelf Lands Act offshore Florida south of 26 degrees north latitude and east of 86 degrees west longitude, consistent with the provisions of this subsection. Any lease canceled pursuant to this provision shall require full compensation. Such compensation shall include all expenses incurred on the lease, with interest, including expenditures made prior to lease issuance unless the lessee proves that it is entitled to greater damages, including but not limited to, lost profits, or the Secretary proves that the lessee is entitled to lesser damages. Any other leases canceled pursuant to the Outer Continental Shelf Lands Act shall require compensation in accordance with that Act. The authorization contained in this subsection shall expire on December 31, 1993.

SEC. 12405. REPORT.—With respect to all leases issued under the Outer Continental Shelf Lands Act offshore Florida east of 86 degrees west longitude and south of 26 degrees north latitude, the Secretary of the In-

terior shall prepare a report analyzing the alternatives for exchanging such leases for any other land or interest in land, including submerged lands, owned by the United States as a means of providing compensation for the cancellation of such leases. Such report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives within one year after the date of enactment of this provision.

TITLE XIII—RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION ACTIVITIES

SEC. 13101. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION PRIORITIES.—The Secretary shall establish priorities for research, development, demonstration, and commercialization activities. These priorities shall include consideration of the following criteria—

(1) the potential to increase the Nation's energy independence and thus reduce reliance on imported oil;

(2) the projected cost-effectiveness of the energy or energy efficiency resource to be produced or saved, including an evaluation of the likelihood of the activities contributing to the achievement of commercialization of new energy technologies;

(3) the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(4) the national security impact of the energy produced or saved, including its projected contribution to the reduction of oil imports and to the diversity of the domestic energy resource mix;

(5) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies, including, but not limited to, solar, fuel cells, fusion, superconductivity, nuclear fission, electric power, clean coal technologies, oil shale, oil and natural gas recovery and utilization, and hydrogen;

(6) the contribution of a given activity to fundamental scientific knowledge;

(7) the anticipated impact of the results of activities on targeted industries and industrial and manufacturing processes; and

(8) the contribution to United States competitiveness.

SEC. 13102. MANAGEMENT PLAN.—(a) PLAN PREPARATION.—The Secretary, in consultation with the Energy Advisory Board to the Secretary, shall prepare a management plan for the conduct of research, development, demonstration, and commercialization of energy technologies that is consistent with the purposes of this Act and guided by the priorities set forth in section 13101.

(b) PROPOSALS.—The management plan under subsection (a) shall contain proposals for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of contingency energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness;

(c) PLAN SUBMISSION.—Within one year after the date of enactment of this section, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially at the time of submittal of the President's annual budget submission to the Congress.

SEC. 13103. NATURAL GAS END-USE TECHNOLOGIES.—(a) PROGRAM.—The Secretary shall carry out a program to promote the development and commercialization of new and advanced natural gas utilization technologies including, but not limited to, the following areas—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, natural gas heating and cooling, cogeneration, and cofiring natural gas with coal and waste fuels;

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers and on-site storage at major energy consuming facilities;

(3) transportation fuel alternatives and emissions controls including natural gas vehicle commercialization and infrastructure development (including home and commercial compressors for natural gas vehicles) and advanced engines and propulsion concepts; and

(4) electrochemical energy conversion including the commercialization of molten carbonate fuel cells and phosphoric acid fuel cells and the development of advanced natural gas-fired fuel cell technologies.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13104. NATURAL GAS SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research, development and demonstration to increase the recoverable natural gas resource base including, but not limited to, the following areas—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) economic recovery of unconventional natural gas resources, including gas from tight sands, eastern shales, and gas from less permeable formations, coal-bed methane and geopressurized reservoirs;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13105. HIGH EFFICIENCY HEAT ENGINES.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, demonstration, and commercialization on high efficiency heat engines, emphasizing advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and automotive power generation, such as—

(1) advanced combined cycle turbines;

(2) steam-injected gas turbines; and

(3) intercooled steam-injected gas turbines.

(b) JOINT VENTURES.—The Secretary may enter into joint ventures with appropriate parties to construct and demonstrate high efficiency heat engines.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13106. OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—(1) The Secretary shall carry out a research and development program on oil shale that includes applied research on eastern oil shale, in cooperation with universities and the private sector, that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized in this section, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are now engaged in research on eastern oil shale retorting and associated processes.

(b) COST-SHARING.—The program carried out under this section shall be cost-shared with universities and the private sector to the maximum extent possible.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13107. WESTERN OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-

Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13108. HIGH-TEMPERATURE SUPERCONDUCTING ELECTRIC POWER SYSTEM.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, and demonstration of a high-temperature superconducting electric power system. Elements of the program shall include, but are not limited to, the following—

(1) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system, such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(2) development of prototypes based on high-temperature superconducting wire and refrigeration systems using cryocoolers or liquid cryogens such as nitrogen, with such prototype wires operating at temperatures between 20 degrees Kelvin and 77 degrees Kelvin (−423 degrees Fahrenheit and −320 degrees Fahrenheit), or higher if material developments permit; and

(3) development of prototypes that are of sufficient operational capabilities to demonstrate the technology application and facilitate dual-use application in both the civilian commercial sector and the defense sector.

(b) COOPERATIVE AGREEMENTS.—In order to carry out the programs under this section, the Secretary shall solicit proposals and may enter into cooperative agreements under this section. The Secretary is also encouraged to expedite government, industry, and university collaborative agreements under existing mechanisms at the Department of Energy, in coordination with other Federal agencies.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13109. RENEWABLE ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 4(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.

"Each of the President's annual budget requests submitted to Congress after the date of enactment of this Act shall include as separate line items each of the categories of renewable energy programs described in this subsection.".

SEC. 13110. ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 5 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.".

SEC. 13111. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.—(a) PROGRAM.—(1) The Secretary shall expand the program of research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including absorption heat pumps and engine-driven heat pumps.

(3) The electric heating and cooling program shall increase research on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electrically driven HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 13112. FUSION.—(a) PROGRAM.—The Secretary shall carry out a research, development, and demonstration program on fusion energy that is structured in a way that will lead to commercial demonstration of the technological feasibility of fusion energy for the production of electricity after the year 2010.

(b) COMPREHENSIVE MANAGEMENT PLAN.—(1) Within 180 days after the date of enactment of this section, the Secretary shall prepare a comprehensive management plan for research, development, and demonstration of fusion energy, including milestones and schedules for technology development and estimates of budget and program management resource requirements.

(2) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should make efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(3) The plan shall also evaluate to what extent university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13113. ELECTRIC VEHICLE, ELECTRIC-HYBRID VEHICLE, AND ASSOCIATED EQUIPMENT RESEARCH AND DEVELOPMENT.—(a) GENERAL.—The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920), a research and development program on electric vehicles, electric-hybrid vehicles, and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, the automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) COOPERATIVE AGREEMENTS.—The Secretary, consistent with the comprehensive plan under subsection (c), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric vehicle range improvement and light-weight body structures for electric vehicle weight reduction; and

(2) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight for electric vehicle application.

(3) Hybrid power trains incorporating an electric motor and recyclable battery technology charged by an onboard liquid fuel engine, designed to significantly improve fuel economies while maintaining comparable acceleration characteristics.

(c) COMPREHENSIVE PLAN.—(1) The Secretary shall prepare a comprehensive five-year program plan for carrying out the purposes of this section. Such program plan shall be updated annually for a period of not less than ten years after the date of enactment of this Act.

(2) The program plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric vehicle and electric-hybrid vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary deems appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric vehicles and electric-hybrid vehicles, including advanced battery technology and optimization of near-term technology;

(B) the program elements, management structure, and activities, including program

responsibilities of individual agencies and departments;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the plan for each of the participating agencies or departments;

(E) a description of the methods of technology transfer;

(F) the proposed participation by non-Federal entities in the planning and implementation of the plan; and

(G) such other information as the Secretary deems appropriate.

(4) Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary shall transmit the comprehensive program plan to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such plan shall be updated annually as specified in subsection (c)(1).

(d) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (b).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (b) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric vehicles or electric-hybrid vehicles and associated equipment.

(e) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any cooperative agreement under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) DEPLOYMENT.—(1) The Secretary shall conduct a program designed to accelerate deployment of advanced energy storage systems, including advanced battery technologies, for use with electric vehicles and electric-hybrid vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced energy storage systems, including advanced battery technologies, electric vehicle technologies and electric-hybrid technologies and their commercial capability; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies. The information exchange program may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

(g) DOMESTIC PARTS MANUFACTURERS.—In carrying out this section, the Secretary, in consultation with the Secretary of Commerce, shall issue regulations to ensure that the procurement practices of participating vehicle and associated equipment manufacturers do not discriminate against United States manufacturers of vehicle parts.

(h) COMPLIANCE WITH EXISTING LAW.—Nothing in this section shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(i) DEFINITIONS.—For purposes of this section, the term—

(1) "advanced battery" means an electrochemical storage device, including fuel cells, and associated technology necessary to charge, discharge, recharge or regenerate such electro-chemical storage device, for use as a source of power for an electric vehicle, an electric-hybrid vehicles, and any other associated equipment of an electric vehicle;

(2) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the nonelectric source of power in such vehicles;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current; and

(4) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a nonelectrical source of power.

(j) AUTHORIZATION.—There is authorized to be appropriated to the Secretary (in addition to any amounts made available pursuant to other law) for each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 13114. ADVANCED OIL RECOVERY RESEARCH, DEVELOPMENT AND DEMONSTRATION.—(a) PROGRAM.—The Secretary shall carry out a national program of research, development and demonstration to increase the economic recoverability of domestic oil resources. Such program shall address both advanced secondary oil recovery and tertiary oil recovery and shall include but not be limited to the following areas—

(1) transfer of proven recovery technologies to producers and operators of wells that would otherwise be likely to be abandoned in the near term due to declining production;

(2) development, field testing, and transfer of recovery technologies to operators of wells in high priority reservoirs ranked primarily on the basis of oil recovery potential and risk of abandonment; and

(3) the identification and development of new recovery techniques.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with producers, service companies, and technical support organizations for field demonstration projects to be undertaken on a cost-shared basis under this section.

(c) COST-SHARING—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13115. TAR SANDS.—(a) POLICY.—It is the policy of the United States to promote the development and production, by all means consistent with sound engineering and environmental practices, of deposits of tar sands.

(b) DEFINITION.—The term "tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(c) STUDY.—The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within one year from the date of enactment of this Act. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sands sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the purposes of this section.

SEC. 13116. TELECOMMUTING STUDY.—(a) STUDY.—The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) This study shall be completed no more than one hundred and eighty days after the date of enactment of this Act. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than sixty days after completion of this study.

SEC. 13117. STUDY OF MINIMIZATION OF NUCLEAR WASTE.—(a) STUDY.—The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of viability of existing technologies for this purpose and an assessment of the extent of research and development required for new technologies.

(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13118.—NUCLEAR WASTE MANAGEMENT PLAN.—(a) PREPARATION AND SUBMISSION OF REPORT.—The Secretary, in consultation

with the Nuclear Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (Public Law 97-425; 42 U.S.C.10101 et seq.) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of enactment of this Act. The Secretary shall prepare this report for submission to the President and the Congress within a year after the date of enactment of this Act. The report shall examine any new relevant issues related to management of spent fuel and high-level nuclear waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent fuel or high-level waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

(b) OPPORTUNITY FOR PUBLIC COMMENT.—In preparation of the report required under subsection (a), the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13119. MATH AND SCIENCE EDUCATION PROGRAM.—(a) PROGRAM.—The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 417A through 417F of Public Law 89-329, as amended (20 U.S.C. 1070d through 1070d-1d).

(b) PURPOSE.—(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 417A of Public Law 89-329, as amended (20 U.S.C. 1070d-d), in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) SUPPORT.—(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activities under this section with the Secretary of Education and the Secretary.

(d) COOPERATION WITH QUALIFIED ENTITIES.—The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) REPORT.—Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) EFFECT ON EXISTING PROGRAMS.—The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) DEFINITION.—For purposes of this section, the term "qualified entity" means a nonprofit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13120. STATE, DEFINITION OF—Section 401 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by inserting "and" after "States,", inserting a period after "District of Columbia", and striking the remainder of the sentence.

SEC. 13121. NUCLEAR WASTE NEGOTIATOR.—Section 410 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by striking "5 years" and inserting "6 years".

SEC. 13122. ENERGY SUBSIDY STUDY.—(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of enactment of this Act; or

(2) have been in effect prior to the date of enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of enactment of this Act; or

(ii) reasonably foreseeable on the date of enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1993 and 1994.

SEC. 13123. MIDCONTINENT ENERGY RESEARCH CENTER.—(a) FINDING.—Congress finds that petroleum resources in the midcontinent region of the United States are very large but are being prematurely abandoned.

(b) PURPOSES.—The purposes of this section are to—

(1) improve the efficiency of petroleum recovery;

(2) increase ultimate petroleum recovery; and

(3) delay the abandonment of resources.

(c) ESTABLISHMENT.—The Secretary shall establish the Midcontinent Energy Research Center at the University of Kansas in Lawrence, Kansas, (referred to in this section as the "Center") to—

(1) conduct research in petroleum geology and engineering focused on improving the recovery of petroleum from existing fields and established plays in the upper midcontinent region of the United States; and

(2) ensure that the results of the research described in paragraph (1) are transferred to users.

(d) RESEARCH.—

(1) IN GENERAL.—In conducting research under this section, the Center shall, to the extent practicable, cooperate with agencies of the Federal Government, the States in the midcontinent region of the United States, and the affected industry.

(2) PROGRAMS.—Research programs conducted by the Center may include—

(A) data base development and transfer of technology;

(B) reservoir management;

(C) reservoir characterization;

(D) advanced recovery methods; and

(E) development of new technology.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 13124.—DOMESTIC OIL SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out programs of research, development and demonstration to increase the recoverable crude oil resource base including, but not limited to, programs in the following areas—

(1) maintenance of the production of crude oil from stripper well property;

(2) enhanced recovery of crude oil from conventional resources; and

(3) economic recovery of unconventional domestic oil resources.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any dem-

onstration project under subsections (a) (2) and (3), including cash, personal services, equipment, and other resources, to be provided from non-Federal sources.

(d) REDUCTION OF COSTS.—The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) DEFINITION.—For the purpose of this section, the term "stripper well property" means any well located in the United States which produces an average of 15 or less barrels of crude oil per production day.

TITLE XIV—COAL, COAL TECHNOLOGY AND ELECTRICITY

Subtitle A—Coal and Coal Technology

SEC. 14101. COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) ESTABLISHMENT.—(1) The secretary, in consultation with the National Coal Council and other representatives of the public as the Secretary deems necessary, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920), conduct a research, development, and demonstration program within the Department of Energy for advanced coal-based technologies with the goals and objectives of—

(A) achieving the control of sulfur oxides, oxides of nitrogen, or air toxics at levels of proficiency greater than currently available commercial technology;

(B) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(C) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels; and

(D) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost-sharing participation.

(2) The coal technology development program shall also be designed to assure the timely development of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to assure the availability for commercial use of such technologies by the year 2010. As part of such program, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to the Clean Coal Program established by Public Law 98-473 and is authorized to carry out such additional solicitations.

(b) REPORT.—Within two hundred and forty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding advanced coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the program established by this section;

(3) recommendations, if any, regarding the manner in which the cost-sharing demonstrations conducted pursuant to the Clean Coal Program established by Public Law 98-473 might be modified and extended in order to assure the timely demonstrations of advanced coal-based technologies by the year 2010 and assure that the goals established by this section are achieved; and

(4) a detailed plan for conducting the research, development and demonstration program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan.

(c) ANNUAL REPORT.—Within twelve months after submittal of the report described in subsection (b) of this section, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, and demonstration activities undertaken to carry out the program required by this section.

(d) DEFINITION.—As used in this section, the term "advanced coal-based technologies" means, but is not limited to, the following—

(1) advanced integrated gasification combined cycle;

(2) pressurized fluidized bed combustion technology capable of achieving higher thermal conversion efficiency than can be achieved through ongoing demonstration projects;

(3) direct and indirect coal-fired turbines;

(4) coal refining processes, including coke production, capable of (A) efficiently producing or utilizing the energy contained in coal and coal byproducts, (B) upgrading gaseous, liquid and solid coal byproducts into products with higher economic value, and (C) utilizing the products and byproducts of such processes;

(5) magnetohydrodynamics;

(6) molten carbonate and solid oxide fuel cells;

(7) cofiring coal with non-coal fuels including natural gas;

(8) coal liquefaction processes; and

(9) other coal-based technologies or processes or systems that are capable of achieving thermal conversion efficiencies equal to or greater than fifty percent.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14102. NON-FUEL USE OF COAL.—(a) PLAN.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a plan for research, development, and demonstration with respect to technologies for nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) JOINT VENTURES.—As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for nonfuel uses of coal.

(c) PLAN CONTENTS.—The plan under subsection (a) shall address and evaluate—

(1) the known and potential products and processes for the use of coal for products in the chemical, utility, fuel, steel, and carbon-based materials industries;

(2) the costs, benefits and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of the refining of coal and coal byproducts to produce nonfuel products;

(4) the economics of co-production of products from coal in conjunction with production of electric power, thermal energy, and fuel;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of research results produced by the research program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with nonfuel use of coal.

(d) RESEARCH AND DEVELOPMENT.—The Secretary shall conduct a program of research and development under the plan under subsection (a).

(e) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance for a research project under this section to the extent the Secretary finds that such project—

(1) furthers achievement of the goals and purposes of this Act;

(2) offers promise for commercial application; and

(3) has a reasonable prospect of support in at least 50 percent of its direct costs from non-Federal funds.

(f) CONSULTATION.—In preparing the plan and carrying out research under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

(g) AUTHORIZATION.—There is authorized to be appropriated a total of $20,000,000 for fiscal years 1992 through 1994 to carry out the purposes of this section.

SEC. 14103. COAL REFINING PROGRAM.—(a) PROGRAM.—The Secretary, in consultation with the National Coal Council, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920), conduct a research, development, demonstration, and commercialization program for coal refining technologies, including technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals and lignites to produce clean-burning transportation fuels, or compliance boiler fuels, or both, fuel additives, lubricants, chemical feedstocks, and carbon-

based manufactured products, either alone or along with electricity, more economically and efficiently than can be produced utilizing currently available commercial technology. The goals of the coal refining technology development program shall be designed to assure—

(1) the timely development of technologies, including direct and indirect liquefaction processes and other energy production processes or systems to produce coal-derived fuels and coproducts;

(2) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(3) reduction in the cost of producing such coal-derived fuels and coproducts;

(4) the control of emissions from the combustion of coal-derived fuels, and;

(5) the availability for commercial use of such technologies by the year 2000.

(b) REPORT AND PLAN.—Within one hundred and twenty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding coal refining technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a detailed plan for conducting the research, development, demonstration, and commercialization program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the coal refining technologies included in the plan;

(c) DEMONSTRATION PROJECTS.—Within twelve months after the submittal of the report described in subsection (b) of this section, the Secretary shall solicit proposals from appropriate parties and may thereafter enter into agreements with such parties to undertake commercial scale demonstration projects of coal refining processes. In designing the solicitation under this subsection, and taking into consideration the goals of subsection (a) of this section, the Secretary shall—

(1) establish technology classes for the various coal refining processes;

(2) enter into agreements for the construction of not more than one project per technology class, but in no event less than two commercial scale projects for the program in total;

(3) require that each project has a reasonable prospect of commencing operation by January 1, 2000.

(d) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) ANNUAL REPORT.—Within twelve months after the date of enactment of this Act, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of coal refining technologies and the research, development, demonstration, and commercialization activities undertaken to carry out the program required by this section.

(f) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14104. UNDERGROUND COAL GASIFICATION.—(a) PROGRAM.—The Secretary shall conduct a research, development, and demonstration program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) DEMONSTRATION PROJECTS.—As part of the program authorized in subsection (a), the Secretary shall solicit proposals for at least one demonstration project of underground coal gasification technology and may provide financial assistance for any project that has a reasonable expectation to fulfill the goal and objective of subsection (a).

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14105. LOW-RANK COAL RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties of lignites and sub-bituminous coals, including, but not limited to the following areas—

(1) high value-added carbon products;

(2) fuel cell applications;

(3) emissions control and combustion efficiencies;

(4) coal water fuels and underground coal gasification;

(5) distillates; and

(6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

(b) IMPLEMENTATION.—In carrying out this program, the Secretary shall enter into contracts, cooperative agreements and jointly sponsored research programs with, and provide grants to, qualified persons and use any other means deemed appropriate by the Secretary.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14106. MAGNETOHYDRODYNAMICS.—(a) PROGRAM.—The Secretary shall carry out a proof-of-concept program in magnetohydrodynamics. The purpose of this program shall be to prove the adequacy of the engineering and design information required to successfully design, construct, and operate an MHD retrofit plant based upon conceptual designs of a "MHD Retrofit System to a Coal Fired Generating Plant," which have been completed under Department of Energy contracts.

(b) SOLICITATION OF PROPOSALS.—In order to carry out the program authorized in subsection (a), the Secretary shall solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) EXTENSION OF PROGRAM.—The Secretary may extend if necessary the completion date for the proof-of-concept program to September 30, 1995.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14107. COAL FIRED LOCOMOTIVES.—(a) The Secretary shall conduct a research, development, and demonstration program for utilizing "ultra-clean coal-water slurry" in diesel locomotive engines. The program shall address, but not be limited to, the following—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) the testing of low-Btu highly reactive fuels;

(5) fuel delivery and storage systems requirements; and

(6) other infrastructure required to support commercial deployment.

(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14108. COAL EXPORTS.—(a) PLAN.—Within one hundred and eighty days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the United States Trade Representative, shall submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for expanding the export of United States coal.

(b) PLAN CONTENTS.—Such plan shall include—

(1) identification of the location, size and projected growth in potential foreign markets for coal produced in the United States;

(2) identification by country of the existence of barriers to United States coal exports, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and an action plan for addressing any such barriers;

(4) an evaluation of existing United States infrastructure, and any new infrastructure requirements within the United States to support an expansion of United States coal exports, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) identification of opportunities for blending United States coal exports with coal indigenous to the importing country to enhance energy efficiency and environmental performance.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14109. CLEAN COAL TECHNOLOGY EXPORT COORDINATING COUNCIL.—(a) ESTABLISHMENT.—There shall be established a Clean Coal Technology Export Coordinating Council (hereinafter "Council") which shall seek to facilitate and expand the export and use of clean coal technologies. The Council shall place a priority on the export and use of clean coal technologies in lesser-developed countries.

(b) MEMBERSHIP.—The Council shall consist of the Secretary, who shall serve as its chairperson, the Secretary of Commerce, the Secretary of State (including a designee from each of the Agency for International Development and the Trade and Development Program), the Administrator of the Environmental Protection Agency, the Secretary of the Treasury, the President and Chairman of the Export-Import Bank and the President and Chief Executive Officer of the Overseas Private Investment Corporation.

(c) CONSULTATION.—In undertaking its responsibilities, the Council shall consult with representatives from the United States coal industry, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies, and other appropriate interested members of the public.

(d) DUTIES.—In furthering the purposes of this section, the Council shall, through the Department and other member agencies, exercise such authorities as may be available to it to—

(1) facilitate the establishment of technical training for the consideration, planning, construction and operation of clean coal technologies by local users and international development personnel;

(2) cause to be established within existing departments and agencies financial assistance programs, including grants, loan guarantees, and no interest and low-interest loans, to support pre-feasibility and feasibility studies for projects that will utilize clean coal technologies and loan guarantee programs, grants, and no interest and low-interest loans, designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and execute programs, including the establishment of financial incentives, to encourage and support private sector efforts to export clean coal technologies that are developed, manufactured or controlled by United States firms;

(4) encourage the training and understanding of clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops and other educational programs sponsored by United States firms;

(5) educate loan officers of the World Bank and other international lending institutions, commercial and energy attaches at embassies of the United States, and such other personnel as the Council deems appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technologies;

(6) augment budgets for trade and development programs supported by member agencies of the Council for the purpose of supporting financially pre-feasibility or feasibility studies for projects that will utilize clean coal technologies;

(7) review ongoing clean coal technology projects and review and approve planned clean coal technology projects, which are sponsored abroad by any Federal Government agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(8) coordinate the activities of the member agencies of the Council in order to assure that policies of the Council are implemented in a timely fashion; and

(9) undertake such other actions or activities, consistent with existing law and regulations, as may, in the judgment of the Secretary, be necessary to achieve the purposes of this section.

(e) DATA AND INFORMATION.—The Council shall be responsible for the development of a comprehensive data base and information dissemination system relating to the availability of clean coal technologies and an ongoing assessment of the potential need for such technologies particularly in lesser developed countries. The Council shall provide a country-by-country assessment of the potential for the use of clean coal technology. Such assessment shall include an analysis of the financing requirements to install such clean coal technology and whether such clean coal project is dependent upon foreign financial assistance, the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology, the priority of environmental considerations in the selection of the electric generating technology and the technical competence of those entities likely to be involved in the planning and operation of the electric generating facility. The Council shall make such information available to industry, Federal and international financing organizations, nongovernmental organizations, officials in countries where such clean coal technologies might be utilized and such others as the Council deems necessary. In developing this data base and ongoing assessment, the Council shall consult with the Committee on Renewable Energy Commerce and Trade.

(f) PLAN.—Within one hundred and eighty days after the Secretary submits the report to the Congress as required by section 409 of Public Law 101-549, the Council, in consultation with those persons referenced in subsection (c) of this section, shall provide to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101-549. As a part of the plan required by this subsection, the Secretary shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of pre-feasibility and feasibility studies and projects that would utilize a clean coal technology in lesser developed countries.

(g) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14110. COAL FUEL MIXTURES.—Within one year following the date of enactment of this Act, the Secretary shall submit a report to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 14111. NATIONAL CLEARING HOUSE.—(a) ESTABLISHMENT OF CLEARING HOUSE.—(1) The Secretary shall establish a national clearing house for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In establishing a clearing house pursuant this section, the Secretary shall, among other things;

(A) collect information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminate to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this provision;

(C) maintain a complete library of technology publications and treatises relating to technology information and data collected pursuant to this provision;

(D) organize and conduct seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gather information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translate into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encourage, during the testing of technologies, the use of coal from a variety of domestic sources, and collect or develop, or

both, complete listings of test results using coals from all sources;

(H) establish and maintain an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conduct economic modeling for feasibility of projects.

(3) INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may select two institutions of higher education to manage and coordinate the clearing house activities. In selecting such institutions, one shall be located in a western coal producing State and one shall be located in an eastern coal producing State.

(b) GRANTS.—In carrying out the provisions of this section, the Secretary may enter into agreements with, and make grants to, the two institutions of higher education selected pursuant to paragraph (3) of subsection (a). Any such grant may be made at such time or times, in such amount, and subject to such terms and conditions as the Secretary may prescribe.

(c) COORDINATION WITH OTHER FEDERAL ENTITIES.—In carrying out the provisions of this section, the Secretary shall, from time to time, consult and coordinate his activities with other appropriate Federal departments, agencies and instrumentalities. All Federal departments, agencies, and instrumentalities shall cooperate to the fullest extent possible with the Secretary to enable him to carry out the provisions of this section.

(d) FUNDING FROM NON-FEDERAL SOURCES.—The Secretary may solicit and accept donations from non-Federal sources to assist in defraying expenses incurred in carrying out the provisions of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14112. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.—(a) DEFINITIONS.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials. When utilized as a product, as an ingredient thereof, or as a raw material, or when handled, transported or stockpiled for such utilization, these byproducts are considered product materials.

(b) FINDINGS.—With respect to utilization of coal combustion byproducts, the Congress makes the following findings:

(1) Coal combustion byproducts have commercial applications, including construction of bridges, highways, airports, dams, tunnels, buildings, reclamation projects, and numerous other technically proven commercial applications.

(2) The Environmental Protection Agency has reported to Congress that utilization of coal combustion byproducts has been done in an environmentally safe manner.

(3) The use of coal combustion byproducts in an environmentally safe manner is beneficial to society in the following respects—

(A) it conserves energy since these materials are byproducts of the combustion process, require no additional energy to produce, and thus conserve the energy necessary to extract and produce virgin materials;

(B) it conserves natural resources by substituting for virgin materials such as sand, gravel and soil;

(C) it lowers electricity costs to ratepayers by producing revenues from the sale of the byproducts and by avoiding disposal costs;

(D) it conserves land resources by avoiding the need for disposal facilities; and

(E) it provides superior quality construction materials at lower cost.

(4) The Federal and State governments are in a position to encourage the utilization of coal combustion byproducts.

(c) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, that may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than twelve months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for actions to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in (A) bridge and highway construction, (B) stabilizing wastes, and (C) procurement by departments and agencies of the Federal Government, by State and local governments, and in federally funded or federally subsidized procurement by the private sector.

SEC. 14113. ESTABLISHMENT OF DATA BASE AND STUDY OF COAL TRANSPORTATION RATES.—(a) ESTABLISHMENT OF DATA BASE.—The Secretary shall establish a data base containing, to the maximum extent practicable, all transportation rates for rail, pipeline, truck, conveyor belt, barge and other modes of transporting domestic coal during the period January 1, 1988 through December 31, 1997. The confidentiality of contract rates shall be preserved and public access to the data base shall be provided under appropriate terms and conditions that protect the confidentiality of specific contract rates.

(b) STUDY OF COAL TRANSPORTATION RATES.—The Secretary shall study the rates and distribution patterns of domestic coal to determine the impact of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (Public Law 101-549) and other Federal policies on such rates and distribution patterns. The study shall consider, among other factors—

(1) the extent to which coal transportation rate increases occur as a result of the enactment of the Clean Air Act and other Federal policies;

(2) any increases or decreases in the revenue to variable cost ratios of railroad coal transportation rates during the period of the study and the percentage of the delivered price of coal to electric generating facilities that is attributable to coal transportation rates, during this period;

(3) any changes in the distribution patterns of coal among the various regions of the Nation during the study period; and

(4) any electricity rate increases or decreases in the various regions of the Nation during the period of study that are attributable to coal transportation costs.

(c) REPORTS TO CONGRESS.—The Secretary shall submit an interim report to Congress on January 1, 1993, and a final report to Congress, together with any recommendations, on January 1, 1995. The Secretary shall submit an additional report to Congress, with recommendations, on January 1, 1998. The Administrator of the Energy Information Administration and the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission shall cooperate fully with the Secretary in the development of the data base and studies authorized by this section.

SEC. 14114. ASSISTANCE TO SMALL COAL OPERATORS.—(a) Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c)(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) REIMBURSEMENT OF COSTS.—Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

Subtitle B—Electricity

SEC. 14202. EXCESS CAPACITY STUDY.—The Secretary shall study and report to Congress by June 30, 1992, on any physical impediments to the transfer of excess electrical energy from regions of the country having surpluses to regions of the country having shortages and the reasons therefor.

SEC. 14203. CALCULATION OF AVOIDED COST.—Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) requires a State regulatory

authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98-473 as an incremental cost of alternative electric energy.

SEC. 14204. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.—(a) DEFINITION.—For purposes of this section, the term "clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

(b) FEDERAL RATE INCENTIVES.—(1) Within twenty-four months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote the development of clean coal technologies and other innovative control technologies that limit power plant emissions. The regulatory incentives shall include—

(A) establishment of an incentive rate of return for clean coal or other innovative emission control technologies that recognizes their inherent risk; and

(B) allowance of a ten- to twenty-year amortization period to recover the capital costs of a clean coal or other innovative emission control technology.

(2) The Federal Energy Regulatory Commission demonstration program is subject to the following—

(A) the program initially will have a five-year life;

(B) the program will cover no more than four units in each technology class; and

(C) the technology classes eligible for the program should be reasonably likely to realize significant cost reductions when employed.

(3) At the end of the five-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether it should be extended or made permanent.

(c) FERC PREAPPROVAL OF PRUDENCE FOR CLEAN COAL TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of clean coal technology or other innovative control technology projects to agree upon cost caps for future projects and preapproval of the prudency of expenses for those projects if the expenses fall within the agreed-upon cap.

(d) PRIORITY FOR UNITS LOCATED IN STATES WITH INCENTIVE PROGRAMS.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsections (b) or (c), give priority to units located in states where—

(1) the State regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the State or States in which the wholesale customers of the utility seeking such incentive rate treatment are located; and

(2) the State regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to noninvestor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction.

(e) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—(1) Because the use of clean coal technologies is in the Nation's interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

(A) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction;

(B) elimination of retroactive 'used and useful' reviews for clean coal technologies;

(C) rapid amortization of clean coal technology expenditures; and

(D) immediate recovery of a portion of clean coal technology expenses through a fuel adjustment clause or by some other method.

(2) REPORT OF THE SECRETARY.—(A) Within one year after the date of enactment of this Act, the Secretary shall report to Congress on his progress in encouraging State regulatory authorities to provide regulatory incentives to utilities to invest in clean coal technologies. Such report shall include detailed information on programs initiated by the Department of Energy to encourage such State action and shall describe any regulatory incentives that have been adopted by States as a result of actions taken by the Secretary.

(B) The report required under subparagraph (A) shall also include recommendations, if any, on further action that could be taken by the Department of Energy, other Federal agencies, or the Congress in order to encourage State regulatory authorities to provide regulatory incentives.

Subtitle C—Innovative Technology Transfer

SEC. 14301. INNOVATIVE CLEAN COAL AND RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM.—(a) IN GENERAL.—The Secretary shall, in consultation with the Clean Coal Technology Export Coordinating Council and the Committee on Renewable Energy Commerce and Trade, undertake a clean coal and renewable energy technology transfer program designed to encourage the utilization of United States technologies in commercial demonstration energy technology projects to be proposed by United States firms in host nations.

(b) PURPOSE.—The purpose of the energy technology transfer program under this section is to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain jobs in the United States through the manufacturing of capital goods associated with new energy technology projects located in other nations;

(3) encourage the foreign commerce in, and use of, commercially available United States technologies in those nations that have determined a need to construct facilities to provide useful energy derived from coal or renewable energy resources;

(4) develop markets for United States technologies and, where appropriate, United States coal resources, to be utilized in meeting the energy and environmental requirements of other nations;

(5) better ensure that United States participation in energy-related projects in other nations includes—

(A) participation by United States firms; and

(B) utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs; and

(6) provide for the accelerated demonstration of United States technologies that will serve to introduce into other nations United States technologies that—

(A) use coal or renewable energy resources in a cost-effective and environmentally acceptable manner; and

(B) serve to ensure the introduction of United States firms and expertise in those nations.

(c) IDENTIFICATION.—(1) The Secretary shall—

(A) after consultation with the Clean Coal Technology Export Coordinating Council and the Committee on Renewable Energy Commerce and Trade regarding the data and information obtained by the Council pursuant to section 14109(e) of this title, identify energy technology projects that may be developed in host nations that would be candidates for the application of a clean coal technology or a renewable energy technology;

(B) consult with appropriate government officials of a host nation, and, as appropriate, with representatives of non-United States electric utilities or other non-United States entities, to determine the interest in and support for an energy technology project that is identified under subparagraph (A).

(2) Within 240 days after the date of enactment of this Act, and subsequently as appropriate, the Secretary shall publish in the Federal Register and the Commerce Business Daily a list specifying those clean coal technology or renewable energy technology projects identified under paragraph (A) which, in the judgment of the Secretary, there is a reasonable likelihood will be proposed under the authorities provided by this section.

(d) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Within 120 days after issuance of the list in subsection (c)(2), and subsequently as appropriate thereafter, the Secretary shall issue a request for proposals from United States firms for the design, construction, testing, and operation of the energy technology project or projects specified on such list which propose to utilize a United States technology. Such request for proposals shall enable the Secretary to accept proposals on a continuous basis after the initial publication of the request for proposals.

(2) Requests for proposals shall include the following requirements:

(A) Unless otherwise herein specified, the request for proposals shall be governed by the requirements and procedure set forth in RFP No. DE-PS01-90FE62271 Clean Coal Technology IV as administered by the Department of Energy.

(B) The host nation in which the project is to be located shall be a participant in the proposed project and shall agree to provide, in combination with any non-United States entity participant, directly or indirectly, at least 50 percent of the cost of the project or such greater amount as may be warranted by the financial circumstances of the host nation and any non-United States entity participant, as determined by the Secretary.

(C) The project shall utilize a United States energy technology and, where appro-

priate, United States coal resources, in meeting the applicable energy and environmental requirements of the host nation.

(D) The project shall be proposed by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(E) At least 50 percent of the cost of any equipment furnished in connection with an energy technology project authorized under this section shall be attributable to the components of such equipment manufactured in the United States. In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host nation shall not be considered a part of the cost of such United States component.

(e) SELECTION OF PROJECTS.—(1) The Secretary, in consultation with the Clean Coal Technology Export Coordinating Council or the Committee on Renewable Energy Commerce and Trade, may, not later than 120 days after receipt of proposals in response to the initial solicitation under subsection (d), select at least two proposals for negotiation of cooperative agreements under this section.

(2) In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(A) the ability of the United States firm, in cooperation with the host nation, to undertake and complete the proposed commercial demonstration project;

(B) the degree to which the furnished equipment to be included in the energy technology project is manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host nation and in other nations;

(D) the extent of technical and financial involvement of the host nation in the commercial demonstration project;

(E) the extent to which the proposed energy technology project meets the objectives stated in subsection (b) of this section; and

(F) such other criteria as the Secretary deems appropriate.

(3) The Secretary, in consultation with appropriate Federal officials, may establish eligibility criteria for host nations.

(f) COST-SHARING.—(1) The Secretary may provide financial assistance to any energy technology project for which a cooperative agreement is entered into pursuant to this section. Such financial assistance may be in the form of grants, or no interest or low interest loans.

(2)(A) Any financial assistance under this subsection may not be greater than 50 percent of the total costs directly and specifically related to any energy technology project which is the subject of a cooperative agreement under this section.

(B) Any financial assistance provided under this section shall be repayable to the United States if, in the judgment of the Secretary, such repayment will not jeopardize the competitive position of the United States firm with respect to the energy technology utilized and technological expertise associated with the selected project.

(g) REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the progress being made, through the cooperative agreements under this section, to introduce clean coal technologies and renewable energy technologies into other nations.

(h) DEFINITIONS.—For purposes of this section, the term—

(1) "host nation" means that foreign country which is—

(A) the participant in or the site of the proposed clean coal technology or renewable energy technology project and

(B) classified as either—

(i) a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a category II or category III country as classified under the guidelines of the export credit arrangement of the Organization for Economic Cooperation and Development followed by the Export-Import Bank of the United States.

(2) "United States firm" means—

(A) an individual possessing United States citizenship;

(B) a corporation incorporated under the laws of the United States; or

(C) a joint venture or partnership organized under the laws of the United States, each participant of which is an individual or corporation described in subparagraph (A) or (B).

(3) "United States energy technology" means—

(A) a clean coal technology or a renewable energy technology that is determined by the Secretary to be available for commercial use but not widely demonstrated in other than the United States;

(B) a technology which is either owned (50 percent or more) by a United States firm, licensed to a United States firm and owned by another United States firm, or in the public domain; and

(C) the intellectual property embodied in the process and in the furnished equipment being demonstrated.

SEC. 14302. CONVENTIONAL COAL TECHNOLOGY TRANSFER.—(a) If the Clean Coal Technology Export Coordinating Council determines that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the energy technology being used in a less developed country with significant indigenous coal resources, such technology shall, for purposes of sections 14109 and 14301, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section.

(b) In carrying out this subtitle, the Council shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

TITLE XV—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

SEC. 15101. EXEMPT WHOLESALE GENERATORS.—(a) DEFINITIONS.—For purposes of this title, the term—

(1) "exempt wholesale generator" means any person who: (A) is engaged directly, or indirectly through one or more affiliates of such person, as defined under section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(11)(B)), exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale, but such term excludes an affiliate of a registered holding company which was in existence as of the date of enactment of this title, unless the Commission has consented to such affiliate being an exempt wholesale generator; and (B) provides notice to the Commission, in such form as the Commission may prescribe, that such person is an exempt wholesale generator;

(2) "eligible facility" means a facility, wheresoever located, used for the generation of electric energy exclusively for sale at wholesale, including inter-connecting transmission facilities necessary to effect such sale at wholesale, but shall exclude any facility for which consent is required under subsection (c) if such consent has not been obtained. For purposes of this definition, the term "facility" shall include a portion of a facility and shall include a facility the construction of which has not been commenced or completed;

(3) "sale of electric energy at wholesale" shall have the same meaning as provided in section 201(d) of the Federal Power Act, as amended (16 U.S.C. 824(d));

(4) "retail rates and charges" means rates and charges for the sale of electric energy directly to consumers;

(5) "Commission" means the Securities and Exchange Commission; and

(6) "the Act" means the Public Utility Holding Company Act of 1935, as amended (15 U.S.C. 79 et seq.).

(b) APPLICABILITY OF DEFINITIONS IN PUHCA.—All of the terms used in this title and defined in the Act shall have the same meanings as defined therein.

(c) STATE CONSENT FOR ELIGIBLE FACILITIES.—If a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State as of the date of enactment of this title, in order for the facility to be considered an eligible facility consent must be obtained from every State commission having jurisdiction over any such rate or charge: *Provided*, That in the case of such a rate or charge which is a rate or charge of an affiliate of a registered holding company: (1) consent with respect to the facility in question shall be required from every State commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company; and (2) the approval of the Commission under the Act shall not be required for the transfer of the facility to an exempt wholesale generator.

(d) EXEMPTION OF EWGS FROM PUHCA.—An exempt wholesale generator shall not be considered an electric utility company under section 2(a)(3) of the Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, shall be exempt from all provisions of the Act.

(e) OWNERSHIP OF EWGS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of the Act, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under the Act to acquire and maintain an interest in the business of one or more exempt wholesale generators.

(f) OWNERSHIP OF EWGS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of the Act and the Commission's jurisdiction as provided under subsection (g) of this section, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under the Act), to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

(g) FINANCING AND OTHER RELATIONSHIPS BETWEEN EWGS AND REGISTERED HOLDING COMPANIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (f) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under the Act: *Provided*, That—

(1) section 11 of the Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

(2) the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate to the operations of an integrated public utility system;

(3) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or (B) the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding company system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, unless the Commission first finds that the issue or sale of such security, or the making of the guarantee, would have a substantial adverse impact on the financial integrity of the registered holding company system;

(4) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator, or (B) other transactions by such registered holding company or by its subsidiaries other than with respect to exempt wholesale generators, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator upon the registered holding company system, unless the approval of the issue or sale or other transaction, together with the effect of such capitalization and earnings, would have a substantial adverse impact on the financial integrity of the registered holding company system; and

(5) the Commission shall make its decision under paragraph (3) to approve or disapprove the issue or sale of a security or the guarantee of a security within 120 days of the filing of a declaration concerning such issue, sale or guarantee.

SEC. 15102. OWNERSHIP OF EXEMPT WHOLESALE GENERATORS AND QUALIFYING FACILITIES.—The ownership by a person of one or more exempt wholesale generators shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and 3(18)(B)(ii) of the Federal Power Act, as amended (16 U.S.C. 796 (17)(C)(ii) and 796(18)(B)(ii)).

SEC. 15103. PREVENTION OF STRANDED INVESTMENT.—The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if such sale of electric energy would result in a State commission not permitting such purchaser to recover in retail rates and charges any portion of its capital investment in an electric generation facility:

(a) which facility was under construction as of the date of enactment of this section; or

(b) upon which portion such purchaser has previously been permitted to earn a rate of return in retail rates and charges subject to such State commission's jurisdiction.

SEC. 15104. PREVENTION OF SHAM WHOLESALE TRANSACTIONS.—The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if:

(a) such electric energy would be resold by the purchaser to any electric consumer; and

(b) the purchaser: (1) is not a municipal electric system, state power authority, electric power cooperative or a public utility under State law; or (2) would not utilize transmission or distribution facilities owned by such purchaser to deliver all such electric energy to such electric consumer.

SEC. 15105. PROTECTION AGAINST ABUSIVE AFFILIATE TRANSACTIONS; STATE AUTHORITIES; FEDERAL RESTRICTION; RECIPROCAL ARRANGEMENTS PROHIBITED.—(a) IN GENERAL.—An electric utility company may not enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator if the exempt wholesale generator is an affiliate or associate company of the electric utility company.

(b) STATE AUTHORITY TO EXEMPT FROM PROHIBITION.—Notwithstanding subsection (a), an electric utility company may enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator that is an affiliate or associate company of the electric utility company if every State commission having jurisdiction over the retail rates of such electric utility company makes a specific determination in advance of the electric utility company entering into such contract that the transaction will benefit consumers, is in the public interest, and does not violate any State law (including where applicable, least cost planning).

(c) SALE JUST AND REASONABLE.—A rate or charge for the sale of electric energy at wholesale in interstate commerce by an exempt wholesale generator shall not be considered just and reasonable within the meanings of sections 205 and 206 of the Federal Power Act if the rate or charge allows the exempt wholesale generator to receive any unfair advantage resulting from the fact that the purchaser of such electric energy is an affiliate or associate company of such exempt wholesale generator.

(d) RECIPROCAL ARRANGEMENTS PROHIBITED.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.

SEC. 15106. STATE AUTHORITY.—Section 209 of the Federal Power Act (16 U.S.C. 824h) is amended by adding at the end the following new subsection:

"(d)(1) Except as set forth in paragraph (2), nothing in this Act shall limit the authority of a State commission in accordance with State law to allow or disallow the inclusion of the costs of electric energy purchased at wholesale in retail rates subject to such State commission's jurisdiction: *Provided*, That the State commission shall have no authority to determine the reasonableness of the wholesale rate or charge (and the terms and conditions thereof): *Provided further*, That at the request of a utility which has been offered a sale of electric energy at wholesale from an exempt wholesale generator, any State commission with jurisdiction over the retail rates of such utility shall commit to allow or disallow recovery of costs attributable to the utility's proposed action with regard to the offer in advance of the effective date of the action, except that the State may include terms or conditions as a condition of cost recovery as it deems appropriate. The action of the State commission in allowing cost recovery or conditionally allowing cost recovery shall be binding (subject to the terms and conditions, if any of such cost recovery) for purposes of the inclusion of costs in retail rates, except that such commission shall not be bound to the extent there is new information which the State commission believes is relevant and material to such cost recovery.

"(2) An order by the Commission accepting or establishing as just and reasonable the terms of an agreement for the sale and purchase or interchange of electric energy among affiliates of a registered holding company shall preempt the authority of any State commission to determine the prudence of any purchase of electric energy pursuant to that agreement.

"(3) Paragraph (2) shall not apply to: (A) the purchase of electric energy at wholesale by an affiliate of a registered holding company from an exempt wholesale generator; or (B) the purchase of electric energy at wholesale by an affiliate of a registered holding company from a person other than an exempt wholesale generator when the economic substance of such purchase amounts to an indirect purchase of electric energy from an exempt wholesale generator. For purposes of this subsection (d), energy purchased by an affiliate of a registered holding company as a result of the operation of an integrated holding company shall not be deemed to be an indirect purchase of electric energy from an exempt wholesale generator.

"(4) For purposes of this subsection the term—

"(A) 'exempt wholesale generator' has the same meaning as provided in title XV of the National Energy Security Act of 1992;

"(B) 'affiliate' and 'registered holding company' have the same meanings as provided in the Public Utility Holding Company Act of 1935;

"(C) 'purchase of electric energy at wholesale' means a purchase of electric energy by any person for resale; and

"(D) 'retail rates' means rates and charges for the sale of electric energy to consumers.".

SEC. 15107. STATE CONSIDERATION OF THE EFFECTS OF POWER PURCHASES ON UTILITY COST OF CAPITAL; CONSIDERATION OF THE EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND CONSIDERATION OF ADEQUATE FUEL SUPPLIES.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), as amended, is further amended by inserting

the following new paragraph at the end of section 111:

"(8) Consideration of the Effects of Wholesale Power Purchases on Utility Cost of Capital; Effects of Leveraged Capital Structures on the Reliability of Wholesale Power Sellers; and Assurance of Adequate Fuel Supplies.—

"(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall:

"(i) perform a general evaluation of (A) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities (B) the impact on consumers arising from the fact that the exempt wholesale generator will own the eligible facility at the end of the term of a power sales contract;

"(ii) perform a general evaluation of any negative or positive effects on the reliability of electric service provided by such utilities that may result from purchases of long term wholesale power supplies from sellers that have capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities;

"(iii) hold a proceeding to consider whether the use by exempt wholesale generators (as defined in title XV of the National Energy Security Act of 1992) of capital structures employing less than 35 percent equity threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

"(iv) implement procedures for the advance approval or disapproval of the purchase of a particular long term wholesale power supply which procedures reflect the results of evaluations under clauses (i), (ii) and (iii); and

"(v) require as a condition for the approval of the purchase of a particular long term wholesale power supply that the seller provide reasonable assurance of its access to sources of fuel adequate to perform its obligations under the terms of the contract for the sale of such power supply.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this title 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 the National Energy Security Act of 1992.

"(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

"(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.

"(E) 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 one year after the date of enactment of this paragraph.".

SEC. 15108. STATE COMMISSION ACCESS TO BOOKS AND RECORDS; PUBLIC ACCESS TO RECORDS AND INFORMATION; DEFINITION.—(a) ACCESS TO BOOKS AND RECORDS.—Each affected State commission shall have continuing and periodic access to relevant financial and other records of the exempt wholesale generator and any electric utility company that is an affiliate or associate company of such exempt wholesale generator relevant to the exercise of such affected State commission's authority. The records to be provided hereunder shall be specified by the affected State commission and may include: (1) all books and records which the exempt wholesale generator would be required to furnish under State law if such company were an electric utility company making retail sales subject to the jurisdiction of such affected State commission; (2) all contracts to which the exempt wholesale generator is a party relating to the financing, construction or operation of eligible facilities used to produce electric energy sold or to be sold by such exempt wholesale generator; and (3) any other records or information of the exempt wholesale generator or any electric utility company that is an affiliate or associate company of such exempt wholesale generator that are relevant to the exercise of such affected State commission's authority. All records and information provided hereunder shall be open to public inspection, and shall be subject to subpoena and other process of law, to the same extent and in the same manner as comparable records and information of electric utility companies under applicable law: *Provided further*, That trade secrets and other sensitive commercial information shall be exempt from public disclosure or disclosure to potential competitors of such exempt wholesale generator by an affected State commission and shall not be provided to a State commission unless such commission has in place procedures for protecting the confidentiality of such information.

(b) AFFECTED STATE COMMISSION.—For purposes of this section, with respect to a particular exempt wholesale generator an "affected State commission" means any State commission:

(1) having authority over the retail rates of an electric utility company to which such exempt wholesale generator sells electric energy;

(2) having authority over the retail rates of an electric utility company which is an affiliate of such exempt wholesale generator; or

(3) having authority over the retail rates of an electric utility company which is an associate company of such exempt wholesale generator and which is a subsidiary company of a holding company that is exempt under section 3 of the Act.

(c) NONPREEMPTION.—Nothing in this section shall—

(1) preempt applicable State law concerning the provision of records and other information; or

(2) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

SEC. 15109. PUBLIC UTILITY HOLDING COMPANIES TO OWN INTERESTS IN COGENERATION FACILITIES.—That Public Law 99-186 (99 Stat. 1180, as amended by Public Law 99-553, 100 Stat. 3087), be amended to read as follows:

"SECTION 1. Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act, or a subsidiary company of such registered company, may acquire or retain, in any geographic area, an interest in any qualifying cogeneration facilities and qualifying small power production facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act prescribed pursuant to section 210 of the Public Utility Regulatory Policies Act.

"SEC. 2. Nothing herein shall be construed to affect the applicability of section 3(17)(C) or section 3(18)(B) of the Federal Power Act or any provision of the Public Utility Holding Company Act, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.".

TITLE XVI—STRATEGIC PETROLEUM RESERVE

SEC. 16101. OIL SECURITY PROTECTION.—(a) Title I of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6201) is amended—

(1) in section 152, by striking "and part C" and inserting in lieu thereof ", part C, and part D" in the material preceding paragraph (1);

(2) by redesignating part D as part E;

(3) by redesignating section 181 as section 191; and

(4) by adding the following new part after part C:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"SHORT TITLE

"SEC. 181. This part may be cited as the 'Strategic Petroleum Reserve Enhancement Act of 1992'.

"PURPOSES

"SEC. 182. The purposes of this part are to—

"(1) complete, at the earliest practicable date, storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve;

"(2) facilitate progress, as rapidly as practicable, toward establishment of a one billion barrel Strategic Petroleum Reserve;

"(3) authorize establishment of a Defense Petroleum Inventory of at least ten million barrels of petroleum products;

"(4) initiate, at the earliest practicable date, the acquisition of petroleum product pursuant to section 171 of the Energy Policy and Conservation Act of 1990;

"(5) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(6) provide the President with broad and flexible authority to achieve these objectives.

"COMPLETION OF 750 MILLION BARREL RESERVE

"SEC. 183. (a) The President shall initiate such actions as are necessary to complete storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve at the earliest practicable time. Such actions may include the alternatives in section 185.

"ENLARGEMENT OF RESERVE BEYOND 750 MILLION BARRELS

"SEC. 184. The President shall initiate such actions as are necessary to enlarge the Strategic Petroleum Reserve to one billion barrels as rapidly as possible. Such actions may include—

"(1) either of the alternatives described in section 185; and

"(2) the contracting for petroleum products for storage in facilities not owned by the United States.

"ACQUISITION OF PETROLEUM PRODUCTS

"SEC. 185. (a) The President, acting through the Secretary of Energy, may—

"(1) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, without the necessity for competitive procurement, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(2) contract, without regard to sections 171(b)(2)(B) and 173 of the Energy Policy and Conservation Act (42 U.S.C. 6349(b)(2)(B)), or to the restrictions which Public Law 101-512 imposes on the leasing of crude oil, for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory of petroleum products owned by one or more foreign governments.

"(b) The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out those activities, in advance of the receipt of petroleum products.

"(c) For the purpose of this part, the term 'foreign government' means a foreign government, a foreign State-owned oil company, or an agent of either.

"(d)(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary of Energy to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory. Except as provided in paragraph (d)(2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

"(2) Crude oil purchased by the Secretary pursuant to this section shall be by competitive bid. The price paid by the Secretary shall take into account the cost of production including costs of reservoir and well maintenance.

"(3) The President may also direct the Secretary of the Interior to take such actions as are within his power to provide incentives for conservation of the oil production from stripper wells located upon the public lands.

"(4) For the purpose of this section, the terms—

"(A) "domestic production" means any crude oil produced in the United States by any person; and

"(B) 'stripper well property' means any well located in the United States which produces an average of 15 or less barrels of crude oil per production day.".

(b) Part B of title I of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6215 et seq.) is amended by adding after section 167 the following new section:

"DEFENSE PETROLEUM INVENTORY

"SEC. 168. (a) Notwithstanding any other provision of this part, the Secretary may—

"(1) acquire or construct, operate and maintain storage and facilities associated with a Defense Petroleum Inventory of at least ten million barrels of crude oil to meet petroleum product requirements of the Department of Defense; and

"(2) acquire and store crude oil therein.

"(b)(1) The acquisition and storage of crude oil in the Defense Petroleum Inventory shall be in addition to any acquisition or storage of crude oil for the Strategic Petroleum Reserve required by any other law, and crude oil acquired and stored under this section shall not be counted as part of the Strategic Petroleum Reserve.

"(2) In carrying out the functions authorized by this section, the Secretary may exercise any authority available under this part.

"(c)(1) Notwithstanding any other provision of this part, upon the request of the Secretary of Defense, crude oil acquired for or dedicated by the Defense Petroleum Inventory shall be drawn down and distributed by the Secretary to, or on behalf of, the Department of Defense for use, sale, or exchange. Crude oil in the Defense Petroleum Inventory may be drawn down and distributed, used, sold, or exchanged, without regard to—

"(A) whether the crude oil has been commingled with petroleum products of the Strategic Petroleum Reserve;

"(B) the requirements of this part concerning drawdown of the Strategic Petroleum Reserve; or

"(C) otherwise applicable Federal contracting statutes and regulations.

"(2) The Secretary of Energy shall exercise the authority provided by this subsection in a manner which does not adversely affect drawdown of the Strategic Petroleum Reserve.

"(d) Upon the request of the Secretary of Defense, and subject to the availability of funds from the Department of Defense, the Secretary shall acquire and store in the Defense Petroleum Inventory crude oil to replace crude oil drawn down under subsection (c).

"(e) An amendment to the Strategic Petroleum Reserve Plan relating to the exercise of this authority shall not be required.

"(f) The Department of Defense shall reimburse the Secretary of Energy for—

"(1) all costs of acquiring and storing crude oil in the Defense Petroleum Inventory, including the cost of associated facilities construction;

"(2) drawdown and distribution services provided under this section, in amounts that the Secretary determines to be reasonable; and

"(3) all costs of acquiring crude oil for the Strategic Petroleum Reserve to replace crude oil drawn down and distributed under subsection (c).

"(g) Crude oil acquired for the Defense Petroleum Inventory under subsection (a) shall be transferred to the Strategic Petroleum Reserve, pursuant to subsection (f)(3), in reimbursement on a barrel-for-barrel basis for the cost of replacement petroleum products acquired for the Strategic Petroleum Reserve.".

(c) The table of contents of the Energy Policy and Conservation Act (Public Law 94-163) is amended—

(1) by inserting after the item for section 167 the following item:

"Sec. 168. Defense Petroleum Inventory.";

(2) by inserting at the end of the items for part C of Title I the following items:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"Sec. 181. Short title.
"Sec. 182. Purposes.
"Sec. 183. Completion of 750 million barrel reserve.
"Sec. 184. Enlargement of reserve beyond 750 million barrels.
"Sec. 185. Acquisition of petroleum products.";

(3) by redesignating Part D in the items for title I as part E; and

(4) by redesignating the item for section 181 as the item for section 191.

TITLE XVII—STRATOSPHERIC OZONE DEPLETION

SEC. 17101. FINDINGS.—The Senate finds that:

(1) The stratospheric ozone layer, which protects all living things from harmful ultraviolet radiation from the sun, has been severely depleted in many areas of the globe.

(2) Recent scientific data show that the ozone layer over densely populated areas of the United States and other countries in the northern midlatitudes has thinned twice as fast as had previously been measured and as had been projected by theoretical models and the depletion is persisting into the warmer months of the year, and has reached significant levels even in summer.

(3) Ozone depletion in the Southern Hemisphere is proceeding even more rapidly than in the Northern Hemisphere.

(4) The incidence of skin cancer and cataracts is expected to rise significantly and the human immune system may be suppressed due to increased exposure to ultraviolet radiation.

(5) Increased exposure to ultraviolet radiation threatens food crops and some wild plants, and interferes with the ability of phytoplankton, the microscopic organisms that are at the base of the oceanic food chain, to photosynthesize and to reproduce.

(6) The scientific evidence shows that chlorofluorocarbons, hydrochlorofluorocarbons, and other halogenated chemicals undergo reactions in the stratosphere that lead to the rapid destruction of the ozone layer.

(7) The Administrator of the Environmental Protection Agency is required under the Clean Air Act Amendments of 1990 to accelerate the scheduled phaseout of ozone-destroying substances if it is determined in the light of scientific evidence that a more stringent schedule is necessary to protect human health and the environment.

(8) The recent scientific findings make necessary a reappraisal of both domestic and international policy on the control of ozone-destroying chemicals.

SEC. 17102. SENSE OF THE SENATE.—It is the sense of the Senate that:

(1) The Administrator of the Environmental protection Agency should accelerate the interim phaseout schedules and the final phaseout date of chlorofluorocarbons, carbon tetrachloride, methyl chloroform, and halons as required pursuant to section 606 of the Clean Air Act Amendments of 1990, and shall provide for complete phaseout as early as possible, taking into account section 604 of the Act.

(2) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedule and the final phaseout date of those hydrochlorofluorocarbons that have relatively long atmospheric lifetimes or high ozone depletion potentials.

(3) The Administrator of the Environmental Protection Agency should prioritize efforts to issue regulations, as required pursuant to title VI of the Clean Air Act Amendments of 1990, providing for the recapture and recycling of ozone-destroying substances as used in appliances and motor vehicle air conditioners, and for the elimination of such substances as used in non-essential consumer products.

(4) The President of the United States should urge the Contracting Parties to the Montreal Protocol to accelerate the interim phaseout schedules and the final phaseout date of ozone-destroying chemicals currently covered by the Protocol.

(5) The President should urge the Contracting Parties to include hydrochlorofluorocarbons within the terms of the Montreal Protocol, and to provide for the most rapid phaseout of those hydrochlorofluorocarbons with relatively long atmospheric lifetimes, or high ozone depletion potentials.

(6) The President should urge the Contracting Parties to amend the Protocol to include recapture and recycling provisions and to prohibit the venting or releasing of ozone-destroying chemicals from refrigeration and air conditioning units into the atmosphere by date certain.

(7) The President should urge the Contracting Parties to accelerate the compliance of developing countries with the terms of the Montreal Protocol.

TITLE XVIII—INDIAN ENERGY RESOURCE DEVELOPMENT COMMISSION

SEC. 18101. SHORT TITLE.—This title may be cited as the "Indian Energy Resource Development Commission Act of 1992".

SEC. 18102. ESTABLISHMENT.—There is established the Indian Energy Resources Development Commission (hereafter in this title referred to as the "Commission").

SEC. 18103. MEMBERSHIP OF THE COMMISSION.—(a) MEMBERSHIP COMPOSITION.—The Commission shall consist of—

(1) 6 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribal governments;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States which have Indian reservations with energy resources;

(3) 9 members appointed by the Secretary of the Interior from private sector individuals with expertise in energy development, taxation of energy resources, or oil and gas royalty management administration, auditing and accounting;

(4) the Secretary of the Interior, or his designee; and

(5) the Secretary of Energy, or his designee.

(b) APPOINTMENTS.—Members of the Commission shall be appointed not later than 60 days following the date of enactment of this title.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(d) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(e) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) ORGANIZATIONAL MEETING.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after all members are first appointed to the Commission.

(g) COMPENSATION.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(h) TRAVEL.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 18104. COMMISSION STAFF.—(a) EXECUTIVE DIRECTOR.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) ADDITIONAL PERSONNEL.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate prescribed for level GS-15 of the General Schedule under section 5108 of such title.

(c) EXPERTS AND CONSULTANTS.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

SEC. 18105. DUTIES OF THE COMMISSION.—The Commission shall—

(1) identify barriers or obstacles to the development of energy resources on Indian lands, and make recommendations designed to foster the development of energy resources on Indian lands and promote economic development;

(2) develop proposals to address the dual taxation of the extraction of mineral resources on Indian lands;

(3) develop proposals for the promotion of vertical integration of the development of energy resources on Indian lands;

(4) make recommendations to improve the management, administration, accounting and auditing of royalties associated with the production of oil and gas on Indian lands; and

(5) develop proposals on taxation incentives to foster the development of energy resources on Indian lands including, but not limited to, investment tax credits and enterprise zone credits.

SEC. 18106. POWERS OF THE COMMISSION.—(a) HEARINGS.—For the purpose of carrying out this title, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) ADMINISTRATIVE PROVISION.—Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this title. Upon request of the Chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

SEC. 18107. REPORT.—The Commission shall prepare and transmit a report to the President, the Speaker of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate within 12 months after funding for the operation of the Commission has been secured. The report shall contain the recommendations and proposals outlined in section 18105.

SEC. 18108. DEFINITION OF "INDIAN LANDS".—For the purposes of this title, the term "Indian lands" means lands that are owned by an Indian tribe or Alaska Native corporation or held in trust by the United States for the benefit of 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.A. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 18109. AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 18110. TERMINATION.—The Commission shall terminate 30 days after submitting the final report required by section 18107.

TITLE XIX—GENERAL PROVISIONS

SEC. 19101. SUPPORT FOR UNITED STATES WORKERS.—(a) FINDINGS.—The Senate finds that—

(1) the United States worker is one of the most productive in the world;

(2) based on gross domestic product produced per employed person, the United States is rated number one in productivity compared to Canada, Japan, Korea, Germany, and Britain;

(3) according to a study (based on statistics from the Organization for Economic Cooperation and Development) during the mid-1980's, America produced almost twice as much as Japan for every man-hour worked;

(4) it was the hard work, dedication, and efficiency of United States workers that made the United States the number one industrial power in the world;

(5) the quality of United States products is one of the best in the world;

(6) the United States leads in many areas including computer software and hardware technology, pharmaceuticals, biotechnology, construction engineering, entertainment, agriculture, and energy and environmental control;

(7) the United States has been able to successfully export to other areas of the world;

(8) the trade deficit with Japan for 1991 is approximately $42 billion;

(9) United States and other foreign auto makers attempting to sell in Japan have less than 3 percent of the Japanese market;

(10) Japan's structural impediments, such as restrictive distribution system, exclusionary business practices, keiretsu relationships, regulatory system, land policy, and predatory pricing practices, prevent United States companies from fairly competing in Japan;

(11) Japan's tariffs and quotas on foreign agricultural goods restrict the import of United States agricultural products into Japan;

(12) Japan continues to violate United States copyright, patent, and trademark protection laws; and

(13) Japan continues to restrict foreign direct investment in certain industries, while the United States permits unrestricted foreign investment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate objects to—

(1) the comments made by Japan's Speaker of the House, Yoshio Sakurauchi, regarding American workers, and

(2) the statements made by Prime Minister Kiichi Miyazawa disparaging the American work ethic and undermining the commitment that was made with President Bush.

SEC. 19102. AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—(a) Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) any interest of a debtor in or to liquid or gaseous hydrocarbons which the debtor has transferred or has agreed to transfer through or by a written farmout agreement, or any written agreement directly related thereto.

The trustees' rights, created in sections 365 and 544(a)(3), shall not operate to cancel or otherwise limit the effect of paragraph (3). For purposes of this subsection, the term 'farmout agreement' is a written agreement (A) in which the owner, of the rights to drill, produce or operate liquid or gaseous hydrocarbons on property agrees or is obligated to transfer or assign all or a portion of those rights to another party and (B) in which the other party, its agents or assignees, as consideration, agrees to perform drilling, reworking, recompleting, testing or other similar or related operations to develop or produce liquid or gaseous hydrocarbons on the property. In determining if a farmout agreement exists, the courts shall look to the custom and practices within the oil and gas industry for guidance. This subsection shall not operate to exclude from the debtor's estate the consideration which the debtor retains, receives, or will receive in exchange for transfering its interest in liquid or gaseous hydrocarbons.".

(b) EFFECTIVE DATE.—Except as provided in subsection (c), section 19102 shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF AMENDMENT.—The amendment made by section 19102 shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 19103. LIMITS ON PARTICIPATION BY COMPANIES.—A company shall be eligible to receive financial assistance under this Act only if—

(1) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(A) the company is a United States-owned company; or

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

SEC. 19104. EMERGENCY PETROLEUM SUPPLY.—(a) SHORT TITLE.—This section may be cited as the "Emergency Petroleum Supply Act".

(b) REGIONAL PETROLEUM RESERVE.—Section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237(a)) is amended—

(1) by designating the first and second sentences as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of carrying out this section—

"(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations, as in effect on November 1, 1975;

"(B) determinations made with respect to Regions, other than States that are islands, shall be made as if the islands were not part of the Regions; and

"(C) with respect to determinations made for any State that is an island, the term 'refined petroleum product' shall have the same meaning as the term defined in section 3(3).".

(c) PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY ENTITIES IN ELIGIBLE INSULAR AREAS.—Section 161 of such Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1)(A) The provisions listed in subparagraph (B) shall apply with respect to each offering of a quantity of a petroleum product during a drawdown of the Strategic Petroleum Reserve.

"(B)(i)(I) Subject to subclause (II), a purchaser located in an eligible insular area, in addition to having the opportunity to submit a competitive bid, may submit (at the time bids are due) a binding offer to purchase a category of petroleum product specified in a notice of sale, and shall thereupon be obligated to purchase the petroleum product at a price equal to the average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering.

"(II) A binding offer made pursuant to subclause (I) shall be accompanied by a certification made by the Governor or other chief executive officer of the eligible insular area that the petroleum product is necessary to avert a critical supply shortage in the eligible insular area.

"(ii)(I) Subject to subclause (II), a vessel that arrives at a delivery line of the Strategic Petroleum Reserve to take on a petroleum product for delivery to a purchaser located in an eligible insular area shall be loaded ahead of other vessels waiting for delivery if the Governor or other chief executive officer of the eligible insular area has certified that delivery must be expedited in order to avert a critical supply shortage in the eligible insular area.

"(II) The Secretary may waive the priority loading requirement of subclause (I) with respect to a particular vessel waiting for delivery if the Secretary determines that the requirement is impracticable.

"(2)(A) In administering this subsection, and with regard to each offering, the Secretary shall—

"(i) impose the limitation listed in clause (i) or (ii) of subparagraph (B), whichever results in the purchase of the lesser quantity; and

"(ii) at the request of a purchaser, adjust upward, to the next whole-number increment of a full tanker load, the quantity to be sold to the purchaser if the quantity is less than 50 percent less than a whole-number increment of a full tanker load of a petroleum product.

"(B)(i) The Secretary shall limit the quantity that any one purchaser may purchase through a binding offer at any one offering to 1/12 of the total quantity of petroleum products that the purchaser imported during the previous year.

"(ii)(I) The Secretary shall limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(II) If the Secretary imposes the limitation listed in subclause (I), the Secretary shall prorate the quantity among the purchasers who submitted binding offers.

"(3)(i) Except as provided in clause (ii), petroleum products purchased through binding offers pursuant to this subsection shall be delivered to the eligible insular area.

"(ii) Purchasers may enter into exchange or processing agreements that require delivery to other locations.

"(4) As used in this subsection:

"(A) The term 'eligible insular area' means the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(B) The term 'offering' means a solicitation for bids—

"(i) that is to be submitted not later than any specified day for a quantity or quantities of a petroleum product from a delivery line of the Strategic Petroleum Reserve; and

"(ii) for a distribution with respect to which the President has made a finding pursuant to subsection (d).".

SEC. 19105. ALTERNATIVE MINIMUM TAX.—It is the sense of the Senate that the Senate Committee on Finance should review the impact of the alternative minimum tax on domestic oil and gas producers and domestic oil and gas production and take such action as may be appropriate to promote domestic production.

SEC. 19106. RADIATION EXPOSURE COMPENSATION.—Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by adding at the end the following new subsection:

"(l) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 19107. ALTERNATIVE TRANSPORTATION FUELS AND ELECTRIC VEHICLES.—(a)(1) The United States is the largest consumer of oil in the world, exhausting 17 million barrels of oil per day, a 14 percent increase since 1983.

(2) The United States domestic production is in decline, estimated to fall below nine million barrels of oil per day by 1995. Today, oil imports have risen to over 40 percent of consumption, exacerbating our Nation's negative balance of trade.

(3) The Persian Gulf War commands attention to the fact that over 25 percent of America's gross oil imports are shipped from the Persian Gulf, and this reliance is the achilles heel of our Nation's energy and economic security.

(4) In the United States, the transportation sector accounts for 63 percent of total oil consumption.

(5) The Office of Technology Assessment estimates that the United States could displace 555,000 barrels of oil per day in the transportation sector by utilizing alternative fuels like compressed natural gas, electric vehicles, traffic management systems, and by reducing the number of gas guzzling vehicles on the road.

(6) Natural gas is a clean burning, abundant, and inexpensive national resource that could displace oil consumption in 25 percent of the current fleet vehicle population over ten years, reducing imported oil by 240,000 barrels per day.

(7) The United States taxpayers have invested significant resources in the development of alternative transportation fuels, electric vehicles, and traffic technologies, at our Nation's laboratories, universities, and in private industry.

(8) Both American Government and industry have met great success in the utilization of existing natural gas and electric vehicle fleets.

(9) Encouraging government and industry to convert to the use of energy efficient, alternative transportation fleets complements our national goals of energy independence, clean air, reduced balance of trade, and technology transfer.

(10) The pace of improvement of clean and efficient alternative technologies is directly correlated to the level of investment in research and development.

(b) Therefore, the Senate finds that it is in the Nation's best interest to assist the market and accelerate the adoption of alternative non-oil transportation fuels, vehicles, and traffic management systems, and the Senate will readdress this position during consideration of the appropriate tax legislation.

SEC. 19108. NATIONAL SECURITY TAX SHIFT.—(a) FINDINGS.—The Senate finds that—

(1) Conservation must be at the heart of any effective long-term national energy strategy; and increasing the motor fuels tax would encourage Americans to purchase more fuel efficient vehicles, car pool, and use alternative forms of transportation.

(2) By encouraging conservation and the market for alternative fuels, increasing the motor fuels tax would reduce our reliance on imported oil, and would reduce the likelihood that American troops will need to be sent abroad to secure the free flow of oil.

(3) Increasing the motor fuels tax would reduce automobile pollution, and, in particular, would reduce the emission of carbon dioxide, a key "greenhouse" gas.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that as part of the Nation's Energy Strategy, the Senate Finance and House Ways and Means Committees should study the possibility of legislation to shift some amount of taxation from the income tax to the motor fuels tax to encourage conservation and alternative fuels: *Provided*, That: (1) the revenue generated by the increase in motor fuels tax is shifted to taxpayers in the form of income tax reductions so that the package is revenue-neutral, does not represent a net tax increase on the average American family, and is at least as progressive as the current tax code; (2) the tax shift does not become effective until the current recession is over; and (3) the tax shift is phased in gradually to allow consumers and industries to adjust.

SEC. 19109. STRATEGIC DIVERSIFICATION.—The Office of Barter within the United States Department of Commerce and the Interagency Group on Countertrade shall within six months from the date of enactment report to the President and the Congress on the feasibility of using barter, countertrade and other self-liquidating finance methods to facilitate the strategic diversification of United States oil imports through cooperation with the former Soviet Union in the development of their energy resources. The report shall consider among other relevant topics the feasibility of trading American grown food for Soviet produced oil, minerals or energy.

SEC. 19110. NRC FEES.—It is the sense of the Senate that—

(1) the provisions of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, section 6101) that require the Nuclear Regulatory Commission to recover essentially 100 percent of its budget authority through the imposition of fees may have caused an unfair burden to be imposed on certain NRC licensees; and

(2) the Nuclear Regulatory Commission should review its policy for assessment of fees and recommend to the Congress whether there is any need for changes in existing law to prevent the placement of an unfair burden on certain NRC licensees, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes.

TITLE XX—REVENUE PROVISIONS

SEC. 20101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 20111. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $145 per month in the case of qualified parking.

"(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified transportation fringe' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

"(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2) (A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such in-

crease shall be rounded to the next lowest multiple of $5.

"(7) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 20112. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided by a public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(B), only 80 percent of such subsidy shall be excluded from gross income under paragraph (1).

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—

"(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1994, with respect to property other than dwelling units. The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).

"(2) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) DEFINITIONS.—For purposes of this subsection—

"(i) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(I) a recuperator,

"(II) a heat wheel,

"(III) a regenerator,

"(IV) a heat exchanger,

"(V) a waste heat boiler,

"(VI) a heat pipe,

"(VII) an automatic energy control system,

"(VIII) a turbulator,

"(IX) a preheater,

"(X) a combustible gas recovery system,

"(XI) an economizer,

"(XII) modifications to alumina electrolytic cells,

"(XIII) modifications to chlor-alkali electrolytic cells, or

"(XIV) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(ii) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(iii) PUBLIC UTILITY.—The term 'public utility' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

"(B) SPECIAL RULES.—

"(i) THIRD-PARTY CONTRACTORS.—If, in connection with the purchase or installation of an energy conservation measure for a customer of a public utility, such public utility provides a subsidy to a person other than the customer, such subsidy shall be excludable under subsection (a) from the gross income of such other person to the extent such subsidy would be so excludable from the gross income of the customer.

"(ii) STATE-SPONSORED PROGRAMS.—A payment by a public utility to a customer for the use of a tax benefit granted to the customer by a State pursuant to a State-sponsored energy conservation program shall be excludable under subsection (a) from the gross income of the customer to the extent such payment would be so excludable if provided as a subsidy by the public utility.

"(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by public utilities.

"Sec. 137. Cross reference to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 20113. TREATMENT OF CLEAN-FUEL VEHICLES.

(a) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of—

"(1) in the case of any qualified clean-fuel vehicle property—

"(A) except as provided in subparagraph (B), the cost of the property, or

"(B) in the case of a vehicle described in subsection (c)(1)(B) which may be propelled by both a clean-burning fuel and any other fuel, an amount equal to the greater of—

"(i) $1,200, or

"(ii) the incremental cost of permitting the use of the clean-burning fuel, plus

"(2) the cost of any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

"(A) IN GENERAL.—The cost which may be taken into account under subsection (a)(1) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver),

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(2) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a)(2) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a)(2).

"(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel—

"(i) if the property is an engine (or modification thereof) which may use a clean-burning fuel, or

"(ii) to the extent the property is used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(3) EXCEPTION FOR QUALIFIED ELECTRIC VEHICLES.—The term 'qualified clean-fuel vehicle property' does not include any qualified electric vehicle (as defined in section 30(c)).

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is—

"(A) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

"(B) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction 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.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(3) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(b) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

"(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 15 percent of the cost of any qualified electric vehicle placed in service by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2001, the credit otherwise allowable under subsection (a) shall be reduced by—

"(A) 25 percent in the case of property placed in service in calendar year 2002,

"(B) 50 percent in the case of property placed in service in calendar year 2003, and

"(C) 75 percent in the case of property placed in service in calendar year 2004.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over—

"(B) the tentative minimum tax for the taxable year.

"(c) QUALIFIED ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified electric vehicle' means any motor vehicle—

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current,

"(B) the original use of which commences with the taxpayer, and

"(C) which is acquired for use by the taxpayer and not for resale.

"(2) MOTOR VEHICLE.—For purposes of paragraph (1), the term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(d) SPECIAL RULES.—

"(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit.

"(2) 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.

"(3) 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.

"(e) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004".

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Credit for qualified electric vehicles."

(B) Section 1016(a), as amended by subsection (a)(3), is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 30(d)(1)."

(C) Section 53(d)(1)(B)(iii) is amended—

(i) by striking "section 29(b)(5)(B) or" and inserting "section 29(b)(6)(B),", and

(ii) by inserting ", or not allowed under section 30 solely by reason of the application of section 30(b)(2)(B)" before the period.

(D) Section 55(c)(2) is amended by striking "29(b)(5)," and inserting "29(b)(6), 30(b)(2),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 20114. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

"(iii) the aggregate amount of subsidized energy financing under a Federal, State, or local program provided in connection with the project, and

"(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility originally placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for such calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—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 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. For purposes of the preceding sentence, only contracts entered into after December 31, 1989, shall be taken into account.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) 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."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

SEC. 20115. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) DEPLETION.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) DEPLETION.—

"(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) INTANGIBLE DRILLING COSTS.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—In the case of any oil or gas well—

"(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) LIMITATION ON BENEFIT.—The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.".

(c) CONFORMING AMENDMENTS.—

(1) Section 56 is amended by striking subsection (h).

(2) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

(3) Section 59(a)(2)(A)(ii) is amended by striking "and the alternative tax energy preference deduction under section 56(h)" and inserting "and section 57(a)(2)(E)".

(4) Section 59A(b)(1) is amended by striking "or the alternative tax energy preference deduction under section 56(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 20116. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ADDITIONAL BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical for any calendar year (determined without regard to this subparagraph) shall be increased by the amount determined under the following tables for such calendar year:

"(i) INITIALLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.18
1993	0.10
1994	1.00
1995 and each calendar year thereafter	1.45.

"(ii) NEWLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.48
1993	1.08
1994	0.65
1995 and each calendar year thereafter	1.45."

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "January 1 of 1991, 1992, 1993, and 1994" and inserting "January 1 of 1991 and 1992, October 1, 1992, and January 1 of 1993 and each calendar year thereafter".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or October 1" after "January 1", and

(ii) by inserting "or March 31 of the suceeding calendar year, respectively," after "such year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after October 1, 1992.

SEC. 20117. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) is amended to read as follows:

"In the case of:	The applicable percentage is: For sales or use during 1992	For sales or use during 1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2404	2.3	1.5".

(b) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use after September 30, 1992, and before January 1, 1994, of any substance to sterilize medical devices, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph be imposed):

"In the case of sales or use during:	The applicable percentage is:
1992	90.3
1993	60.7.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical devices, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used after September 30, 1992, and before January 1, 1994, by any person to sterilize medical devices, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after October 1, 1992.

SEC. 20118. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" in subparagraph (A) and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) OCEAN THERMAL ENERGY.—Subparagraph (A) of section 48(a)(3) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) equipment, placed in service after June 30, 1992, at either of 2 locations designated by the Secretary after consultation with the Secretary of Energy, which converts ocean thermal energy to usable energy,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

SEC. 20119. NUCLEAR DECOMMISSIONING FUNDS.

(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 20120. ALCOHOL FUELS.

(a) REDUCED RATE OF TAX ON GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by multiplying the otherwise applicable rate by a fraction the numerator of which is 10 and the denominator of which is—

"(A) 9 in the case of 10 percent gasohol,

"(B) 9.23 in the case of 7.7 percent gasohol, and

"(C) 9.43 in the case of 5.7 percent gasohol,

in the case of the removal or entry of any gasoline for use in producing gasohol at the time of such removal or sale. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or entry."

(2) CONFORMING AMENDMENTS.—Section 4081(c) is amended—

(A) by striking "6.1 cents a gallon" in paragraph (2) and inserting "an otherwise applicable rate", and

(B) by striking paragraph (4) and inserting the following new paragraph:

"(4) OTHERWISE APPLICABLE RATE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) or entered after September 30, 1992.

(b) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation, or

"(ii) 50 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF THE ALCOHOL FUELS CREDIT NOT USED AGAINST NORMAL LIMITATION.—For purposes of subparagraph (A), the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to such alcohol fuels credit, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph), reduced by the portion of the credit under subsection (a) which is not so attributable."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1992.

(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply to—

(i) any credit which was determined in a taxable year, or

(ii) any credit which is carried back to a taxable year,

beginning on or before September 30, 1992.

SEC. 20121. DETERMINATION OF INDEPENDENT PRODUCERS.

(a) RETAILERS.—

(1) IN GENERAL.—Section 613A(d)(2) is amended—

(A) by inserting "and sales of natural gas by a regulated public utility" after "users", and

(B) by inserting "and sales of products derived from natural gas by a regulated public utility" after "Defense".

(2) DEFINITION.—Section 613A(d)(2) is amended by adding at the end thereof the following new sentence "For purposes of the first sentence, the term 'regulated public utility' means a utility described in section 7701(a)(33) at least 50 percent of the gross income of which is derived from sources described in subparagraphs (A), (B), and (C) of section 7701(a)(33)."

(b) REFINERS.—Section 613A(d)(4) (relating to certain refiners excluded) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engage in the refining of crude oil, subsection (c) shall not apply to such taxpayer during any taxable year if the aggregate average daily refinery runs of the taxpayer and such persons for the taxable year exceed 50,000 barrels."

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1992.

SEC. 20122. TAX-EXEMPT FINANCING FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(12) environmental enhancements of hydroelectric generating facilities."

(b) DEFINITION AND SPECIAL RULES FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Section 142 is amended by adding at the end the following new subsection:

"(j) ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'environmental enhancements of hydroelectric generating facilities' means property—

"(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

"(B) which—

"(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

"(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

"(2) USE OF PROCEEDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i)."

(2) FINANCED PROPERTY MUST BE GOVERNMENTALLY OWNED.—Subparagraph (A) of section 142(b)(1) (relating to certain facilities must be governmentally owned) is amended by striking "(2) or (3)" and inserting "(2), (3), or (12)".

(3) EXCLUSION FROM VOLUME CAP.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "or (2)" and inserting ", (2), or (12)", and

(B) by striking "and docks and wharves" and inserting ", docks and wharves, and environmental enhancements of hydroelectric generating facilities".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle B—Other Revenue Provisions

SEC. 20131. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

SEC. 20132. MODIFICATIONS TO TAX ON INSURANCE POLICIES ISSUED BY FOREIGN INSURERS.

(a) INCREASE IN TAX ON CERTAIN REINSURANCE CONTRACTS.—Paragraph (3) of section 4371 (relating to imposition of tax) is amended to read as follows:

"(3) REINSURANCE.—

"(A) 4 cents on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1).

"(B) 1 cent on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (2)."

(b) RETENTION OF EXISTING TAX RATE IN CERTAIN CASES; LIMITATION ON TREATY BENEFITS.—

(1) Section 4371 is amended by adding at the end thereof the following new subsection:

"(b) SPECIAL RULES.—

"(1) LOWER RATE ON CERTAIN REINSURANCE PREMIUMS.—Subparagraph (A) of subsection (a)(3) shall be applied with respect to any premium by substituting '1 cent' for '4 cents' if—

"(A) such premium is paid to a foreign insurer or reinsurer which is a resident of a foreign country,

"(B) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed by chapter 1, and

"(C) the risk with respect to which such premium is paid is not reinsured (directly or through a series of transactions) by a resident of another foreign country who does not meet the requirements of subparagraph (B).

"(2) APPLICATION OF RELIEF.—In applying paragraph (1) or any treaty, no person shall be relieved of the requirement to remit any tax imposed by this chapter on any premium unless the parties to the transaction satisfy such requirements as the Secretary may prescribe to ensure collection of tax due on any reinsurance of the risk with respect to which such premium was paid.

"(3) SECRETARIAL AUTHORITY.—

"(A) ENFORCEMENT PROCEDURES.—The Secretary may prescribe regulations setting forth such procedures as the Secretary may deem appropriate to ensure compliance with the requirements of paragraph (1).

"(B) WAIVER.—The Secretary may by regulations waive the requirements of paragraph (1)(C) in such circumstances and subject to such conditions as he may deem appropriate."

(2) Section 4371 is amended by striking "There is hereby" and inserting the following:

"(a) GENERAL RULE.—There is hereby".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date of the enactment of this Act but only to the extent allocable to reinsurance for periods after December 31, 1992.

Subtitle C—Health Care of Coal Miners

SEC. 20141. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 20142. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) coal provides a significant portion of the energy used in the United States;

(2) the production, transportation and use of coal affects interstate and foreign commerce and the national public interest;

(3) a significant portion of the national work force has been employed in the production of coal for interstate and foreign commerce and in the national interest;

(4) the Government of the United States has regulated the coal industry, employment in the industry, and the provision of retirement benefits within the industry;

(5) the continued well-being and security of employees, retirees and their dependents within the coal industry are directly affected by the provision of health benefits to retirees and their dependents;

(6) for many decades, the provision of adequate health care for retirees has been an essential element in maintaining a stable and strong coal industry as an important component in a strong United States economy;

(7) an important element in the privately maintained benefit plans now experiencing financial difficulty has been the provision of health benefits for retirees of companies no longer in business; and

(8) withdrawals of contributing employers from privately maintained benefit plans under collective bargaining agreements derived from an agreement with the United States, covering retirees within the coal industry, result in substantially increased funding burdens for employers that continue to contribute to such plans, adversely affect labor-management relations and the stability and strength of the coal industry, and impair the provision of health care to retirees.

(b) ADDITIONAL FINDINGS.—The Congress further finds that—

(1) it is necessary to modify and reform the current private benefit plan structure for re-

tirees within the coal industry in order to stabilize the provision of health care benefits to such retirees; and

(2) it is necessary to supplement the current private benefit plan structure with a benefit protection program that will assure continued funding and contain program costs.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this subtitle—

(1) to remedy problems that discourage the provision, funding, and delivery of health care to coal industry retirees;

(2) to provide reasonable protection for the health benefits of coal industry retirees;

(3) to require use of state-of-the-art cost containment and managed care measures as part of the overall package of health care delivery and financing; and

(4) to provide a financially self-sufficient program for the provision of retiree health benefits in the coal industry.

SEC. 20143. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. Coal industry health benefits.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A. Coal Industry Retiree Health Benefits Corporation.

"SUBCHAPTER B. Eligibility for and payment of benefits.

"SUBCHAPTER C. Other provisions.

"Subchapter A—Coal Industry Retiree Health Benefit Corporation

"Sec. 9701. Establishment of the Corporation.

"Sec. 9702. Directors of Corporation.

"Sec. 9703. Powers; tax status.

"Sec. 9704. Operation of Corporation.

"SEC. 9701. ESTABLISHMENT OF THE CORPORATION.

"There is hereby created the Coal Industry Retiree Health Benefit Corporation (hereafter in this chapter referred to as the 'Corporation'), which shall be a governmental body corporate under the direction of a board of directors. Within the limitations of law and regulation, the board of directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"SEC. 9702. DIRECTORS OF CORPORATION.

"(a) APPOINTMENT.—The board of directors of the Corporation shall consist of 5 persons, who shall be appointed by the Secretary of Labor. The board shall at all times have the following as members:

"(1) 2 persons from employers in the coal-mining industry (only 1 of whom shall be from an entity that is or was a settlor of a plan described in section 404(c));

"(2) 1 person from an organization that represents coal industry employees (and that is or was a settlor of a plan described in section 404(c));

"(3) 1 person from another labor organization representing employees (whether or not in the coal industry); and

"(4) 1 other person who shall serve as the chairman.

"(b) TERMS OF OFFICE, SUCCESSORS.—Each director shall be appointed for a term of 3 years, except for the initial term. The initial terms of the directors shall be as follows:

"Coal industry employee representative	4 years
(section 404(c) settlor) "Coal-mining industry employer	3 years
(section 404(c) settlor) Other employee representative	3 years
Other coal-mining industry employer	2 years
Chairman	1 year.

A vacancy on the board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term. A director may serve after the expiration of a term until a successor has taken office.

"(c) QUORUMS.—Vacancies on the board shall not impair the powers of the board to execute the functions of the Corporation so long as there are 3 members in office. The presence of 3 members shall constitute a quorum for the transaction of the business of the board.

"(d) INDEPENDENT AUDIT.—The Corporation shall annually employ an independent certified or licensed public accountant who shall examine and audit the books and financial transactions of the Corporation. The Corporation shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this chapter.

"(e) ADOPTION OF BYLAWS; AMENDMENT; ALTERATION; PUBLICATION IN THE FEDERAL REGISTER.—As soon as practicable, but not later than 180 days after the date of the enactment of this chapter, the board shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation. Thereafter, the board may alter, supplement or repeal any existing bylaw or rule, and may adopt additional bylaws and rules from time to time as may be necessary. Any bylaw or rule relating to the conduct or business of the Corporation shall be adopted in compliance with the Administrative Procedure Act, including the notice and comment provisions thereof.

"SEC. 9703. POWERS; TAX STATUS.

"(a) POWERS OF CORPORATION.—The Corporation shall have power—

"(1) to adopt, alter, and use a corporate seal;

"(2) to have succession until dissolved by Act of Congress;

"(3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter;

"(4) to make and perform contracts, agreements, and commitments;

"(5) to prescribe and impose fees and charges for services by the Corporation;

"(6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation, to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation;

"(7) to sue and be sued, complain and defend, in any State, Federal, or other court;

"(8) to acquire, take, hold, and own, and to deal with and dispose of any property;

"(9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and to appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents;

"(10) to borrow funds from the United States Treasury for startup and operating costs;

"(11) to collect delinquent accounts; and

"(12) to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this chapter.

"(b) EXEMPTION FROM TAXATION.—The Corporation, its property, its franchise, capital, reserves, surplus, and its income (including but not limited to, any income of any fund established under section 9704(f)), shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21, relating to the Federal Insurance Contributions Act and chapter 23, relating to the Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the Corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

"(c) CORPORATION AS AGENCY.—Notwithstanding section 1349 of title 28 or any other provision of law—

"(1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

"(2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

"(3) any civil or other action, case or controversy in a court of a State, or any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation to the United States district court for the district and division embracing the place where the same is pending, or if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

"(d) REPORT TO CONGRESS.—No later than 1 year after the effective date of this chapter, the Corporation shall present a report to Congress on its activities, including an evaluation of the economic impact of this chapter on small coal companies and an evaluation of the effectiveness of the Corporation in achieving its goals, and recommending any changes to this chapter as it considers beneficial, including any recommended changes in premiums considered warranted to minimize any undue economic impact on small coal companies. At such time, Congress shall review the activities and operations of the Corporation.

"SEC. 9704. OPERATION OF CORPORATION.

"(a) INVESTIGATORY AUTHORITY.—

"(1) The Corporation may make such investigations as it deems necessary to enforce any provision of this chapter or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(2) The Corporation shall keep strictly confidential all information received relating to—

"(A) trade secrets or financial or commercial information pertaining specifically to a given person, the disclosure of which could cause competitive injury to such person, or

"(B) personnel or medical data or similar data, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

unless the portions containing such matters, information, or data have been excised, but may use such information to the extent necessary to enforce the premium obligation imposed under subsection (g).

"(b) DISCOVERY POWERS VESTED IN BOARD OR DESIGNATED OFFICERS.—For the purpose of any investigation described in subsection (a), or any other proceeding under this chapter, the board or any officer designated by the board, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records which the Corporation deems relevant or material to the inquiry.

"(c) CONTEMPT.—In case of contumacy by, or refusal to obey, a subpoena issued to any person, the Corporation may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on (or where such person resides or carries on business) in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records. The court may issue an order requiring such person to appear before the Corporation, and to produce records or to give testimony related to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or may be found.

"(d) COOPERATION WITH GOVERNMENTAL AGENCIES.—In order to avoid unnecessary expense and duplication of functions among government agencies, the Corporation may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this chapter as is practicable and consistent with law. The Corporation may utilize the facilities or services of any department, agency or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency or establishment. The head of each department, agency or establishment of the United States shall cooperate with the Corporation and, to the extent permitted by law, provide such information and facilities as it may request for its assistance in the performance of its functions under this chapter.

"(e) CIVIL ACTIONS.—

"(1) Civil actions may be brought by the Corporation for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(2) Except as otherwise provided in this chapter, if an action is brought in a district court of the United States, it may be brought in the district where the Corporation is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(3) The district courts of the United States shall have jurisdiction of actions brought by the Corporation under this chapter without regard to the amount in controversy in any such action.

"(4)(A) An action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose; or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B) The applicable date specified in this subparagraph is the earliest date on which the Corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(C) For purposes of this paragraph, in an action by the Corporation to collect premiums due under this chapter, the cause of action shall be treated as having arisen no earlier than the date on which the premium was due.

"(5) In any action brought under this chapter, whether to collect premiums, penalties (in the amount determined by the Corporation, which shall be no greater than the greater of interest on the unpaid premium or 20 percent of the amount of the unpaid premium), or interest (at the rate determined by the Corporation) or for any other purpose, in which a judgment in favor of the Corporation is awarded, the court shall award the Corporation its costs and reasonable counsel fees.

"(f) ESTABLISHMENT OF COAL INDUSTRY RETIREE BENEFIT FUND.—

"(1) The Corporation shall establish a Coal Industry Retiree Benefit Fund (hereafter in this chapter referred to as the 'Fund'). Except as provided in paragraph (2), all amounts received by the Corporation shall be deposited in the Fund, and all expenditures made by the Corporation shall be made out of the Fund.

"(2) The Corporation shall transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury of the United States any portion of the premiums received under subsection (g) which are allocable to the portion of such premiums which are imposed to offset Federal revenue losses by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(3) Except as otherwise provided in this chapter, the balance of the Fund shall at any time consist of the aggregate at such time of the following items:

"(A) Cash on hand or on deposit.

"(B) Amounts invested in United States Government or agency securities.

"(g) IMPOSITION OF PREMIUM PAYMENT OBLIGATION.—

"(1)(A) There is hereby imposed on each person that produces bituminous coal for use or for sale the obligation to pay to the Corporation an hourly premium equal to—

"(i) in the case of bituminous coal produced in an eastern State, the rate for each hour worked in coal production work by such person's employees determined in accordance with the following:

"In the case of calendar year	The rate is:
1992	$1.18
1993	$1.18
1994	$1.19
1995	$1.19
1996 or thereafter	$1.20

, or

"(ii) in the case of bituminous coal produced in a western State, 15 cents on each hour worked in coal production work by such person's employees.

"(B)(i) There is hereby imposed on bituminous coal imported to the United States, for use or for sale, a per-ton premium obligation to be paid to the Corporation. Such premium is intended to be equivalent to the premium imposed on domestically produced bituminous coal.

"(ii) The amount of the per-ton premium shall be equal to 39 cents per ton.

"(iii) For purposes of this subparagraph, the term 'ton' means 2,000 pounds, and the term 'United States' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

"(C)(i) In addition to the amounts specified in subparagraphs (A) and (B), each last signatory operator and each other employer referred to in this subparagraph shall pay to the Corporation an annual per beneficiary premium. The amount of the annual per beneficiary premium shall be the product of the total number of orphan miners, spouses, surviving spouses, and dependents (determined under section 9711) attributable to such last signatory operator or employer and the per beneficiary premium as calculated in clause (iii).

"(ii) For purposes of this subparagraph, an orphan miner (and his spouse, surviving spouse and dependents) shall be attributable—

"(I) to an employer if his employment with such employer resulted in his eligibility under section 9711(b)(1)(E); or

"(II) to a last signatory operator meeting the conditions described in section 9723(6) with respect to such orphan miner.

"(iii)(I) The amount of the per beneficiary premium shall be determined in accordance with the following table:

"In the case of calendar year	The premium is:
1992	$1,215
1993	$2,532
1994	$2,745
1995	$2,973
1996	$3,216
1997 and thereafter	$3,479.

"(II) As of the date any per beneficiary premium obligation is due under this subparagraph, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator or employer shall be treated as such last signatory operator or employer, and shall be jointly and severally liable for such obligation.

"(iv) A last signatory operator shall have no liability under this subparagraph if—

"(I) as of November 5, 1990, and for all periods thereafter, such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the mining, production, preparation, marketing, sale, distribution, transportation, leasing or licensing of coal; and

"(II) such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, were, in the aggregate, involved in the production of fewer than 50,000 tons of coal during each of the 3 years immediately preceding the cessation of such involvement.

The limitation of liability set forth in the preceding sentence shall cease to apply at any time that a last signatory operator, or any persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, ceases to meet the conditions described in subclause (I).

"(v) The annual per beneficiary premium shall be payable in equal monthly installments, due by the tenth day of each month. In no event shall a last signatory operator be

obligated to pay a per beneficiary premium for an individual for any month for which the last signatory operator has paid its required assessment for such individual under section 9713(d).

"(vi) A last signatory operator shall have no liability under this subparagraph if as of January 1, 1992, such last signatory operator and the persons described in section 9723(5)(B) and (C) with respect to such last signatory operator, have ceased all involvement in the production, sale, distribution, transportation, or use in processes for producing products of the operator and such persons, of bituminous and sub-bituminous coal (other than the sale or leasing of any interest in coal reserves).

"(2)(A) In the event that a person required to make payments under paragraph (1) fails to do so, the Corporation shall assess liability against the person, based upon the Corporation's estimate of the person's liability.

"(B) No later than 90 days after the assessment of liability by the Corporation, the person may request administrative review of the Corporation's assessment, in accordance with procedures adopted by the Corporation.

"(C) Notwithstanding the pendency of administrative review of any assessment of liability, the person shall, no later than 30 days after the assessment of such liability, pay all amounts required by the assessment in accordance with any payment schedule applied by the Corporation. In the event a person fails to make such payments, all amounts owed by the person shall become immediately due and payable.

"(D) In the event the person that has made payments in accordance with subparagraph (C) is ultimately determined, in accordance with subparagraph (B), to have paid in excess of the amounts actually due, the person shall receive a refund of such excess amounts, with interest.

"(3) The Corporation shall report to the Congress before the close of any calendar year with respect to any adjustment in the amount of the premiums imposed under subparagraphs (A)(i) and (B) of paragraph (1) for the following calendar year which the Corporation determines necessary to enable the provision of benefits under section 9712. Any recommendation with respect to any adjustment shall reflect the reduction in Federal revenues by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(4) Premiums owed under subparagraphs (A) and (B) of paragraph (1) shall be due on the tenth day of each calendar month immediately following the month in which the coal is produced or imported, and shall be paid to the Corporation in accordance with forms and schedules promulgated by the Corporation.

"(5) The premium obligation imposed under this section shall take effect on July 1, 1992. Premiums paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(6) For purposes of this subsection—

"(A) the term 'bituminous coal' means coal classified as bituminous coal according to the publication of the American Society for Testing and Materials under the title 'Standard Classification of Coals by Rank' (ASTM D 388-91a), as in effect on the date of the enactment of this chapter, and

"(B) the term "Eastern States" includes Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; and

"(C) the term "Western States" includes Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

"Subchapter B—Eligibility for and Payment of Benefits

"Sec. 9711. Eligibility; orphan miners.
"Sec. 9712. Payment of benefits.
"Sec. 9713. Establishment of Coal Industry 1991 Benefit Fund.
"Sec. 9714. Obligation of last signatory operator to provide benefits to retirees.
"Sec. 9715. Transition benefits; premium nonpayment; transfers between 1991 Fund and Corporation.

"SEC. 9711. ELIGIBILITY; ORPHAN MINERS.

"(a) IN GENERAL.—Any person who is an orphan miner, as defined in subsection (b), or who meets the conditions set forth in subsection (c), shall be eligible to receive benefits provided by the Corporation pursuant to section 9712, except that no person shall be eligible to receive benefits from the Corporation because of a failure to receive benefits resulting from a temporary labor dispute.

"(b) ORPHAN MINER STATUS.—For purposes of this section—

"(1) An orphan miner is any person who—

"(A)(i) as of the date of enactment of this chapter, was eligible to receive benefits as a retiree from a plan described in section 9721(d) (or, but for the enactment of this chapter, would be eligible to receive benefits as a retiree from the plan described in section 9721(d)(2)(A)), and

"(ii) is not receiving benefits as a retiree from a plan described in section 9721(d) or from the plan established pursuant to section 9713;

"(B) is not described in subparagraph (A), but was eligible to receive benefits as a retiree from the plan established pursuant to section 9713 and is not receiving benefits from such plan;

"(C)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c)),

"(ii) but for the enactment of this chapter, would be eligible to receive medical benefits as a retiree as of February 1, 1993, from the plan described in section 9721(d)(2)(B), and

"(iii) is not receiving medical benefits as a retiree from the plan described in section 9721(d)(2)(B) or from any other plan;

"(D)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

"(ii) as of February 1, 1993, had earned 20 years of credited service under such plan;

"(iii) is at any time after beginning to receive such pension not receiving retiree medical benefits equal to the benefits in effect at that time under the plans described in section 9712(b)(3); and

"(iv) meets the eligibility requirements for retiree medical benefits then in effect under such plans; or

"(E)(i) was eligible as a result of coal production work performed in the bituminous, sub-bituminous or lignite coal industry to receive retiree medical benefits from a health care plan that met the requirements of subparagraphs (D) and (E) of paragraph (2);

"(ii) initially ceased to receive retiree medical benefits on or after the date of enactment of this chapter, despite continued eligibility therefore;

"(iii) had been receiving such benefits from a plan that had been in existence for at least 3 years prior to the cessation of benefits; and

"(iv) was included in a category of retirees that had been eligible to receive benefits for at least 3 years prior to the cessation of benefits.

"(2) For purposes of paragraph (1)(E), the following rules shall apply:

"(A) Eligibility is continuing where benefits ceased incident to an employer's cessation of operations, but is not continuing where benefits ceased pursuant to a lawful termination or modification of a plan (under circumstances other than a cessation of operations).

"(B) In the case of any individual who has 20 years of credited service under a defined benefit pension plan maintained pursuant to the agreement described in section 9723(7), or who was otherwise eligible to receive retiree medical benefits from a single employer health care plan pursuant to a coal wage agreement, all health care plans in which such individual was a participant during a period of such credited service or during such period of eligibility shall be taken into account in determining whether the 3-year tests have been met.

"(C) In the case of an employer that established a new health care plan as a replacement for a prior plan, such prior plan shall be taken into account in determining whether the 3-year tests have been met.

"(D) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of the plan to the Corporation within 180 days from the later of—

"(i) the date of establishment of the plan; or

"(ii) the date of enactment of this chapter.

"(E) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of any amendment or modification to the plan to the Corporation within 180 days from the later of—

"(i) the date of such amendment or modification; or

"(ii) the date of enactment of this chapter.

"(c) ELIGIBILITY OF SPOUSES AND DEPENDENTS.—

"(1) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual was eligible to receive benefits from a plan described in section 9721(d) as of the date of enactment of this chapter, and is not receiving benefits from that plan or from the plan established pursuant to section 9713.

"(2) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual is not described in paragraph (1), but was eligible to receive benefits from the plan established pursuant to section 9713 and is not receiving benefits from such plan.

"(3) In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(A) or (b)(1)(C) of this section, eligibility shall be based upon

the rules set forth in the plans described in section 9721(d) as of the date of enactment of this chapter. In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(D), eligibility shall be based upon the rules set forth in individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation. In all other cases, eligibility shall be based upon the rules of the plan that was or would have been applicable to the orphan miner or deceased coal miner for the 3-year period preceding eligibility for benefits from the Corporation. The Corporation is authorized to promulgate regulations consistent with this paragraph establishing the eligibility of other spouses, surviving spouses and dependents of orphan miners or deceased coal miners for health benefits.

"(d) REENROLLMENT OF ORPHAN MINERS AND BENEFICIARIES.—The Corporation and the joint board of trustees of the plan established pursuant to section 9713 shall cooperate to review the eligibility of individuals under this section. Pending such review, any individual receiving benefits from a plan described in section 9721(d) as of the date of enactment of this chapter shall be presumed to meet the first part of the eligibility tests of subsections (b)(1)(A) and (c)(1). However, no individual shall be considered eligible to receive benefits provided by the Corporation unless a determination is made that such individual in fact met or meets all eligibility requirements necessary to receive benefits as required under subsection (b) or (c). No individual shall be eligible under subsection (b)(1)(A) or (c)(1) if such individual was finally determined to be ineligible to receive benefits from a plan described in section 9721(d) prior to the date of enactment of this chapter.

"SEC. 9712. PAYMENT OF BENEFITS.

"(a) IN GENERAL.—The Corporation shall provide medical benefits to orphan miners, their spouses, surviving spouses and dependents, who meet the eligibility requirements of section 9711, and shall provide coverage for death benefits to orphan miners eligible for such benefits. The board shall establish schedules of benefits applicable to classes of orphan miners, their spouses, surviving spouses and dependents, in accordance with this section. All benefit obligations of the Corporation shall be contingent upon the continued imposition of an hourly premium payment obligation as specified in section 9704(g)(1)(A).

"(b) BENEFIT LEVELS.—

"(1) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(A) or 9711(b)(1)(C) shall be entitled to benefit coverage that is substantially the same as (but not exceeding) the coverage provided by the plans described in section 9721(d) as of the date of enactment of this chapter, and shall be subject to all limitations of such coverage. Such orphan miner shall also be eligible for death benefits, which shall be equal to the death benefits provided as of the date of enactment of this chapter under the plan described in section 9721(c).

"(2) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(B) or 9711(b)(1)(E) shall be entitled to a level of benefits and benefit coverage that is substantially the same as (but not exceeding) the retiree benefit coverage applicable to him immediately preceding his eligibility for benefits from the Corporation, and shall be subject to all limitations of such coverage. Notwithstanding the foregoing, the following rules shall apply:

"(A) The level of benefits and benefit coverage provided under this paragraph shall not exceed that which is provided under paragraph (1) of this subsection.

"(B) In determining the retiree benefit coverage applicable to an orphan miner for purposes of this paragraph, the Corporation shall disregard any increases or decreases in benefits or benefit coverage that were in effect for fewer than 3 years preceding the orphan miner's eligibility for benefits from the Corporation, except that—

"(i) any death benefit applicable to an orphan miner as a result of 1991 amendments to the agreement described in section 9723(7) shall not be disregarded; and

"(ii) increases or decreases in benefits or benefit coverage that were the subject of a collective bargaining agreement shall not be disregarded.

"(3) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(D) shall be entitled to a level of benefits and benefit coverage equivalent to the level of benefits and benefit coverage, if any, provided under individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation, and shall be subject to all limitations of such coverage.

"(4) An individual eligible for benefits pursuant to section 9711(c) shall be entitled to medical benefit coverage that does not exceed the medical benefit coverage that is or would have been applicable to the coal miner through whom the individual claims eligibility, and the individual shall be subject to all limitations of such coverage.

"(5) The Corporation may make increases to its schedules of benefits that are desirable for efficiency of administration, except that such adjustments to benefits may not result in an increase in cost to the Corporation or an increase in any premium under section 9704(g).

"(c) MANDATORY MANAGED CARE.—The Corporation shall develop managed care rules which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules shall include, but not be limited to—

"(1) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(2) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(3) limiting benefit payments to physicians to the Medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(4) utilizing Medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(5) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(6) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(7) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) EFFECTIVE DATE.—Benefits shall be payable under this section as of July 1, 1992. Pursuant to section 9715, the Corporation shall pay the trustees of the plans described in section 9721(d) and the plan established pursuant to section 9713 for all benefit and administrative costs expended with respect to eligible orphan miners, spouses, surviving spouses and dependents, from the effective date to the date that such individuals are transferred to the Corporation.

"(e) ELECTIVE COVERAGE.—

"(1) An employer may elect to provide retirement health coverage to its employees by meeting the following conditions:

"(A) The employer must employ workers in the coal industry.

"(B) The employer agrees to pay an annual premium, as determined by the Corporation, sufficient to provide retirement health coverage to all of its employees who perform classified work as determined under the agreement described in section 9723(7), or any successor agreement, who have worked a total of 20 years, including both service with that employer, service for any other employer described in this subsection, and service for any other employer that is credited for purposes of eligibility by a plan described in section 404(c).

"(C) The employer is not currently obligated by a collective bargaining agreement to make contributions to the plan established pursuant to section 9713.

"(D) The employer's election, once made, is irrevocable.

"(2) Upon the retirement of an employee of an employer described in paragraph (1), with 20 or more years of service, upon such terms and conditions as established by the Corporation, such employee and his or her dependents shall receive benefits, upon such terms and conditions as determined by the Corporation.

"SEC. 9713. ESTABLISHMENT OF UNITED MINE WORKERS OF AMERICA 1991 BENEFIT FUND.

"(a) MERGER OF RETIREE BENEFIT PLANS.—

"(1) As soon as practicable after the enactment of this chapter, and in no event later than 60 days, the settlors of the plans described in section 9721(d) shall cause such plans to be merged, and shall appoint a joint board of trustees to manage the operation and administration of the merged plan. The merged plan shall be known as the United Mine Workers of America 1991 Benefit Fund (hereinafter referred to as the '1991 Fund'). The 1991 Fund shall be an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(2) The settlors shall design the structure and administration of the 1991 Fund. The settlors may at any time and for any reason change the number and identity of the members comprising the board of trustees of the 1991 Fund.

"(b) ELIGIBILITY.—

"(1) The following individuals shall be eligible to receive benefits from the 1991 Fund:

"(A) Any individual who, as of the date of enactment of this chapter, was eligible to receive benefits from the plan described in section 9721(d)(2)(A) (or who, but for the enact-

ment of this chapter, would be eligible for benefits from such plan), and with respect to whom the last signatory operator is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement.

"(B) Any individual who retired from classified employment under an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement, and any spouse, surviving spouse or dependent of such retiree, with respect to whom the last signatory operator makes an election prior to February 1, 1993, to pay premiums to the 1991 Fund for such benefits and is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement. Any election made pursuant to this subparagraph must cover, at a minimum, all of the last signatory operator's retirees who retired from classified employment as of February 1, 1993.

"(2) No individual shall be eligible under subparagraph (A) of paragraph (1) unless the joint board of trustees of the 1991 Fund determines that such individual in fact met all eligibility requirements of the plan described in section 9721(d)(2)(A) as of the date of enactment of this chapter. Any individual who was finally determined to have been ineligible for benefits from a plan described in section 9721(d)(2)(A) prior to such date of enactment shall be ineligible under subparagraph (A) of paragraph (1).

"(c) BENEFITS.—

"(1) Except as otherwise provided in this subsection, health care benefits provided under the 1991 Fund shall be identical to the benefits provided under the plans described in section 9721(d). The 1991 Fund shall provide coverage for death benefits to retirees, equal to the death benefits provided under the plan described in section 9721(c).

"(2) The joint board of trustees of the 1991 Fund shall develop managed care rules, subject to section 9714(b), which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. The board of trustees shall permit any last signatory operator subject to section 9714 to utilize the managed care and cost containment rules and programs developed pursuant to this paragraph, at the election of such last signatory operator. Major elements of such rules shall include, but not be limited to--

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(C) limiting benefit payments to physicians to the Medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(D) utilizing Medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(G) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) ASSESSMENTS.—

"(1) As of November 30 of each plan year, the joint board of trustees of the 1991 Fund shall set a monthly assessment for each person required to pay assessments pursuant to paragraph (2). The monthly assessment for each such person shall be equal to 1/12 of the product of—

"(A) the projected cost of operating the 1991 Fund during the succeeding plan year (less any assets received from a plan described in section 9721(c) and any other surplus assets) divided by the number of participants and beneficiaries for the current plan year; and

"(B) the projected number of the 1991 Funds' eligible participants and beneficiaries attributable to such person, determined as of the nearest November 1.

In projecting the cost of operating the 1991 Fund, the board of trustees shall take into account the anticipated benefit experience and administrative expenses of the 1991 Fund as a whole, and amounts needed to eliminate any accumulated deficit. The monthly assessment determined under this paragraph shall be verified by an independent auditor, and shall continue in effect for each month of the succeeding plan year, except that the joint board of trustees shall determine a monthly assessment for any new contributor or other person for whom a monthly assessment has not been established, and a revised monthly assessment for any last signatory operator that makes the election described in subsection (b)(1)(B) and with respect to which new participants and beneficiaries become eligible for benefits. Any new monthly assessment or revised monthly assessment shall be based upon the number of projected participants and beneficiaries attributable to the contributor as of the date the new or revised assessment is made. Each person required to pay assessments pursuant to paragraph (2) shall continue to pay to the plans described in section 9721(d) the contributions required under the applicable coal wage agreement, until the first month for which the assessment described in this paragraph is set. In no event shall a person required to pay assessments pursuant to paragraph (2) be required to make any payment to the 1991 Fund for the same period for which a contribution to a plan described in section 9721(d) is required.

"(2) Each last signatory operator with respect to any person described in subsection (b)(1)(A), and each last signatory operator with respect to any person described in subsection (b)(1)(B) that has agreed to provide benefits coverage through the 1991 Fund, shall pay to the 1991 Fund for each month the assessment determined by the joint board of trustees pursuant to paragraph (1). The assessments paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(3) Either of the settlors shall have the right to audit the accounts, books and records, and operation of the 1991 Fund, at any time and for any reason, upon reasonable notice to the joint board of trustees. The joint board of trustees shall cooperate fully with the settlors in connection with any such audit and shall make available appropriate personnel and records deemed necessary by the auditors for inspection and copying at reasonable times and places.

"(4) Each last signatory operator obligated to pay assessments to the 1991 Fund pursuant to paragraph (2) shall be bound by all of the provisions of the plan and trust documents establishing and governing the 1991 Fund.

"(5) As of the date any assessment owed under this subsection is due, the persons described in section 9723(5) (B) or (C) with respect to any last signatory operator shall be treated as such last signatory operator and shall be jointly and severally liable for such assessment.

"(e) EXCLUSIVE OBLIGATION.—Except as provided in this chapter, no employer that was a signatory to the 1978 or any subsequent coal wage agreement and that had an obligation to provide health care benefits to coal mine retirees shall be obligated to provide benefits to individuals covered by the plans described in section 9721(d), or to make contributions to any plan described in section 9721(d), or to the 1991 Fund, with respect to work performed or coal mined after the date of enactment of this chapter, or to pay withdrawal liability to a plan described in section 9721(d) as a result of the change in the contribution obligation required by this chapter.

"SEC. 9714. OBLIGATION OF LAST SIGNATORY OPERATOR TO PROVIDE BENEFITS TO RETIREES.

"(a) DURATION OF OBLIGATION.—The last signatory operator of any individual receiving retiree health care benefits as of February 1, 1993 (including retiree, spouse, surviving spouse and dependent benefits) from an individual employer plan maintained pursuant to a coal wage agreement (or who has applied for such benefits as of February 1, 1993, and has met every eligibility requirement for such benefits as of such date) shall provide retiree health care benefits to such individual equal to the benefits required to be provided by such last signatory operator's individual employer plan as of January 1, 1992, as limited by any managed care or cost containment rules of the type described in sections 9712(c) and 9713(c)(2), and subject to subsection (b), for as long as the last signatory operator remains in business. The existence, level and duration of benefits provided to a last signatory operator's former employees (and their spouses, surviving spouses and dependents), other than those described in this subsection, who are or were covered by a coal wage agreement, shall only be as determined by and subject to collective bargaining or lawful unilateral action, except that this subsection shall not be construed to impair the eligibility of any individual described in section 9711(b)(1)(D) for the benefit coverage described in section 9712(b)(3).

"(b) MANAGED CARE PROVIDER SYSTEM QUALITY CONTROL.—Any managed care provider system adopted by a last signatory operator as permitted under subsection (a), or by the joint board of trustees of the 1991 Fund, pursuant to section 9713(c)(2), shall be subject to the following requirements of this subsection:

"(1) The settlors shall establish a medical peer review panel, which shall determine

standards of quality for managed care provider systems. Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending upon the nature of the medical need. Each settlor shall have the power to appoint and remove 2 individuals who shall serve on the panel. A panel member shall be either a medical practitioner knowledgeable in managed care, or an individual who is expert in managed care.

"(2) Each last signatory operator and the joint board of trustees of the 1991 Fund shall submit a description of any managed care provider system to the panel prior to implementation of the system, and shall, on the same date or prior to such submission, provide notice of the submission to the participants of the affected employee benefit plan or plans. The last signatory employer or the joint board of trustees may implement the proposed system on a provisional basis on or after the 120th day after the submission to the panel, unless the panel issues a preliminary determination that the system has not been shown to meet the requisite standards. The requirements of this paragraph shall not apply to a last signatory operator electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(3)(A) Upon receipt of a submission by a last signatory operator or by the joint board of trustees, the panel shall conduct a preliminary examination of the managed care provider system. In the event that the preliminary review reveals a failure to show compliance with established standards such that provisional implementation by a last signatory operator or by the joint board of trustees may be detrimental to participants subject to the system, the panel shall, within 120 days of the submission, issue a preliminary determination that the system has not been shown to meet the requisite standards.

"(B) Within 240 days from the date of any submission, the panel shall issue a final determination of whether the system has been shown to meet the established standards of quality. In the event of a negative determination, the panel shall list specific steps that may be taken by the last signatory operator or by the joint board of trustees to qualify the system under the established standards.

"(C) The first-named settlor in section 9723(8) shall have the authority to review submissions made under paragraph (2), and to designate the order in which such submissions shall be considered by the panel.

"(D) In the event that the members of the panel deadlock on a determination to be made under this paragraph, they shall, by majority vote, appoint a neutral person, who would be qualified to serve as a panel member, to break such deadlock.

"(4) In the event of a negative determination by the panel, the last signatory operator shall have the options described in subparagraph (A), (B), or (C), and the joint board of trustees shall have the options described in subparagraphs (A) and (B):

"(A) implementing the specific steps outlined by the panel pursuant to paragraph (3);

"(B) consistent with the requirements of this subsection, establishing a new managed care provider system that meets the requisite standards; or

"(C) electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(5) The panel shall develop rules for the periodic review of determinations made, except that reviews shall be no more frequent than once every 3 years; and for the reconsideration of any prior determination upon a showing that the managed care provider system does not or has ceased to meet the established standards. The panel may take into account written complaints received from affected participants and beneficiaries, but the authority of the panel shall be limited to determining the continued qualification of a managed care provider system under the established standards, and shall not extend to resolving claims of medical malpractice or any other issue.

"(6) The panel shall withhold from all persons not connected with the conduct of a reconsideration or review described in paragraph (5) (other than the first-named settlor in section 9723(8)) all information relating to the subject of any written complaint received by an affected participant or beneficiary; and may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such information. Notwithstanding the foregoing, the panel shall provide the last signatory operator or the joint board of trustees of the 1991 Fund with a copy of any written complaint relating to a managed care provider system maintained by such last signatory operator or joint board of trustees.

"(7)(A) The panel, any person acting as a member or staff to the panel, any person under a contract or other formal agreement with the panel, and any person who participates with or assists the panel with respect to any action taken pursuant to this subsection, shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the Civil Rights Acts (42 U.S.C. 1981 et seq.). Nothing in this subparagraph shall prevent the United States or any attorney general of a State from bringing an action, where such an action is otherwise authorized.

"(B) Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to the panel regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

"(8) The joint board of trustees of the 1991 Fund and each last signatory operator that makes a submission pursuant to subsection (b)(2) shall be liable for reasonable fees assessed by the panel in connection with the review of managed care provider systems.

"(c) SATISFACTION OF OBLIGATIONS.—Subject to the provisions of sections 9711 and 9713, the obligations of a last signatory operator under this section may be satisfied for any period with respect to any individual by payment of the required assessment under section 9713(d) or the premium under section 9704(g)(1)(C), or by the provision of the required benefits under an individual employer plan.

"(d) CONTROL GROUP LIABILITY.—As of the date that any benefit obligation owed pursuant to this section is due, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator shall be treated as such last signatory operator, and shall be jointly and severally liable for such benefit obligation.

"SEC. 9715. TRANSITION BENEFITS; PREMIUM NONPAYMENT; TRANSFERS BETWEEN 1991 FUND AND CORPORATION.

"(a) PAYMENT OF BENEFITS TO ORPHAN MINERS.—The plans described in section 9721(d) and the 1991 Fund shall continue to provide benefits to orphan miners, spouses, surviving spouses and dependents described in section 9711 (b) and (c), until the end of the second month beginning after the effective date of section 9712(d). Such orphan miners, spouses, surviving spouses and dependents shall be transferred to the Corporation as of the first day of the third month following the effective date of section 9712(d). The defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) shall, on behalf of the Corporation and the 1991 Fund, continue to provide death benefits to orphan miners described in section 9711(b) and to retirees described in section 9713(b)(1) until the end of the second month beginning after the effective date of section 9712(d). Such pension plans shall have no liability for death benefits for the orphan miners described in section 9711(b), or for the retirees described in section 9713(b)(1), as of the first day of the third month following the effective date of section 9712(d). The Corporation may elect to pay the plans described in section 9721(d), the 1991 Fund, or the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) to continue to provide transition benefits after the end of the second month beginning after the effective date of section 9712(d), and for a period not to exceed 6 months. If the Corporation so elects, it shall pay such plans all amounts necessary to enable the provision of benefits and to cover all costs of administration associated with the provision of benefits. The schedule for such payments shall be determined by the boards of trustees of the plans, and may require advance payments. Amounts paid pursuant to this subsection shall not be included in the amounts to be reimbursed pursuant to subsection (b).

"(b) REIMBURSEMENT OF COST FOR TRANSITION BENEFITS.—No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation shall reimburse the plans described in section 9721(d) and the 1991 Fund, with interest, for the amounts of benefits paid and administrative expenses incurred pursuant to subsection (a). No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation and the 1991 Fund shall reimburse the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7), with interest, for the amount of death benefits paid and administrative expenses incurred pursuant to subsection (a).

"(c) ACCESS TO RECORDS.—The joint boards of trustees of the plans described in section 9721(d) and the 1991 Fund shall share with the Corporation all records, files and documents related to the orphan miners, spouses, surviving spouses and dependents transferred to the Corporation, to the extent necessary for the Corporation to administer the payment of benefits to such individuals.

"(d) PREMIUM NONPAYMENT.—

"(1) No individual shall be eligible for benefits from the 1991 Fund during any month for which the assessments required under section 9713(d) have not been paid by such individual's last signatory operator. Such individual shall be immediately eligible to receive benefits from the Corporation and the

Corporation shall have a cause of action against such individual's last signatory operator for the per beneficiary premium imposed under section 9704(g)(1)(C).

"(2) The 1991 Fund shall continue to treat an individual described in paragraph (1) as if he or she were eligible for benefits until the end of the third month for which an assessment due has not been paid. If the last signatory operator with respect to such individual has not paid its assessments due by the end of such month (with such interest and liquidated damages imposed by the board of trustees in their discretion, up to the amounts provided in section 9722(d)(2) (B) and (C)), the 1991 Fund shall notify the Corporation that the individual is transferred to the Corporation pursuant to paragraph (1), and the Corporation shall reimburse the 1991 Fund, with interest, for any benefits paid to or on behalf of such individual for all months for which assessments have not been paid.

"Subchapter C—Other Provisions

"Sec. 9721. Determination and disposition of excess assets.

"Sec. 9722. Civil enforcement.

"Sec. 9723. Definitions.

"Sec. 9724. Sham transactions.

"SEC. 9721. DETERMINATION AND DISPOSITION OF EXCESS PENSION ASSETS.

"(a) DETERMINATION OF EXCESS PENSION ASSETS.—

"(1) Within 30 days after the enactment of this chapter, the joint board of trustees of the plan described in subsection (c) shall, through the independent actuaries of the plan, calculate the amount of the excess pension assets. The trustees of the plan described in subsection (c) shall recalculate the excess pension assets at any time that they are directed to do so by the settlors.

"(2) Immediately following the calculation (or recalculation) of the excess pension assets, the trustees of the plan described in subsection (c) shall segregate the excess pension assets from the remaining assets of such plan. The segregated excess pension assets (including all earnings thereon) shall be held in the plan until disbursed pursuant to subsection (b).

"(b) DISPOSITION OF EXCESS PENSION ASSETS.—Notwithstanding any other provision of law, the excess pension assets (including all earnings thereon) shall be expended in the following order:

"(1) Fifty million dollars shall be added to the general assets of the Corporation.

"(2) The deficits in the plans described in subsection (d) as of the date of enactment of this chapter shall be reduced to zero.

"(3) Fifty million dollars shall be added to the general assets of the 1991 Fund.

"(4) The remainder of the excess pension assets, if any, shall be added to the general assets of the 1991 Fund, at such times and in such amounts as may be directed by the settlors.

"(c) PLAN CONTAINING EXCESS PENSION ASSETS.—A plan is described in this subsection if it is a pension plan and—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(d) RELATED WELFARE PLANS.—A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) it provides health benefits to retirees and beneficiaries of the industry which maintained the plan described in subsection (c); and

"(A) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976; or

"(B) participation in the plan is substantially limited to individuals who retired on or after January 1, 1976.

"(e) TAX TREATMENT, VALIDITY OF TRANSFER OF EXCESS PENSION ASSETS.—

"(1) No deduction shall be allowed under this title with respect to the expenditure of excess pension assets pursuant to subsection (a), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers or amounts hereafter contributed by employers to the plans described in subsection (c) or (d), or to the 1991 Fund.

"(2) The expenditure of excess pension assets pursuant to subsection (b)—

"(A) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(B) shall not be includible in the gross income of any employer maintaining a plan described in subsection (c).

"(3) Neither the segregation of excess pension assets pursuant to subsection (a)(2), the expenditure of excess pension assets pursuant to subsection (b), nor any direction made by the settlors pursuant to subsection (a)(1) or (b)(4) shall be deemed to violate or be prohibited by any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to taxes, fines, or penalties of any kind whatsoever.

"SEC. 9722. CIVIL ENFORCEMENT.

"(a) Civil actions may be brought by the 1991 Fund for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(b) Except as otherwise provided in this chapter, where such an action is brought in a district court of the United States, it may be brought in the district where the 1991 Fund is administered, in the district where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(c) The district courts of the United States shall have jurisdiction of actions brought by the 1991 Fund under this chapter without regard to the amount in controversy in any such action.

"(d)(1) In any action brought under subsection (a) (other than an action described in paragraph (2)), the court in its discretion may award to the 1991 Fund all or a portion of the costs of litigation, including reasonable attorneys' fees, incurred by the 1991 Fund in connection with such action.

"(2) In any action by the 1991 Fund to enforce section 9713(d)(2), in which a judgment in favor of the 1991 Fund is awarded, the court shall award the 1991 Fund—

"(A) the unpaid assessments;

"(B) interest on the unpaid assessments;

"(C) an amount equal to the greater of—

"(i) interest on the unpaid assessments; or

"(ii) liquidated damages in the amount of 20 percent of the amount determined by the court under subparagraph (A);

"(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant; and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid assessments shall be determined by using the rate provided under the rules of the 1991 Fund, or, if none, the rate prescribed under section 6621.

"(e)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the 1991 Fund acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(b) shall be extended to 6 years after the applicable date.

"(f) Any person who is an employer, a last signatory operator, a person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, a bituminous coal industry retiree, or any spouse, surviving spouse or dependent of a bituminous coal industry retiree, and is adversely affected by any act or omission of any party under this chapter, or who is an employee organization of which such a coal industry retiree is a member, or an employer association of which such an employer is a member, may bring an action for appropriate equitable relief in the appropriate court.

"(1) During the pendency of any proceeding under this subsection by an employer, employer association, last signatory operator, or person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, all potentially affected retirees, spouses, surviving spouses and dependents eligible for benefits from the 1991 Fund shall be transferred to the Corporation, which shall—

"(A) provide such benefits as would have been provided from the 1991 Fund, and

"(B) have and exercise all of the rights and obligations of the 1991 Fund with respect to—

"(i) the collection of assessments relating to such retirees and spouses, surviving spouses and dependents, and

"(ii) the defense of the proceeding.

"(2) In the event that a last signatory operator or other person pays to the 1991 Fund the assessments required pursuant to section 9713(d) for any month during the pendency of a proceeding described in paragraph (1), the 1991 Fund, and not the Corporation, shall be responsible for providing any benefits required to be paid for that month to eligible individuals under section 9713(b).

"(g) In any action brought under subsection (f), the court may award all or a portion of the costs and expenses, including reasonable attorneys' fees, incurred in connection with such action to any party that prevails or substantially prevails in such action.

"(h) This subsection shall be the exclusive means for bringing actions against the Corporation or the 1991 Fund under this chapter.

"(i)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date.

"(j) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(k) In any suit, action or proceeding in which the 1991 Fund is a party, in any State court, the 1991 Fund may, without bond or

security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action or proceeding is pending by following any procedure for removal now or hereafter in effect.

"SEC. 9723. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'coal production work' shall mean work in which an individual engages in physical operations consisting of the mining, preparation, handling, processing, cleaning and loading of coal, including removal of overburden and coal waste, the transportation of coal (except by waterway or rail not owned by an employer engaged in the production of coal), repair and maintenance work normally performed at a mine site or central shop of an employer engaged in the production of coal, maintenance of gob piles and mine roads, construction of mine or mine-related facilities including the erection of mine tipples and sinking of mine shafts or slopes performed by employees of the employer engaged in the production of coal, and work of the type customarily related to the foregoing; except that the term shall not mean managerial, supervisory, warehouse, clerical or technical work, unless such work is performed subject to a coal wage agreement binding the employer engaged in the production of coal.

"(2) The term 'coal wage agreement' shall mean—

"(A) the National Bituminous Coal Wage Agreement;

"(B) any agreement substantially identical or substantially similar to such agreement, but only if, as of the date of enactment of this chapter, such agreement provided for contributions to be made to the plans described in section 9721(d); or

"(C) any other agreement entered into between an employer in the bituminous coal industry and the United Mine Workers of America that requires the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan.

"(3) The term 'credited service' shall have the same meaning as determined under the applicable defined benefit pension plan, but only if such service was of the type used to determine eligibility under the plan described in section 9721(d)(2)(B).

"(4) The term 'excess pension assets' shall mean the excess of the current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(26)) of the plan described in section 9721(c) over the actuarial present value of all benefits for all plan participants under such plan, determined as of the date of enactment, in accordance with the actuarial assumptions and methods which reflect the plan actuary's best estimate of anticipated experience under such plan, except that where excess pension assets are recalculated as required under section 9721(a)(1), the amount of excess pension assets shall be determined as of the July 1 next preceding the date of the recalculation.

"(5) A last signatory operator shall be considered to be in business for purposes of this chapter if any of the following conducts or derives revenue from any business, whether or not within the coal industry—

"(A) such last signatory operator;

"(B) any member of the controlled group of corporations (within the meaning of section 414(b)) of such last signatory operator; or

"(C) any trade or business which is under common control (as determined under section 414(c)) with such last signatory operator.

If a last signatory operator is no longer in business and there is no successor, the relationships described in paragraphs (2) and (3) shall be determined at the time it ceased to be in business.

"(6)(A) The term 'last signatory operator' shall mean, with respect to any orphan miner or other coal industry retiree eligible for medical benefits, a person that meets or at one time met the following conditions:

"(i) A person meets the conditions of this clause if such person is—

"(I) an owner, lessee or other person who operates, controls or supervises a coal mine;

"(II) an independent contractor who operates, controls or supervises a coal mine; or

"(III) in the event a person described in (I) or (II) is no longer in business, any successor to such person, except that a purchaser shall not be considered to be a successor with respect to any orphan miner or other coal industry retiree eligible for medical benefits, if responsibility for the medical benefits of such orphan miner or other coal industry retiree was retained by the seller in the purchase and sale transaction.

"(ii) A person meets the conditions of this clause if such person or, in the case of a person described in clause (i)(III), such person's predecessor—

"(I) was a signatory to a 1978 coal wage agreement, or any subsequent coal wage agreement; and

"(II) was the last coal industry employer of such orphan miner or other retiree.

"(B) Notwithstanding subparagraph (A), if, as of the date of enactment of this chapter, a person has assumed or retained responsibility for retiree medical benefit obligations for individuals who retired from employment under a coal wage agreement, then such person shall be treated as the last signatory operator with respect to such individuals for purposes of this chapter, and any person from whom such responsibility was assumed shall not be treated as the last signatory operator.

"(C) For purposes of this chapter, the last signatory operator of any orphan miner or other coal industry retiree shall be considered to be the last signatory operator with respect to such orphan miner's or other coal industry retiree's spouse, surviving spouse and dependents, if any.

"(7) The term 'National Bituminous Coal Wage Agreement' shall mean the collective bargaining agreement negotiated by the settlors.

"(8) The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (hereinafter referred to as the 'BCOA'), except that if the BCOA ceases to exist, members of the BCOA representing more than 50 percent of the tonnage membership of BCOA on the date of enactment of this Act shall collectively be considered a settlor.

"SEC. 9724. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and liability shall be imposed) without regard to such transaction. A bona fide, arm's-length sale of an entity subject to liability under this chapter to an unrelated party (within the meaning of section 4204(d) of the Employee Retirement Income Security Act of 1974, as amended), shall not by itself be sufficient to establish a principal purpose to evade or avoid liability within the meaning of this section."

(b) CONFORMING AMENDMENT.—The table of subtitles for the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J. Coal Industry health benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of the enactment of this Act.

Mr. BENTSEN. Mr. President, I have just sent that modified Finance Committee amendment to H.R. 776 to the desk. The modified amendment is a complete substitute for H.R. 776. It contains the Finance Committee energy related revenue title. That replaces title XIX of H.R. 776. In addition, the substitute strikes all remaining language in that particular piece of legislation and replaces it with the text of S. 2166, the energy bill as passed by the Senate in February.

This substitute abides by all Budget Act rules and is now the pending business before the Senate.

Mr. President, as the Senate turns to consideration of this substitute, we revisit a subject of great importance to our country, the vital task of developing an effective energy policy for this country.

The Senate has already spoken once on the subject, voted 94 to 4 in February, to pass S. 2166, an energy bill without tax provisions. Now we are taking up the energy legislation that includes the provisions of the bill as well as energy tax provisions approved by the Finance Committee which I believe furthers the energy policy objectives of S. 2166. The Senate's overwhelming approval of energy legislation in February indicates that we are aware of the need for moving responsibly in devising a meaningful national energy policy.

We learned some important lessons from the Persian Gulf. We understood the need for greater energy efficiency, development of alternative energy sources, and a solid base of domestic production. All of those are a part of the solution, trying to get them to fit together effectively.

We just cannot continue down the road of increasing reliance on foreign energy production in this country. We now import almost half the oil we are consuming, some 46 percent of it. Within 3 years, it is estimated it will go over 50 percent. Without action by the Congress, this picture is not going to get any better. We can expect a continued increase in the reliance on imports. Even in an optimistic view, you are going to see imports reach almost 70 percent by the year 2010—70 percent.

Let me see if I can give you an example of what that means. That means 36 supertankers a day—36 supertankers a day coming in, with all that does to our trade imbalance, all that does to our environmental concerns, about possible accidents with those tankers.

The Finance Committee tax title complements the energy bill we have

already passed. It addresses our country's energy needs and I think in doing so benefits our environment. These provisions follow to a significant extent the so-called grain tax package developed in the House energy bill that roughly breaks down into three components: energy conservation, renewable, and alternative energy sources, and domestic oil and gas production.

First, the Finance Committee amendment includes several provisions that encourage energy conservation. For example, the bill increases the current $21 per month exclusion for employer-provided subsidies for mass transit by $56 per month. It also caps the current unlimited exclusion for employer-provided partner subsidies at $145 per month.

The combination of those two provisions tilt the tax treatment of employer-provided transportation benefits toward mass transit and less toward parking provided by the employer for their employees. Increases in the use of mass transit in this way will not only reduce the energy consumption in the transportation sector, but should also help reduce traffic congestion and environmental degradation.

In addition, the Finance Committee amendment includes a provision that promotes energy conservation in our residential, commercial, industrial sectors. That is done by providing an exclusion from customers' income for rebates that are provided by the utilities for the purchase and the installation of energy conservation compliance system measures.

The Finance Committee amendment also offers a number of provisions designed to bolster the development of environmentally sound renewable energy sources and alternative fuels. It permanently extends the 10-percent investment tax credit for solar and geothermal energy problems that expired on June 30 and expands that credit to include ocean, thermal energy properties. It also provides a production-based tax credit for electricity generated from qualifying wind or renewable biomass facilities.

In addition, the Finance Committee amendment includes provisions that will facilitate the growth of alternative fuel vehicles on our Nation's streets and highways, vehicles that run on domestically abundant clean burning fuels such as natural gas, methanol, ethanol, and electricity. It provides a deduction of up to $2,000 for the purchase of these vehicles—more for trucks and buses; provides a 15-percent tax credit for electric-powered vehicles as well as tax incentives for clean vehicle refueling facilities.

The Finance Committee amendment also includes provisions that encourage and provide for flexibility for the use of blended fuels such as ethanol-gasoline blends. It does this by providing a proportional excise tax exemption for gasoline that is mixed with ethanol and other alcohol at levels lower than the 10-percent blends as current law allows and providing some limited minimum tax relief in connection with the alcohol fuels credit.

These provisions will help our energy sector provide the country with the oxygenated fuels it needs to comply with air quality rules such as called for by the Clean Air Act.

In developing a meaningful national energy policy, we also have to address the decline in domestic production. This decline has contributed mightily to our growing dependence on foreign oils, and in the last 6 years, domestic oil production has plunged nearly 15 percent, and as a result, production is at its lowest level in over 30 years. The future does not look much better.

The count recently fell to the lowest level in 50 years. Our domestic production capacity is further deteriorated with the loss of thousands of jobs with the domestic oil and gas industry. We heard a lot about that in the automobile industry but for some reason we do not talk about it in the oil and gas industry and yet this has been dramatic and far reaching, not a question of just protecting Texas or Wyoming. It affects our entire country.

The Finance Committee amendment provides incentives for the domestic production of oil and gas by providing limited relief in the minimum tax which has a substantial dampening effect on the exploration and development of our domestic reserves.

The Finance Committee amendment like the House bill repeals the minimum tax preferences for percentage depletion and intangible growing cost for independent producers. However, it does nothing for the limitation regarding searching out tax liability for these producers to ensure that the tax is still paid.

To pay for these provisions, the Finance Committee amendment looks to several sources.

First, it increases the tax on ozone depleting chemicals to foster their productions in their use and to speed the search for environmentally safe alternates.

Second, it disallows the deduction, including those in business, for social, athletic, luncheon, and sporting goods.

Third, it increases the excise tax on certain reinsurance policies issued by foreign companies relating to U.S. risk.

Let me conclude by making some comments regarding our consideration of H.R. 776.

First, in the President's interest of moving quickly on this bill, I strongly urge Senators to limit any tax amendments on this bill to thoughts that are related to energy policy.

I will oppose all tax amendments that are not related to energy policy as well as any amendments not related to taxes. We simply do not have the time to have a broad-ranging tax debate on nonenergy matters in the context of this energy bill. Doing so will certainly not improve prospects for enactment of this important legislation, and I also might add that the energy bill is not a particularly good vehicle for moving tax amendments unrelated to energy given that the House will undoubtedly insist when getting to conference with them on cropping such unrelated amendments to conference, and I may be somewhat sympathetic to that approach on their part.

A second point concerning amendments: The Finance Committee has structured its amendment to comply with the budget rules. I will oppose any amendments that bring the bill out of compliance with the budget rules, and that means that amendments should not only be paid for over the 5-year budget horizon but must also leave the bill in compliance with fiscal year 1992 and fiscal year 1993.

I urge my colleagues to move as expeditiously as possible to pass this energy bill.

I know the distinguished Senator, the chairman of the Energy Committee, the Senator from Louisiana, the ranking member from Wyoming have worked long and hard on that bill and it deserves your immediate consideration and passage. We have a lot of work to do in conference in trying to settle the differences between the House and the Senate bill. We have a short time to do it.

Mr. President, thank you very much. I look forward to my colleagues passing this important piece of legislation.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me echo the prayer and the plea of the chairman of the Finance Committee, that we try to limit our exercise of senatorial privilege to amend on this to things that are directly related to energy.

I look down the list of proposed amendments on both sides. I see some that would like to make this vehicle a tax horse for all the daydreams of this Congress, and it simply will not be able to carry and provide us at the end with an energy policy which I believe to be a nonpartisan goal or a bipartisan goal.

I see some who would like to turn it into an agricultural bill, some who would like to turn it into an environment and public works bill, some who would like to turn it into a Finance Committee wearing its Social Security hat bill, some who would turn it into a Commerce Committee bill dealing with financing. What that has to do with energy policy, I cannot tell. And some who would turn it into a Labor-HHS bill, and some who would turn it into a transportation bill.

Mr. President, this Senate spoke and spoke well on the energy bill when we

passed it. We spoke 94 to 4 and we resisted all attempts to change its purpose from energy policy to other kinds of policies with maybe admirable social goals. But trying to maintain its integrity as energy policy was not an easy chore, but it was a very successful chore, and the Senate spoke time and time and time again rejecting policies, rejecting amendments that changed the thrust of the bill.

When the Senator from Texas made his comments about the American oil industry, I really and genuinely hope that our colleagues heard what he said, and I hope that Americans heard what he said.

There are those who believe that if we strangle our oil industry, then we will somehow or other stop using oil. But in fact what we will be doing, Mr. President, is intensifying America's vulnerability to foreign source supply operations. America's oil production capability is No. 1 in the world. It is hands down the world's best, and is rapidly becoming America's No. 1 export.

This bill passed with the Finance Committee amendments, and the few production incentives contained in the Energy Policy Act will not provide the sole means of survival for America's oil industry. But what we tried to do from the very beginning, Mr. President, in all of this was to put in play America's energy resources, without choosing amongst them, and to have failed to address the very significant self-imposed problems of oil production, would have been to move away from that idea that all of America's energy resources should be in play, without prejudice from the Congress.

So we will have, should we be able to pass this bill more or less intact, an oil and gas industry, a coal industry, a uranium industry, a renewables industry, an alternative fuels industry—we will have all of those—and the Congress will have spoken to this need for America's energy future. To the extent that we can maintain the integrity of the vehicle that underlies it—the Finance Committee amendments—and the underlying S. 1220, it would be in the interest of both parties, and certainly of America, that we get to conference, and that we present at long last, out of several decades of trying, an energy policy worthy of its name to guide America into the future.

Mr. President, I yield the floor.

UNDER SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, I hereby submit revised budget authority and outlay allocations to the Senate Committee on Finance and aggregates under section 9 of the concurrent resolution on the budget for fiscal year 1992, House Concurrent Resolution 121, and section 9 of the concurrent resolution on the budget for fiscal year 1993, House Concurrent Resolution 287.

Section 9(c) of the 1992 budget resolution states:

SEC. 9. DEFICIT-NEUTRAL RESERVE FUND FOR FAMILY AND ECONOMIC SECURITY INITIATIVES IN ACCORDANCE WITH PROVISIONS OF THE SUMMIT AGREEMENT.

* * * * *

(c) CONTINUING IMPROVEMENTS IN ONGOING HEALTH CARE PROGRAMS AND PHASING IN OF HEALTH INSURANCE COVERAGE FOR ALL AMERICANS.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to make continuing improvements in ongoing health care programs or to begin phasing-in health insurance coverage for all Americans within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) to carry out this subsection.

Similarly, section 9(c) of the 1993 budget resolutions states:

SEC. 9. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE FOR FAMILY AND ECONOMIC SECURITY INITIATIVES IN ACCORDANCE WITH PROVISIONS OF THE SUMMIT AGREEMENT.

* * * * *

(c) CONTINUING IMPROVEMENTS IN ONGOING HEALTH CARE PROGRAMS AND PHASING IN OF HEALTH INSURANCE COVERAGE FOR ALL AMERICANS.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to make continuing improvements in ongoing health care programs or to begin phasing in health insurance coverage for all Americans within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

On June 18, 1992, the Finance Committee reported H.R. 776, the energy bill, together with a committee amendment. Chairman BENTSEN, on behalf of the Finance Committee, has just submitted a modification of that committee amendment.

H.R. 776 as reported and modified includes provisions that would create two new entities—the Coal Industry Retiree Health Benefits Corp. and the 1991 benefit fund—to replace two coal industry health funds that are experiencing financial difficulties. These provisions will ensure that retired coal miners, their widows, and their dependents continue to receive the health benefits for which they contracted. In the words of section 9(c) of both the 1992 and 1993 budget resolutions, these two provisions "increase funding to make continuing improvements in ongoing health care programs."

H.R. 776 as reported and modified meets the other requirement of section 9 of the 1992 budget resolution that "to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit * * * in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996."

H.R. 776 as reported and modified also meets the other requirement of section 9 of the 1993 budget resolution that "to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit * * * in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997."

Both the 1992 and 1993 budget resolutions created rules for the Senate embodied in these provisions. The later-adopted 1993 budget resolution covers the fiscal years 1993 through 1997 and supersedes the 1992 budget resolution with regard to those fiscal years. Nonetheless, the 1992 budget resolution con-

tinues to have validity with regard to fiscal year 1992, as the 1993 budget resolution did nothing to modify that resolution's provisions with regard to that fiscal year.

Note that the health provisions covered by this filing are the same as provisions included in S. 2325 earlier this year. On the day that the Senate began consideration of S. 2325, I filed revised allocations and aggregates for those provisions. Those revised allocations and aggregates appear at page S2951 of the CONGRESSIONAL RECORD for March 10, 1992. Similarly, I filed revised allocations and aggregates when the committee of conference on H.R. 4210, the House companion measure, submitted the conference report on that bill. Those revised allocations and aggregates appear at pages S4055 and S4056 of the CONGRESSIONAL RECORD for March 20, 1992. The President vetoed that bill the same day and the House sustained the President's veto on March 25, 1992.

The budget resolution provision under which I filed the revised allocations and aggregates earlier this year, section 9 of House Concurrent Resolution 121, is, except for fiscal years, identical to the sections under which I make this filing today. For legislative history of the 1993 budget resolution provision, see pages 61 and 62 of conference report 102-529. As the Senator responsible for the drafting of this section of the budget resolutions, let me make clear that I used the language from the previous budget resolution with the exception that it would continue to apply in the case before us today.

As H.R. 776 as reported and modified complies with the conditions set forth in the budget resolutions, under the authority of section 9(c)(2) of the 1992 and 1993 budget resolutions, I hereby file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974, 2 U.S.C. sections 633 and 665a—1988 and supplement II 1990—and revised functional levels and aggregates to carry out section 9 of the budget resolutions.

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

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 1992 AND 1993

[In millions of dollars]

	1992[1]	1993	1994	1995	1996	1997
Functional levels and aggregates:						
Resolution revenue aggregates	850,501	848,672	911,920	968,430	1,017,875	1,070,475
Reserve fund change	−(56)	275	282	289	295	302
Revised Resolution revenue aggregates	850,445	848,947	912,202	968,719	1,018,170	1,070,777
Resolution budget authority totals	1,270,713	1,249,772	1,270,030	1,309,930	1,375,175	1,468,775
Reserve fund change	−(56)	275	282	289	295	302
Revised Resolution budget authority totals	1,270,657	1,250,047	1,270,302	1,310,219	1,375,470	1,469,077
Resolution function 550 budget authority totals	83,100	105,200	116,300	129,000	143,000	159,200
Reserve fund change	45	275	282	289	295	302
Revised Resolution 550 budget authority totals	83,145	105,475	116,582	129,289	143,695	159,502
Resolution outlay totals	1,201,701	1,242,072	1,255,720	1,258,230	1,304,975	1,416,175
Reserve fund change	−(56)	275	282	289	295	302
Revised resolution outlay totals	1,201,645	1,242,347	1,256,002	1,258,519	1,305,270	1,416,477
Resolution function 550 outlay totals	83,300	104,500	115,600	127,800	142,100	157,500
Reserve fund change	45	275	282	289	295	302
Revised Resolution 550 outlay totals	83,345	104,775	115,882	128,089	142,395	157,802

[1] The allocations and aggregates for the 1992 budget resolution were revised earlier in the year for a similar provision that was not enacted. This filing removes the earlier adjustment ($101,000,000 in increased spending and revenues) and replaces it with the appropriate adjustment for this provision ($45,000,000 in spending and revenues). The net amount is shown for the changes in aggregates and allocations (−$56,000,000). The gross change is shown for the function totals, which were not revised earlier.

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 1992 AND 1993

[In millions of dollars]

	1992[1]	1993	1993–97
Spending allocations and revenue totals:			
Resolution revenue totals	850,501	848,672	4,817,372
Reserve fund change	−(56)	275	1,443
Revised revenue totals	850,445	848,947	4,818,815
Finance Committee budget authority allocations	491,344	517,888	3,012,184
Reserve fund change	−(56)	275	1,443
Revised Finance Committee budget authority allocations	491,288	518,163	3,013,627
Finance Committee outlays allocations	487,437	515,512	2,998,421
Reserve fund change	−(56)	275	1,443
Revised Finance Committee outlays allocations	487,381	515,787	2,999,864

[1] The allocations and aggregates for the 1992 budget resolution were revised earlier in the year for a similar provision that was not enacted. This filing removes the earlier adjustment ($101,000,000 in increased spending and revenues) and replaces it with the appropriate adjustment for this provision ($45,000,000 in spending and revenues). The net amount is shown for the changes in aggregates and allocations (−$56,000,000). The gross change is shown for the function totals, which were not revised earlier.

Mr. JOHNSTON. Mr. President, at long last, it appears that we are going to finish this energy bill today and get to conference where we have some 1,500 pages of bill to work out in conference.

It is essential, Mr. President, that we get this bill completed early today so that we can get to conference. So we want to put all Senators on notice that if they do have amendments—in the first place, if they are not energy amendments, they are likely to be opposed. But, in any event, we urge Senators to come and quickly deal with their amendments.

Mr. President, as I understand it, the amendment from the Finance Committee is at the desk; is that correct?

The PRESIDING OFFICER. The modified amendment of the chairman is the pending question.

Mr. JOHNSTON. Does that include the text of S. 2166, as passed by the Senate?

The PRESIDING OFFICER. The chair does not have knowledge of the substance of the amendment; that inquiry would be better made of the chairman.

Mr. JOHNSTON. Well, Mr. President, I ask my colleague, the chairman of the Finance Committee, if this amendment does include the text of S. 2166, and if the amendment at the desk is adopted, would it be subject to further amendment?

Mr. BENTSEN. Yes; that is correct.

The PRESIDING OFFICER. The chair informs the Senator from Louisiana that the amendment at the desk is a complete substitute and, therefore, would not be amendable after its adoption.

Mr. JOHNSTON. Well, Mr. President, I ask unanimous consent that the amendment at the desk, if adopted as a substitute, be regarded as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Reserving the right to object, Mr. President. 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. JOHNSTON. 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. JOHNSTON. Mr. President, I am advised that it would not be necessary to seek unanimous consent; that the amendment is now at the desk, and it is amendable in two degrees, and we will not call for its adoption at this time.

The PRESIDING OFFICER. The Senator is correct. The Senator asked the chair whether it is subject to amendment after adoption. It is amendable prior to adoption and, therefore, the Senator is correct. There was no requirement for unanimous consent.

Mr. JOHNSTON. But it includes the text of the Energy Bill, as adopted by the Senate, and the text of the Finance Committee reported provisions.

Mr. President, I withdraw the unanimous-consent request.

Mr. President, I think we are then ready for amendments to be offered at this time.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. Mr. President, if we are going to have an extended quorum call, I ask the chairman if I may speak out of order. But if the Chair is ready to conduct business, I will certainly yield to him.

Mr. BENTSEN. I say to the distinguished Senator, my good friend, that we are prepared to move on. I am about to ask unanimous consent for a time limitation on the amendment of the Senator from New Jersey.

Mr. FOWLER. The business of the Senator from Georgia can wait.

UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, I ask unanimous consent that we have a time agreement of not to exceed 2 hours on the amendment about to be offered by the Senator from New Jersey; that the time be equally divided between the proponents and opponents of the amendment, to be controlled by the manager of the tax portion of this legislation and the Senator from New Jersey, and that there be no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2782

(Purpose: Striking repeal of minimum tax preferences for depletion and intangible drilling costs)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 2782.

Strike section 20115.

Mr. BRADLEY. Mr. President, this amendment strikes the provision in the bill which provides $1 billion in tax relief to independent oil and gas producers. The bill currently eliminates the alternative minimum tax preferences for intangible drilling costs and percentage depletion.

Mr. BENTSEN. Mr. President, will my colleague yield a minute so I might amend the unanimous consent request?

Mr. BRADLEY. I yield.

Mr. BENTSEN. Mr. President, I also ask unanimous consent that there be no amendments to the language to be stricken.

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

The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, as I was saying, the amendment that I have sent to the desk eliminates the provision of the bill which provides $1 billion in tax relief to independent oil and gas producers. The bill that we are considering provides that tax relief by eliminating the alternative minimum tax preference for intangible drilling costs and percentage depletion.

It does so even though the ordinary tax treatment of intangible drilling costs and percentage depletion gives producers a leg up on other industries and over integrated oil and gas producers. We are making more generous a provision of the Tax Code that is already very generous, and is already much more generous than that provided other similarly situated industries.

Like others, I feel we need to take a harder look at how the alternative minimum tax is affecting national investment. I think that this is a legitimate inquiry. It is also important to recognize why the alternative minimum tax was instituted. We wanted to make sure that corporations could not zero out their tax liability by taking advantage of the loopholes which were left untouched in the 1986 Tax Reform Act.

In other words, it made no sense if we eliminated some loopholes and left others in, then put in the alternative minimum tax to assure that all taxpayers would pay some tax, and then removed preferences from the alternative minimum tax calculation.

As you recall, we were in a situation prior to 1986 where there were very high tax rates. There were very high tax rates. The only problem was, nobody paid the tax rates because the tax base was riddled with loopholes. So for those who were interested in equity, they could argue: Well, we have a 70-percent or a 50-percent tax rate. Therefore, we are really hitting the rich; even though the rich did not pay anywhere close to a 50-percent tax rate. It was more like a 19- or 20-percent tax rate, because they had loopholes that allowed them to lower their tax liability. So in 1986, we eliminated the loopholes and lowered the rate, a victory for both growth and equity.

Since that time, of course, there have been attempts to put back in various tax loopholes. This is another attempt to do that.

While I continue to think that the best solution would be not to put these loopholes in the Tax Code in the first place, I do not think that we should get in the habit of practices of selectively taking them out of the alternative minimum tax whenever an industry is temporarily in trouble. There are, in effect, many industries which face tougher times in this period of sluggish growth. It is not clear to me why independent oil and gas producers should be treated better than a lot of other industries.

For example, with the independent oil and gas producers, you have the immediate expense of intangible drilling costs. Up to 70 percent is expendable. While in virtually every other industry, what you have is capitalization, what you have is depreciation of up to 20 years. The oil and gas industry already has some very strong preferences in the Tax Code.

This would simply increase those preferences for only the oil and gas industry—not for automobiles; not for airlines; not for any other industry.

Mr. President, just a few weeks ago, we were debating the balanced budget amendment on this floor. During that debate, there was a lot of tough talk about the need to curb spending and to make tougher choices. Nearly every supporter of the balanced budget amendment decried the runaway Federal spending. It is important to remember, however, that we spend money not only through the appropriations process, but we also spend money by giving tax breaks to various special-interest groups.

If you do something—invest in this equipment or drill wells—then you do not have to pay taxes for a specific amount. Your taxes are reduced. That also increases the deficit.

But unlike the appropriations process, which is subject to annual review, our tax expenditures become, in essence, quasi-entitlements which remain until, in those rare moments, we can muster the courage to take on the narrow group that benefits from the special tax break. Remember: The cost of the narrow group benefiting from the special tax break is that all of us pay higher tax rates than we otherwise would have to pay, and we increase the Federal budget deficit.

So this amendment that I am offering would attempt to retain some equity. The provision strikes $1 billion over the next 5 years, $1 billion that would be tax relief to a very narrow group of taxpayers: Independent oil and gas producers.

This $1 billion cost, over the next 5 years, would continue over the next 5 years, and even more over the next 5 years. If a $400 billion budget deficit should do anything, I think it should make us think twice about creating yet another leak in our tax base.

We can talk about tax rates, but then you have to consider loopholes. Those tax rates are just not paid. You can talk about putting an alternative minimum tax in to assure that people will pay their taxes; and then, of course, you put loopholes into the alternative minimum tax. This is a giant leak in the alternative minimum tax base. The result will be that independent oil and gas producers will pay much less tax—$1 billion less tax.

Mr. President, during that balanced budget debate, there was also a lot of talk about the need to set national priorities. That means ensuring that each dollar of new investment goes to our most pressing national problems. Just a month ago, for example, in this body, we agonized over whether we could afford to spend $1 billion to respond to the crisis in our cities. But today, we seem quite willing to spend $1 billion on oil and gas interests without thinking twice about it.

Before we do, we should pause to consider where the $1 billion that we are now prepared to give to oil and gas interests will not be spent.

It will not be spent to rebuild burnt-out buildings in Los Angeles. It will not be spent to fund Head Start and provide thousands of children with the start in life that should be their right. It will not be spent on the infrastructure our Nation needs to build economic growth in the future. It will not be spent on child care, on AIDS, on research, on education, on police. It will not be spent to reduce the deficit, which is strangling the credit markets and crippling our competitiveness.

So when we spend $1 billion for the oil and gas interests, we have to take into consideration what we are not spending the money on. All of those other interests are competing for a very limited amount of money.

We have big budget deficits. The question is, Is there any principle that we can follow to cut those budget deficits? One principle might well be equity. It is a fact that if you earn more than $100,000 in America, your average spending benefit is $9,280.

It is a fact that, if you earn $10,000 in America, your average Federal spending benefit is $5,690. If you talk about the tax benefits, people who make more than $100,000 in America get an average tax benefit, a benefit from loopholes that have been put in the code to avoid that individual paying taxes of about $9,280. While all of us are paying more, the average Federal tax benefit to people making more than $100,000 is about $9,280. The average Federal tax spending benefit for people earning under $10,000 is about $5,690.

So, clearly, if we were approaching this issue of the deficit, one principle we might apply is, well, who needs taxpayer help? People over $100,000 or people under $10,000?

Another principle might be, well, where does the money go generationally? The bulk of it, about $400 billion, goes to people who are over 62 years of age, while three programs, Head Start, child-maternal health, the Women, Infants and Children Feeding Program, get $5 billion. That might be another way to look at how we go about cutting the deficit, maybe a generational adjustment.

A third might be, well, what do we want the Federal Government to spend its money on to do things that only the public representatives, government, can do—like police or education or roads? Or do we really, at this time of $400 billion budget deficits, want the Federal Government to continue, as this provision envisions, to expand specific subsidies to specific industries?

It is my hope that people, when they look at the deficit and what it is doing to us in terms of crowding out the financing in the credit markets and what it is doing to us in terms of things we are not able to spend money on, would look very carefully at how we spend money. We need to consider both how we spend money through the appropriations process and through the Tax Code, by subsidizing specific industries.

This is a classic amendment of subsidizing specific industries, by providing $1 billion for the oil and gas industry; not for automobiles, not for airlines, not for magazines or television, not for anything but one industry. We have a $400 billion budget deficit. Is that the way we should proceed, without recognition that times have changed? I do not think so.

Mr. President, I am not arguing here that our independent drillers are not having tough times. I know the rig count is down. I do not believe that the alternative minimum tax, however, is the primary cause of the industry's problems.

Under the regular Tax Code, these companies are allowed to immediately write off costs which other taxpayers have to capitalize and depreciate over their useful lives. What does that mean? That means, if you invest $1 million in a machine, you write off that $1 million over 20 years or over 15 years. If you spend $1 million making an investment under intangible drilling costs, you write off $1 million in that first year. This amounts to a tremendous subsidy for the oil and gas industry.

In addition, under the regular Tax Code, these companies can knock off 15 percent of their income as a depletion allowance, even after they have fully recovered their capitalized cost. In other words, they just continue to write off 15 percent of their income off the top, off the top.

All the alternative minimum tax does is to ask them to give back a portion of these breaks. It says, if you have managed, through your intangible drilling costs or your depletion allowances, essentially to zero out, to pay no taxes because you have these special benefits, then the alternative minimum tax would ensure that you pay some tax. That is all the alternative minimum tax does.

This amendment would allow, when you combine the intangible drilling costs and the depletion allowance, a near zeroing out of liability. Now, if you only had percentage depletion allowances, you might end up having to pay some taxes. Because there still will be restrictions in the code, you cannot take more than a 50-percent credit. But, if you combine intangible drilling costs and depletion, you are still in that rare position of being able to zero out, or, if not zero out, let me say, get very close to zeroing out tax liability.

But we have been down this path before. In 1990, we gave the oil and gas industry $1.1 billion of alternative minimum gas relief under the guise of a special energy deduction. In 1990, we gave $1.1 billion. The deficit, as I recall, was around $340 billion in 1990. And now, when the deficit is $400 billion, we give another $1 billion in relief to one industry.

Given the very real fiscal crises our country is facing, we simply cannot go on with business as usual. We simply cannot provide tax breaks to every industry which is facing the bottom of a business cycle.

Does anyone believe drillers are in bad shape because they are not allowed to fully write off their intangible drilling costs? Does anybody in here believe that? Drillers are in bad shape because oil and gas prices are low. If natural gas was selling at $2 or $2.50 per mcf or oil was selling at $30 per barrel, we would not be debating this provision today.

But this bill does not say that these tax breaks will be taken back when the industry recovers. If you were just providing relief to an industry, you could say these are tough times, we will give it a little help, but when the industry gets flush again we will take it back. That is not what this provision says. This provision does not acknowledge that we are at the bottom of the business cycle. Let us give them some help and it will stay in the Tax Code forever.

So when oil prices go up to $30 or $25, the oil industry will still have the benefit of these tax breaks because these tax breaks are permanent. Prices are low today, so we are supposed to react by throwing $1 billion to the independent oil and gas producers.

I am a Senator from a consumer State. When prices go back up for New Jerseyites, who are struggling to pay higher prices for oil and gas, or when the residents of distinguished Presiding Officer's State of Massachusetts are paying higher prices for their heating oil, are we going to step in and give those consumers a tax break for their

higher heating oil bills? No way. The tax break will be permanent for the oil and gas industry and the consumer will get nothing in exchange.

Mr. President, I opposed the balanced budget amendment because I saw it as a substitute for real leadership and making tough choices. We are all elected to make tough tradeoffs and choices. That comes with the office. The question I would like the Members to think about today is, given the $1 billion—$1 billion—we have here, should we spend it to reinstate tax breaks for the independent oil and gas industry or should we spend it on children, on deficit reduction, and on our future? This amendment is offered to make that point: That we cannot, with $400 billion budget deficits, proceed with business as usual.

Business as usual has always implied that whoever can exert the greatest power and influence on the process always takes home more than those who do not exert power in the process. It is not a mystery why the oil and gas industry has managed to recoup better than any other industry from the efforts in 1986 to remove special interest tax provisions. They are big and they are powerful.

In 1990, they got $1.1 billion. This is an amendment to give them another $1 billion. But that billion dollars will be money that will be taken away from deficit reduction, from investment in education, from the cleanup of the environment and all the other purposes which, if Government does not do them, will not get done. It is that simple choice that I pose today for the Senate in this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield myself 10 minutes.

I listened with great interest to my friend from New Jersey talking about tax expenditures, subsidies to specific industries, interest groups. New Jersey is the home of great pharmaceutical companies, major companies, powerful companies with great influence. Today they get a tax break of a minimum of $70,000 per employee they hire in Puerto Rico; up to $150,000 per employee. The Joint Tax Committee says that is $3 to $3.5 billion a year—$3.5 billion a year cost to the Treasury—cost to the taxpayers, cost to dependent children, cost to Medicaid. All of those people my friend from New Jersey discussed.

Are we to turn our backs on the fact that 75 percent of the merchandise deficit that we have today in trade is attributable to oil imports? That is how much more money we owe to the people of the world. That is how much more we are going back into debt.

Powerful interests? What we are talking about here is not the big oil companies. They are headed overseas, that is where they have gone for their exploration and their development. We are talking about the independent producer. We are talking about the fellow who has some marginal wells that may be producing 5 to 6 barrels a day with substantial costs in keeping them open. If he does not get some relief he caps them. You cannot blame him for that. We are trying to keep them working at it, keeping them open.

This is an industry that is going to be restored to great prominence? I do not know anybody who really believes that. We are talking about slowing the decline, that is what it amounts to. We are talking about some 400,000 jobs lost in the domestic oil and gas industry in just the last decade. We are talking about those independent producers being thinned by at least 50 percent in the last decade. The rest gave up, went broke, out of the business. Domestic oil and gas production has been reduced by 15 percent in the last 6 years; production is at the lowest rate it has been in 30 years. And I sure do not see much of a bump coming out of this piece of legislation. But I do think it can slow the decline and it can help.

What we have also put in this legislation is other things to urge conservation and to put in incentives for conservation and alternative fuels—that is a Senator from Texas talking—alternative fuels to try to cut down the dependence on oil and gas in this country. That is what we are talking about, concern for the future of our country. This is not something dreamed up in the last minute. This was in the February tax bill, this is in the House bill—a deep concern. And we made sure they could not zero out on it, even so, insofar as paying for those taxes.

It is a significant problem we are facing and it is important that we address it. We have been down this road before. What we are talking about is trying to help stem the decline in the production in this country; help reduce the amount of dependence on foreign interests, help encourage the use of alternative fuels. So I urge my colleagues to oppose this amendment by my distinguished friend and see if we can make some headway on this problem.

Mr. JOHNSTON. Will the Senator yield 7 minutes?

Mr. BENTSEN. I would be pleased to yield 7 minutes to the distinguished chairman of the Energy Committee.

Mr. JOHNSTON. Mr. President, I wonder if Americans understand just how bad the situation is in this country with respect to oil and gas. I wonder how much the Congress knows about it. Mr. President, the Congress could not know how bad the situation is and still offer up this kind of amendment to strike the AMT.

The house is on fire. It is time for people to wake up and to take action. In the last 10 years we have lost more oil and gas jobs in this country than we have in steel, than we have in textiles, or than we have in automobiles. We lost 50,000 jobs last year.

Mr. President, we are due to lose another 50,000 it is estimated by PWA, this year—this year. We have the lowest rig count in over 50 years, the lowest rig count in history. In the last 5 months we have had the lowest production rate in this country in 40 years. Oil and gas people are bailing out of this country, at least the majors are, just as fast as they can get out of the country.

Their attitude is, Mr. President, they are subject to environmental terrorism, to use their phrase. Maybe that is the wrong phrase. Maybe it is environmental sensitivity. They regard it as environmental terrorism. In any event they are leaving. Anybody who thinks the majors still want to drill in America, you better wake up and smell the coffee.

Mr. President, as we speak there is an Interior Appropriations markup going on downstairs, and I understand an amendment may be offered to cancel all the leases in Bristol Bay in Alaska, cancel outright, which would be a taking under the fifth amendment and would subject us to one-half billion dollars in payments. Who does this come from? From the majors. They want to sell out and get out. They want to leave.

Down in the Gulf of Mexico in the last lease sale, there were fewer acres offered, there were less dollars paid than in the last four decades. Mr. President, they are bailing out. They are leaving. And what is the trend? Mr. President, this is it—here is consumption and here is production. And everybody knows those figures.

So what do we want to do? In this country do you know what the effective tax rate on independents is? The effective tax rate? It is 72.5 percent; 72.5 percent.

We are sending the majors out of the country. We are inviting them out because every time they make a discovery here, we will not let them drill, we will not let them produce.

They have production off the State of California now that has been discovered and ready to go. But they will not let them produce that for various environmental reasons. OK, that is our decision. We have now provisions pending in this energy bill and the House provisions that would say with respect to a trillion cubic feet of gas discovered off Florida that you cannot produce it. OK, if that is the way the House wants to play. But do we want to run the independents out of this country, as well as the majors? That is what the tax policy of the United States now says because the effective tax rate is 72.5 percent. The foreign tax rate, the effective tax rate, for the same oil produced elsewhere averages 42.9 percent, or almost it is a little more than half as much the effective tax rate.

Mr. President, it strikes very close to my home State where the prediction is that we will lose 2,500 additional jobs this year. Bankruptcies are at an all-time high, and they have been for these last 3 or 4 years. There are closures of all the people in the drilling industry and the service industry, who produce muds, who make pipe, who produce drill bits, who have offshore boats. They are leaving in droves and, Mr. President, it is the biggest economic bombshell that this country has seen this decade in terms of jobs, exceeding automobiles. Oh, we hear our friends from the automobile producing areas come in and talk about automobiles and we agree with them. But, Mr. President, it is not as bad as oil and gas.

So what did the Finance Committee do, Mr. President? It said that these two items, intangible drilling costs and depletion, would no longer be preference items for the purpose of the alternative minimum tax. Why is this so important? It is so important now because the independents who are subjected to this alternative minimum tax are basically not making any money because the price of crude oil is down. In real terms, the price of crude oil is selling for less than a third of what it was at its peak. So they are not making any money now.

My friend from New Jersey says that this alternative minimum tax would remain a preference item—that if we pass this, it would remain a preference for the independents even when the price of oil goes up. Mr. President, when the price of oil goes up, then the alternative minimum tax does not have its bite because they would be making money and would be subjected to the ordinary tax rates.

So this is a problem, Mr. President, that is brought about by the relatively low price of crude oil and by the fact that independents are, therefore, going bankrupt in record numbers and are not making any money.

If we are to avoid the problem with the low rig count, the only way to do that is to have some incentive. I have here, Mr. President, a chart that shows the rotary rigs in operation. At their peak, they were at 4,000 in 1981. The latest count, which is the lowest count since 1942 when they began to keep these records, is 667 rigs.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mr. BENTSEN. I yield an additional 2 minutes to the Senator.

Mr. JOHNSTON. I thank the Senator. Mr. President, the only way to reverse this trend and to keep what few remaining rigs there are is to do away with this 72.5 percent effective tax on independents and put them in a position where they pay the same tax rates, effectively, as other Americans. That was the reason that the Senator from New Jersey was behind tax relief, a uniform tax rate.

As it happens, as it effectively works, Mr. President, the independents are subject to this effective rate of 72.5 percent making it not worthwhile to drill for oil and gas.

I cannot think of anything more opposite from sound energy policy than to adopt the Bradley motion to strike. I commend the Senator from Texas, the chairman of the Finance Committee, and what they have done in putting in this alternative minimum tax provision. It may not save the independents by itself, but it will go a long way toward reversing that trend of bankruptcies, toward reversing that trend of rotary rigs which continue to drop and toward bringing some degree of equity to the Tax Code, as far as independent drilling operators in this country are concerned. I strongly support the position of the Finance Committee and strongly oppose the Bradley amendment. I thank my colleague.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I appreciate the comments of the distinguished chairman of the Energy Committee who is well versed in this subject.

I yield 5 minutes to my friend, the Senator from Oklahoma, whose State has an imminent knowledge, concern, and problem with the state of decline in the oil industry.

Mr. BOREN. I thank the chairman of the Finance Committee, my colleague from Texas.

Mr. President, I want to associate myself with the remarks that have already been made by the chairman of the Energy Committee, my colleague from Louisiana. Both the Senator from Texas and the Senator from Louisiana have made an enormous contribution to the energy policy of this country.

For some reason, Mr. President, when you mention the word "oil" as opposed to some other industry or some other commodity, it seems to bias the debate about economic terms and economic policy. It should not. We should step back and look at the facts as they are, without putting on blinders because oil happens to be the industry involved.

If there was some other industry, the kind of rhetoric would be totally different. If we were talking about the steel industry, or the textile industry, or the auto industry, we would not have the same kind of attempt made to put an unfair tax burden on those segments of the economy until we drive them into virtual extinction. But for some reason, there is some kind of emotional baggage associated with the word "oil" that makes it very difficult for us to discuss it in an objective way. I hope we can suspend that bias for a moment and look at the facts as they are.

The U.S. oil and gas extraction industry has lost more than 400,000 jobs since its peak employment in 1982. More jobs were lost than in the automobile, textile, steel, and electronics industries. So when we talk about a significant, a critical part of our economy being devastated, we are all familiar with what has happened in the steel industry, we are all familiar with what has happened in electronics. We know what has happened with automobiles. But when you look at the domestic energy extraction industry, the domestic energy production industry in this country, it has been harder hit than any of these other industries, losing 400,000 jobs. Indeed, 45,000 more jobs have been lost in just the last 10 months.

The rig count for the first week of July stood at 689, a startlingly high level. During 1992, in this year alone, the all-time record for the lowest rig count in history has been broken five times. What has this done in terms of our national economy? It has caused the importation of foreign oil to go sky high. This affects our balance of trade deficit. Last year, crude oil and petroleum product imports accounted for more than 50 percent of the Nation's trade deficit, and in the first quarter of this year, nearly 75 percent of the trade deficit was from oil and petroleum product imports.

Mr. President, we hear people talk about the trade imbalance. We hear talk about needing to rebuild the economic strength of this country. We hear talk on this floor day after day about the effect on the economic independence of this country of continuing to build up external debt held by those in other countries. This situation really strikes at the heart of the national economic sovereignty of this country. And, yet, some Senators want to put one more nail into the coffin of a domestic industry whose collapse has led to the greatest increase in the trade deficit of any single industrial decline in this country. This is a clear example of why we need to look at the facts as they are, put out of our minds for a moment that we are talking about "oil" with all its political history, and look at economic facts and look at the national interests.

I am not speaking as a Senator from Oklahoma, which happens to have an ever-dwindling amount of oil and gas production because of the tax climate and other factors. I am talking about what is good for the United States of America. It is not good for the United States of America to continue to have this kind of decline in our domestic petroleum industry. One has only to look at what it has done to the trade deficit to know that is true.

In the second place, our tax policy is absolutely restructuring this industry. It is very hard for this Senator to understand why those who have come to the floor in the past to denounce the "big international oil companies"—

that is the term they have used—have supported tax policies which are virtually destroying the independent sector of this industry, the small domestic sector. Independent producers, on the average, employ about five full-time employees other than the drilling crews which they from time to time send out, or used to send out, before the rig count dropped so low.

Why do they want to restructure the industry by completely removing the domestic independent producers from the industry, driving them into extinction and leaving only a few, large international companies which conduct more and more of their production and other activities offshore, and have moved more and more of their jobs outside the United States?

We have had a 50-percent decline in the number of independent producers just since 1986 in this country, falling from about 15,000 down to 8,000 companies, and that number continues to drop. And yet it is the independent producers who bring some balance to this industry. It is the independent producers who are active inside the boundaries of the United States. It is the independent producers who drill 85 percent of U.S. exploratory wells.

And so we have a tax policy that is driving these people out of business. As the Senator from Louisiana just said, they pay an effective tax rate of over 72 percent, according to a recent study by the University of Arizona. Here we have a chance to finally do something positive, after all of these years of decline, to try to put some balance back into the industry, to try to bring some vitality back, to try to put some of these people back to work, to try to do something to reverse the trend in terms of our trade deficit. We have a chance to do something positive. According to recent surveys of independent producers, if the alternative minimum tax can be amended in this way, it will result in the drilling of 17 to 25 percent more domestic wells in the next year.

Let us do it. Let us take that chance. Let us turn around the situation. Let us begin to move in a positive direction.

Now, Mr. President, no one will escape tax liability.

I might ask the Senator for 2 additional minutes.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. I yield 2 additional minutes to the Senator from Oklahoma.

Mr. BOREN. I thank my colleague from Texas and I thank the Chair.

The way this provision is drawn, a taxpayer cannot, through the use of deductions for excess intangible drilling costs, reduce its income more than 40 percent. There are three other provisions currently in the tax laws that would make it impossible for any producer to avoid paying some tax liability as a result of the change affecting percentage depletion that is proposed in this bill.

So it is simply not true that there are going to be people completely avoiding a tax liability. What they will have is a little breathing room. What they will have is a little relief from a 70-percent effective rate. What they will have is a chance to keep some wells in production that are now at the break-even point and that are otherwise going to be plugged, marginal wells by the thousands in this country that are going out of business every year. These oil and gas resources are lost forever, and the resources are ones on which the environmental costs have already been paid.

What a mistake it is for us to do that. What it is going to do is cause some producers who are now actually losing money, who have no net income, still having to pay the alternative minimum tax. We had specific and concrete testimony in the Taxation Subcommittee of the Finance Committee hearings on this point. People testified who have no net income, who are losing money, but because they are doing what we told them we wanted them to do in the national interest—drill wells, try to put some reserves back in place in terms of our national energy security—they are being penalized under the alternative minimum tax.

Mr. President, when we had to make the very difficult and trying decision to put young Americans at risk in the Persian Gulf, in conflict, their very lives at risk, we said never again are we going to be without an energy policy in this country that can begin to chip away at this total dependence on foreign sources of energy.

Finally, we have a chance to take one small step, not a big step, a tiny step, toward an energy policy that will encourage that. And here we have an amendment that says "No, we do not want any progress. For goodness sakes, let us not do anything that might help the trade balance. For goodness sakes, let us not do anything to preserve the independent sector; let the big oil companies move all their jobs, all their production, all their activity offshore."

How long are we going to wait, Mr. President, before we wake up? How many more times will we have to face an international emergency of the kind we faced before? How many times will we have to look the American people in the eye and say we have no energy policy; we have nothing to stop the death of independent producers in this country; we have nothing to increase production of domestic reserves?

We have a chance to do something. Let us do it now.

Let us turn down this amendment. Let us take a small step in the right direction.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I yield 10 minutes to the distinguished Senator from Oregon.

Mr. PACKWOOD. Ten minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. I thank the Chair.

First, let me agree in part with what the distinguished Senator from Oklahoma just said about having no energy policy in this country, and, indeed, we do not have a very good energy policy. It is understandable how we initially got hooked on oil—and I will use that expression "hooked on oil," and I do not mean it malevolently in any sense of the word.

Oil was plentiful earlier in our history. It was cheap, comparatively speaking, and fungible. It was easily changeable from one form or another in terms of its uses. And so we used it not just for gasoline in cars, we used it to generate electricity, we used it for all kinds of things because we did not think we had to save it or conserve it.

Gradually, oil is running out in this country, and what oil there might be able to be found, we pass all kinds of restrictions that prohibit the drilling for it.

So it is no wonder we do not find some oil when we say this is off limits and this is off limits and this is off limits and this is off limits. Now the oil production is going down.

It is amazing how that happens. But there is no reason why this country could not be independent in energy if it wants to, although it would probably not be on an oil base; it would be probably on a natural gas, North American free trade base or on coal, of which we have a 400-year supply. We can produce all the energy we need in this country from coal and use oil for what you have to use oil for, but that is neither here nor there from the standpoint of this tax.

But we are not short of energy. Japan is short of energy. We are not. It is the issue of the minimum tax itself that bothers me and not because it is the oil industry.

I do not want my good friend from Oklahoma or the chairman of the committee to think I am picking on the oil industry when I support the amendment of the Senator from New Jersey.

I want to go back before we passed the tax reform bill in 1986 and remember what the situation was. Every one of us faces this when we go home. You go home. You go to the coffee shack, in my State it would be of the lumber mill. Maybe in South Carolina, North Carolina it is the textile mill. The people, if they were lucky then, were making $19,000, $20,000 a year in 1985 and 1986. And just as you would get to the mill out would come some story from the Treasury Department about the

Treasury Department announced today that 800 people made over $500,000 last year and paid no taxes, no taxes. And this poor devil who is working in the mill and making $20,000 a year paid $1,500 or $2,000 in Federal income taxes last year and cannot understand how somebody could make $500,000 and pay no taxes. And you would say to him, well, it is because of preferences. He bought municipal bonds, school bonds. You do not have to pay any taxes on them, and it lowers your taxes. He gave a great painting to the Metropolitan Museum of Art.

We had all kinds of devices, dodges, call them what you want, that allowed people to have immense gross income, and by the time they figured their preferences and deductions, they had zero taxable income. And it was unfair. You cannot explain to somebody making $20,000 a year how somebody can make a half a million or more and pay nothing.

So in 1986 we changed the Tax Code. We passed a very stiff minimum tax which was intended to make sure that all taxpayers would pay a minimum level of tax on their economic income, no matter what kind of deductions they had. And we did not try to really go through and say all right, this is a good deduction, this is a good deduction, this is a good one, this is a bad one, because we knew if we said that, the ones we left as good deductions, people would use and they would pay no tax.

We thought it important that everybody of wealth pay some tax in this country, no matter how justified their deductions, so that the public would conceive that the code had some fairness. Now we are being asked to carve out a segment of the oil and gas industry for paying the minimum tax.

Here is my quarrel. I am not berating the oil and gas industry. It is this particular industry we are now going to carve out, because the energy bill before us today basically guts the minimum tax rules for a segment of the oil and gas industry.

The bill permanently repeals the minimum preference for intangible drilling costs—IDC's as we say in Washington—and percentage depletion of independent producers. As a practical matter, these changes will exempt most oil and gas producers from the minimum tax.

The argument is we need to do that in order to encourage the production of oil. I am not sure that is right, but that is the argument that is made.

Although this is not the first time the oil and gas industry has received minimum tax relief, just 2 years ago in the 1990 budget bill the oil and gas industry got almost $800 million of relief from the minimum tax. Now, not even 2 years later, if this passes, they will get another $1 billion of relief.

My quarrel is not with the oil and gas industry. It is what is going to happen to all other industries when they see this, because if you are in the oil and gas industry you see the world through the oil and gas industry eyes and you think this is the be all and end all of civilization. But if you happen to be in the banking business or president of the university, or in the maritime industries, here is what they are going to want.

We will go right down the line. In taking care of it in the tax bill we are going to consider something for educational institutions. It is called what is known as donation of appreciated property.

Prior to 1986, if you had a painting you bought for $100,000, you are rich, you keep it 10 years, worth $1 million, you donate it to a university, took a $1 million tax deduction, and you found many people were escaping the minimum tax in this way, partially.

So we said henceforth you can only deduct the value of it when you got it: $100,000. There were tremendous objections from universities and art museums. It turns out they were concerned with not the painting; they are concerned with the value of stock from $100,000 to $1 million. You give them the stock, they do not keep it. They sell it to get the money. But they do not get as many donations if you can only deduct your basis, $100,000. So they want an exemption from the minimum tax.

The geothermal industry now has a tax credit for the production of geothermal energy. They, however, cannot use the credit against the minimum tax. They would like an exemption to use it against the minimum tax.

Companies with overseas operations, with foreign tax credit, can now be offset. They would like it offset.

The maritime industry has what is known as the capital construction fund. They can put aside funds in the capital construction and pay no taxes. They can invest in the construction, but they would like it to operate in conjunction with the minimum tax and be given an offset against it.

Banking: bad debts. A bank has bad debts. They try to get the debts down. They cannot offset them against the minimum tax. And then all capital intensive industries—steel and autos—that have immense capital investments want a dramatic change in the minimum tax so they are not as adversely affected as they had imagined in their mind about it.

So as we start down this road you are hard pressed to say to the auto industry, to the steam industry, to the shipbuilding industry, charities, maritime industry, well, the oil and gas industry is unique. Yes indeed. Every industry is unique. Oil and gas is different from shipbuilding. Shipbuilding is different from auto construction. They are all different from running universities.

Each of the industries that wants an exemption from the minimum tax says we are unique and the merit for us is greater than for any other industry, and if you gave it to the oil and gas industry how in good conscience can you not give it to us?

There is no way you can explain it to them. If you are a university president, or a bank president that has bad debts from your predecessor through no fault of your own, you are trying to get the bank into some kind of liquid position, the bank president comes and looks you in the eye, says it is not fair that you give this to the oil and gas industry and not give to the banking industry, which is the very heartbeat of America, that finances all the small businesses in the country. How can you deny it to us?

The university president comes in and says we have needs for buildings and educating people, and the Government is not giving us enough money for education, and you are taking it away. They are raising money for the oil and gas industry, and how can you say no in good conscience?

So that is my quarrel. It is not a quarrel with the oil and gas companies.

I can see what is going to happen. We will start to grant these exemptions from the minimum tax, and it will eat away at our tax base. And then we will raise the tax rates to make up for the money that we have lost—exemptions from the minimum tax, and because we raised the tax rate it makes it more difficult for industries to amass profits. They will want more exemptions from the higher tax rate, which will diminish the amount of money. We raise the rates maybe in 10 or 15 or 20 years when the rates are going up, 45, 50 percent on corporations, and 60 or 70 percent on individuals. We will go through the whole thing we went through in 1986, and we will say this is ridiculous.

We raise the rates and give exemptions from the rates because the rates are so high that we cannot get the people to do the economic activities we want. We will give them exemptions, and we will be right back to what we found in the millions when we will have the IRS and Treasury Department saying, how many people last year made $1 million and paid no tax?

So that is my quarrel, Mr. President. I hate to see us start down that road. But it is so easy at this time to say yes, your case is justified, Mr. College President; your case is justified, Madam Bank President; your case is justified, entrepreneurs. For geothermal energy, I will make an exemption for you. But it becomes a "for you and you and you."

That is why I very strongly support the amendment of the Senator from New Jersey.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, there is only one good reason for including the

alternate minimum tax proposal in this bill—it is the single most important provision in this legislation to stimulate the exploration and production of oil and natural gas in the United States.

And I want to remind my colleagues what oil and gas means to us as a nation. I have heard speech after speech on this floor, in political campaigns and in the media that our foreign trade deficit is too high, that America is not competitive, that our trading partners are simply leaving us in their dust. But, fully two-thirds—that is two-thirds—of our foreign trade deficit is due to imported oil. The only trading partners leaving us in their dust are the foreign oil producers. No one in this body, no one in any other forum, should be allowed to utter the word "competitiveness" without suggesting a way to reduce the oil deficit.

The AMT provision addresses the trade deficit, the oil deficit. It will help draw necessary capital to the oil drilling business in our own country. It is unfortunate that my colleagues do not support the other big key to reducing the foreign trade deficit—allowing the environmentally responsible development of the Outer Continental Shelf and Arctic National Wildlife Refuge. We have handcuffed our Nation and our economy. We have said, Let us start our competitiveness at a disadvantage, let us agree to step up to the plate with two strikes already against us.

The Finance Committee recognized these facts in our markup, we had a vote on the Bradley amendment, and the committee voted we simply could not, as a country, afford to let this trend continue.

We have heard about the rig count, the key figure to our energy future. The rig count is down all right, right down to the lowest levels of all time. As a matter of fact, just this year we have set six all-time low rig count records—six all-time low level records.

This is no give away to the oil industry. The oil industry is unique in its need for huge amounts of up front capital. So unique that under current tax law has the highest effective tax rates of any industry in the country.

I ask unanimous consent that a copy of a table from Tax Notes of May 4, 1992, be printed in the RECORD at this point.

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

TABLE 4.—U.S. AND FOREIGN AVERAGE EFFECTIVE TAX RATES

Industry name	U.S. effective tax rates			Foreign effective tax rates		
	1986	1987–89	Increase (decrease)	1986	1987–89	Increase (decrease)
Aerospace (percent)	12.5	53.2	40.7	44.1	38.5	(5.6)
Beverages	22.4	29.7	7.3	41.6	28.2	(13.4)
Broadcasting	29.8	29.0	(.8)	41.6	44.4	2.8
Chemicals	13.5	28.9	15.4	47.6	47.1	(.5)

TABLE 4.—U.S. AND FOREIGN AVERAGE EFFECTIVE TAX RATES—Continued

Industry name	U.S. effective tax rates			Foreign effective tax rates		
	1986	1987–89	Increase (decrease)	1986	1987–89	Increase (decrease)
Computers & off. equip	−.6	−22.4	[1](21.9)	50.8	44.1	(6.7)
Construction	71.6	35.5	[1](36.1)	86.4	16.6	(69.8)
Electronics & appl	30.0	29.3	(.7)	42.8	42.7	(.1)
Food Processors	29.9	35.0	5.1	43.1	44.4	1.3
Glass, concrete, etc	37.7	36.0	(1.7)	41.3	39.7	(1.6)
Instrument companies	32.5	34.2	1.7	35.1	33.3	(1.8)
Investment companies	29.5	26.7	(2.8)	25.9	5.4	[1](20.5)
Metal manufacturing	.5	8.8	[1]9.3	103.8	27.1	(76.7)
Metal products	67.8	34.4	(33.4)	70.3	38.3	(32.0)
Mining	17.4	22.0	[1]4.6	89.0	43.1	(45.9)
Motor vehicles	−22.1	25.2	47.3	41.6	22.9	(18.7)
Paper and wood products	11.5	22.0	10.5	30.6	26.2	(4.4)
Petroleum	−30.9	72.5	103.4	41.6	42.9	1.3
Pharmaceuticals	27.2	30.6	3.4	36.5	40.3	3.8
Retailing	25.6	39.4	13.8	36.5	39.6	3.1
Rubber	13.0	21.6	8.6	71.9	51.5	(20.4)
Soaps and cosmetics	22.6	36.8	14.2	33.8	38.4	4.6
Telecommunications	26.5	32.9	6.4	60.4	58.2	(2.2)
Tobacco	35.1	33.5	(1.6)	39.3	36.8	(2.5)
Transportation:						
Airlines	0	34.0	34.0	24.1	.2	(23.9)
Railroads	−131.1	16.7	[1]147.8	0	0	[1]0
Trucking	24.9	22.2	(2.7)	71.1	64.2	(6.9)
Wholesalers	36.5	34.6	(1.9)	149.5	133.8	[1](15.7)
All Companies (percent)	20.2	31.5	11.3	43.9	40.0	−3.9

[1] The rates for one or more years are distorted due to a book loss or zero foreign income accompanied by positive foreign taxes.

Mr. DOLE. Mr. President, let me tell you one thing the chart shows. The oil industry has an effective tax rate of 72.5 percent. That compares to a national average of 31.5 percent.

The chairman of the Finance Committee mentioned the pharmaceutical industry in New Jersey. That industry has a tax rate of 30.6 percent, less than half the effective tax rate on the oil industry.

How can somebody say we are proposing a big giveaway when we are just trying to level the playing field? Once again, Mr. President, the only way we can make a big dent in the foreign trade deficit is to decrease oil imports by increasing energy production in this country.

The measure before us is the most effective way to do that. I urge my colleagues to reject the Bradley amendment and to make the United States competitive again.

Let me add one other thing. We had the big gulf crisis, and it was all about oil. So we spent billions and billions of dollars, going to the gulf, and most of it we got back from our allies. We were only there for three letters—o-i-l. We have had war after war, and crisis after crisis, because of oil. We are becoming more and more dependent.

If we want additional gulf crises, or other crises about oil, we can continue to shut down the oil industry. I might also say we are talking about, primarily, the small producers—independents. There are not many left; do not bury this industry. We may need oil again in a future crisis in America.

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from Colorado.

Mr. WIRTH. Mr. President, I thank the chairman for yielding. I wanted to take a few minutes to once again remind my colleagues of what it is that we are about here on the Senate floor today, and what we are about in the Congress over the next few weeks.

We are about passing the first major energy bill that we have done, probably ever. This is an enormously important endeavor, at a time when the country is looking with some skepticism at Congress and what it does; and can we deliver, and can we do this and that.

We are on the edge of a major achievement. We should all feel very good about that set of accomplishments. We are coming down the line, and we have to go through conference. But this is a singular achievement for this Congress.

Central to this energy bill is a major change in our national thinking. For the first time, we have an energy bill saying that we are not going to continue the same course. We are going toward a course on energy that has a number of other alternatives to it—not just traditional oil; not just traditional dependence on fossil fuels. But we are going to change our way of thinking. We are going to put a much greater emphasis on conservation. We have done that, and the House has done it, and we have the strongest conservation measures we can develop and get passed.

We are also—and this is very important to this amendment—changing fundamentally our view of the fossil fuel mix. For the first time, we have said that natural gas, as an industry—that this enormously promising American industry—has the opportunity now to come fully into its own. And that by increasing our dependence on natural gas—which is a fuel right here at home; which is a fuel that is clean, environmentally benign; which is a fuel that is going to generate more American jobs; it is going to cause less export of scarce American capital; it is going to be good for our national security; natural gas is this win, win, win fuel—that by encouraging natural gas, with respect to how utilities are operating, we are moving away from this terrible dependence on imported oil. This is a major accomplishment and change in this legislation.

One of the keys to this is taking advantage of the reserves of natural gas that are available to us. In Louisiana, in the San Juan Basin, and in New Mexico, going up into Colorado, in the overthrust bill, we have immense reserves of natural gas, and they are finding them all the time.

If this amendment passes, what we are going to do is take a great deal of the work we have done on this bill and say we were not really serious about it. We are not going to say to this industry, which—as the Senator from Oklahoma pointed out and the Senator from

Louisiana pointed out—has been decimated over the years: We are going to further decimate this industry. We are not serious about the energy bill. We are not serious about taking advantage of this domestic resource. We are not serious about going out and finding new reserves. We are not serious about developing new technologies to develop the reserves we already have.

Rather, what we are going to do is go around and once again punish this industry that we have said, on the other hand, we wanted to encourage and support.

This does not make any sense at all. If we are serious about this as a comprehensive energy bill and a bill that is making a major transition—and a lot of my friends who view the world in something of a similar way, the way that I do, in terms of our need to make a change; in terms of skepticism of the old ways of doing business in energy; of moving toward conservation and natural gas; and moving toward domestic fuels—we are doing that in this bill. And one of the ways that we can continue to do that is to encourage exploration of the natural gas industry.

This amendment would have exactly the opposite effect. If we are serious about this bill, let us be consistent in this legislation. Let us be consistent in the transition to natural gas and consistent in our support and encouragement of that key domestic industry.

If you vote for the Bradley amendment, what you are doing is saying: That rhetoric was all very nice about what we were going to do in the energy bill, but we were not really serious about it.

I think we ought to be serious about the energy bill. We ought to pass the bill as rapidly as possible. I think we ought to turn down this amendment, and most of the other amendments, as well, and get to conference and get this bill in front of the President, who is going to sign it and make it part of national law. It is very important for us to do.

I thank the chairman for yielding time.

Mr. BRADLEY. Mr. President, I yield 10 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, let me just respond to a couple of statements that have been made on the floor. I consider myself to be a Senator that is very serious about energy policy: one that is respectful of the environment that makes us more independent and enhances national security.

I think we have a transition we have to make, with an emphasis on renewables and safe energy. We have yet to even reach the potential of domestically produced clean fuels, like ethanol and all of the rest.

But I reach a different conclusion about this particular proposal. It is much like the Statement of the Senator from Oregon. This $1 billion in tax breaks is a tax expenditure, and expenditure of money—money that we do not have. It is a loss of revenue.

The oil industry asks for relief. They already have some relief from the alternative minimum tax, and now they want more. I just do not think this proposal meets the standard of equity.

The auto industry is in trouble. Senator PACKWOOD said it well. The steel industry is in trouble. Bankers are in trouble. A lot of business people are in trouble who do not get relief in this bill. There does not seem to me to be equity to this. I do not see how we explain this proposal.

Moreover, a lot of people in our country, regular people, are really feeling the strain. They really feel the strain, and they do not see the relief coming.

Mr. President, I wanted to take a somewhat different cut, and explain my opposition to this proposal, since there are Senators who support it that I certainly respect.

Last week, before the Subcommittee on Families and Children, Senator DODD'S subcommittee, a woman named Bernice Price testified. Bernice Price is 13 years old. She lives here in Washington, DC, and she testified before our Subcommittee on Families and Children. She lives in a housing project. She told us:

We did not know that being a poor child in the United States was going to be so very hard.

We weren't born to do poorly in school!

Or to suffer bad health!

Or to take drugs!

Or to catch sexually transmitted diseases!

Or to kill or be killed on the streets of America!

When we were born, we were beautiful, happy, smart and good! We were just like your own babies. In God's eyes, poor babies and rich babies are equal. They can be anything they want to be—including the President of the United States!

But God is no politician. He doesn't make social policies that can harm poor children.

So . . . those babies who are equal in the hospital are unequal when it comes time to go home.

Then she goes on:

When you were a child, you were able to play outside, right? Today, millions of American children can't play outside anymore. We're afraid of what might happen to us out there!

In this testimony, I bring a message from millions of American children. We are not asking for special privileges. We are asking for the chance to be healthy like other kids. We are asking for safety against drugs and violence. We are asking the people who are paid to help us to do their jobs. We are asking to play outside like you did when you were young. We are asking for safe schools and for teachers who urge us to "reach for the stars." We are asking for laws to be changed so our fathers can come home to us.

We're only kids.

We're scared.

We're sad.

Sometimes we feel like America has forgotten us just like it did our mothers and fathers. The drug pusher knows that. And he's waiting just around the corner for us with his drugs and his lies.

Senators, and other honored guests * * * I challenge you to look deep into the eyes of a poor American child. In the eyes of that child, you will find America's greatest tragedy.

If you won't help us today, you are going to lose us forever.

The day before yesterday Arthur Ashe came in and testified before our subcommittee. He made reference to some facts having to do with American youth in crisis. I will not read them all but just a few.

Today, 5 million students will carry a weapon to school, 135,000 will have a gun.

Today, 16,000 crimes will take place on or near a school campus—one every 6 seconds.

Today, 22 15-24 year olds will be murdered.

Today, 8 million American adolescents live in poor or near poor families.

Today, half of all black, Hispanic, and Native American Indian adolescents are poor or near poor.

Today 5 million adolescents who need mental health services do not receive them.

Today, 2,739 adolescents will run away from home.

Mr. President, my point is simple: This tax break to the oil companies does not meet the test of equity. It is not fair to other businesses. It is a tax expenditure. It is erosion of our revenue base. We talk about the deficit all the time, the budget deficit. You can argue why are we eroding the revenue base as well as talk about reducing the deficit. There is an investment deficit, and I am talking today about where the money is not spent.

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

Mr. WELLSTONE. If I could just finish the statement. I want to make myself perfectly clear. As long as we are saying to Bernice Price and other children in this country, we do not have the money to feed you, we do not have the money for health care, we do not have the money to support education, we do not have the money to fully fund Head Start, we do not have the money for any of these programs, I am certainly unwilling to support a $1 billion further erosion in the revenue base of our country.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. WELLSTONE. I certainly will.

Mr. JOHNSTON. The Senator said there is a tax break for the oil companies. He understands this is not for major oil companies; these are for independents.

Mr. WELLSTONE. I understand that full well.

Mr. JOHNSTON. The Senator also understands we had this tremendous erosion of jobs in the oil industry, upwards of 400,000 in the last 10 years, which is more than automobiles, more than textiles, more than any other industry in America, and we are due to lose another 50,000 by some estimates this year. Does the Senator have any-

thing he might suggest to the children of those who are likely to lose their jobs, for whom I also feel, as I do for this person who testified before that committee and talked about poverty? Does he have anything to suggest for those who are likely to lose their jobs and for, indeed, the American economy, which will have to import that oil if it does not produce it?

Mr. WELLSTONE. I have a lot to suggest. First of all, I say to the Senator from Louisiana that I do not see the oil industry in trouble because it has not received exemption from this minimum tax. I see the oil industry in trouble because the prices are down for oil. I see the oil industry in trouble because our economy is in a recession. I see the oil industry in trouble and other industries in trouble, I say to the Senator from Louisiana, because we have failed to be involved in serious strategic investment in our own economy. I see the oil industry in trouble because, essentially, we have not been minding our own store here in our own country.

And my second point, if I could just go on, is, I say to the Senator from Louisiana, that when I talk about children in this country and not being able to come up with $1 billion and more to respond to the needs and circumstances of children, of course, I am talking about children in all families, in all States in the country, including Louisiana. But I simply do not believe that the oil industry is in trouble because of this minimum tax. I have heard other people argue that on the floor as well.

Mr. JOHNSTON. Does the Senator see any connection between an effective tax rate of 72.5 percent, which you have with the alternative minimum tax now with some independents, but does he see no connection between that and the fact that we are losing up to 50,000 jobs this year in the oil industry in America?

Mr. WELLSTONE. Again, a lot of industries can talk about the strain they are under. My understanding—and the Senator from New Jersey may want to add to this—is that the oil industry, the domestic producers, have already received some exemption. Now the industry wants more. Once again, I do not believe that the evidence, if you want to look at the economy of this country, is that there is a 1-to-1 correlation between what you are asking for and a dramatic improvement in this industry. I think we can talk about other, more profound problems in the economy of this country.

Moreover—let me just say one other thing to the Senator from Louisiana, which is there are a lot of people that can come before us right now from the business community and say the same kind of things in terms of tax relief that they seek. The point is we are not talking about tax relief for these other industries. We are not talking about this kind of tax relief for those other businesses. I do not think, if we look at the whole economic picture, there is any equity.

Finally, I say one more time, it is interesting to me that the Bernice Prices of this world do not really get heard so clearly on the floor of the Senate. What they would like to say is they need some relief, but we do not give them the relief.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from New Mexico who has knowledge in this matter.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, I rise not only because my State is a large producer of natural gas and crude oil, but because, for the first time in about 10 years, we are doing something about America's energy dependence. We are doing something about jobs that we do not have to lose. We are finally cutting the noose which has been around the necks of America's independent oil and gas producers ever since the 1986 AMT was enacted.

Mr. President, for an America that has announced over the last 7 years hundreds of thousands of working men and women have been laid off in the Oil and Gas Patch of America, for an America that is growing day by day in dependence upon foreign oil, sending billions of our dollars to Saudi Arabia every year, and we sit by with one of the most punitive tax systems, the AMT on the books, and we say to America's investors, to America's independent oil and gas risktakers, we say to them, "We want you to produce oil and gas, but we want you to run uphill. We want you to run up a waterfall, because we want to tax you at an average effective rate of 72 percent." Just think of it. If we came to the floor and said we have a new policy for America's competitiveness, we are going to tax America's industry at 72 percent, would that not be a marvelous policy for jobs, economic growth, and competitiveness? I make that statement to emphasize how ludicrous the AMT tax policy is.

Now, Mr. President, there is no mystery about what an AMT is. We have said to the independent oil producers, other businesses can deduct depreciation but you cannot deduct depletion, because you put it back into your minimum tax return.

Other businesses deduct trucks, hauling, supplies, and fuels. They deduct all the labor expenses of doing their work. We say to the oil and gas industry where these expenses are incurred in your industry, they get a different name. They get called intangible drilling costs and they receive a very unfavorable AMT tax treatment. I say to my friend from Louisiana, you cannot deduct them. You put them back into the AMT tax base and we tax them.

Now, Mr. President, it is absurd to throw away jobs and to sit back for no reason and say, we would rather the Saudi Arabians get our money; we do not want independent oil and gas producers to get out of bankruptcy and get back in the field; we do not want the rigs that are idle all over America back in the field producing oil and jobs. Instead, we want to tax the independent oil producers as a confiscatory rate. Confiscatory rate is the term they use when I go to oil patch and have a meeting. They stand up and say, Senator do you know my company went out of business because on the last AMT tax return I filed I had to pay an effective tax rate of 70 percent. We quit.

Is that not absurd that, in the name of some ridiculous concept, the independent oil and gas producers were making too much money, we are going to fix them, we are going to fix America, we are going to fix thousands of people that would have jobs in oil patch and good jobs.

So I say the Bradley amendment is an antijobs bill. The Bradley amendment is an amendment encouraging us to send our hard-earned American dollars and net savings to foreign countries instead of wanting to spend it in America. Very interesting. Send it overseas. It is not enough to have had a war to defend that oil in the Middle East. Now just keep on sending them our money because we want to put a 72 percent effective tax rate, a rate that is substantially higher on the independent oil producers.

My last thought. For those who do not think they ought to deduct intangible drilling costs, who do not think they ought to deduct ordinary business expenses and depletion which are no different than ordinary business expenses and depreciation for other types of businesses. Remember, oil and gas producers do not find oil every time they drill for oil. Do you want them to quit taking the risk, or do you want them to say the risk is worth taking because when we strike oil and get some money coming in we are going to get back what reasonable businessmen get and deduct what they deduct, or do you want them to say, "we quit!"

This energy bill, for the first time, has a rational energy policy. It will not solve America's oil needs but it will cause more millions of barrels, barrels of ours, to be produced rather than foreign. It will put thousands of people to work here in the United States rather than taxing them out of work. It will bring investment into oil patch, and I do not know why we should not all want that.

The tax title of the energy strategy is an important part of the overall energy strategy. It includes provisions to

increase exploration, development and production of oil and gas; the conservation of energy; and tax credits for renewable energy among others. It is a balanced strategy designed to give us flexibility in the future to meet our energy needs.

I want to begin my remarks with a discussion about oil and gas production because I represent one of the big oil- and gas-producing States. While rigs sit idle in my State, and while wells are shut-in throughout the Nation, we are importing almost half of the oil we consume on a gross basis. That represents an increase by almost one-half over our import dependence in 1985.

The Office of Technology Assessment has predicted that oil imports could reach almost 70 percent by the year 2010. Leaving his scenario unaddressed would not be an energy strategy, it would be a national tragedy.

The tax title contains some of the most important energy provisions for independent producers. Right now, they are being taxed out of business by the alternative minimum tax.

Independent producers have been stuck in the alternative minimum tax [AMT] since it was enacted in 1986. Under the AMT, there are four big penalties imposed upon investments made by U.S.-based taxpayers who explore for, and produce U.S. oil and gas reserves. These penalties hit the independent oil and gas producers who drill 85 percent of all domestic wells. There are two tax penalties on drilling investments and two penalties on asset depletion. Without the independent oil and gas producer's exploration and development activities the options for an energy strategy would be greatly limited. The President recognized this, and fully supports AMT relief for independent oil and gas producers.

The simplest explanation of the AMT exploration and production penalties is this: Current law requires U.S.-based taxpayers to add back to regular taxable income a portion of both drilling costs and asset depletion when computing alternative minimum tax liability.

The practical impact on the oil and gas producers is that production incentives are on the books, but can't be used because of the AMT. In essence, it is a nonrepeal repeal of ordinary business expenses that other businesses are allowed to deduct. I call it a nonrepeal repeal because the provisions are as unusable as if they had been repealed. The tax writing committees have included $1 billion in alternative minimum tax relief.

The alternative minimum tax is one of the worst enemy's of the oil independence and an effective energy strategy. The alternative minimum tax is driving oil producers out of business because its provisions discourage domestic exploration and production. The alternative minimum tax is pushing independent producers into bankruptcy. It worsens our trade deficit. It weakens our energy security. And its punitive tax treatment has wrecked almost half our domestic oil production.

In February 1992 I had a meeting with some of the independent producers in New Mexico. I want to quote a few of the oil and gas producers who attended the meeting. I think they speak eloquently about the problem. Theirs is the voice of experience.

Ted McVay, of McVay Drilling told me the following:

> I know how a dinosaur felt when even though he was making his best effort to survive, the environment in which he was working ultimately caused his extinction. We are in an adversarial relationship with Government. * * * The alternative minimum tax (AMT) has had a devastating impact upon investment resources available to these different companies from not only within the industry but from outside investors thus drying up one of our primary sources of funding for development and exploration.

I did some research myself, and found that the AMT is the only tax imposed by any government which results in a higher effective tax rate as income declines.

Another independent oil and gas producer struggling to survive, A.J. Brune, of Wagner & Brown, headquartered in Midland, TX, with exploration and production operations in the Permian Basin, the Rocky Mountains, Oklahoma, New Mexico, and Michigan said:

> The alternative minimum tax, despite its well intended purposes, has become a noose around the neck of independents diverting money from drilling and exploration into the Federal treasury at a time when the domestic oil and gas industry needs every available dollar. The alternative minimum tax increases the effective rate, eliminates incentives and discourages investment, all at a time when oil and gas prices and production are declining, the national economy is in a recession, traditional financing sources have dried up and foreign import of oil are approaching 50 percent.

Another constituent, the general partners from Parker & Parsley Petroleum Co. told me that the biggest problem is alternative minimum tax [AMT] including the ACE adjustment.

> It serves as a deterrent to drilling, as the price of oil goes down, so does the net income from oil and gas making the preference intangibles higher, resulting in a larger tax bill. This is exactly the opposite of what should happen when trying to have a viable economy.

Unlike other small businesses, independent oil and gas producers are not allowed to deduct ordinary business expenses incurred in their line of business. These expenses are intangible drilling costs and percentage depletion. This results in effective tax rates of 70 percent for some oil and gas producers as compared to regular 34 percent for nonpetroleum businesses.

By adopting the Finance Committee's AMT provisions we can begin to reverse this trend and begin to put back to work the thousands of individuals who have been forced to leave this industry. Studies show that if these AMT penalties were removed, the industry could mobilize 1,200 rigs—compared to the recent record low of 653.

Without AMT relief the only self-help available to the independent producer is to stop drilling. When an independent stops drilling he goes out of business. Let me repeat this: The AMT is driving the independent oil and gas producers out of business. It is impossible to have an energy strategy without an oil and gas exploration, development and production industry. Yet we have a tax system that is a modern day example of the power to tax being the power to destroy an industry.

The AMT is not just a little bit bad for the oil and gas industry, it is very, very bad because oil and gas production is one of the most capital intensive industries in the United States. Capital intensive industries bear the heaviest burden of the alternative minimum tax due to the many adjustments required of capital outlays.

For my colleagues who are not from oil patch, you might ask, "Well, Pete, just how bad is it?"

The statistics are dry but stark: 192,000 jobs lost in the extraction portion of the oil and gas industry, from the 583,000 level in 1985 to 391,000 in 1991, a 33-percent decline.

That is, on the average 32,000 jobs per year; 2,667 jobs per month; 615 jobs per week; or 88 jobs per day.

This trend has continued into 1992. Nearly 17,000 jobs were lost in the oil and gas industry in just three States—New Mexico, Texas, and Louisiana between March 1991 and March 1992.

Some 380 drilling companies have gone out of business; from 778 in 1985 to 398 in 1991; a 49-percent decline.

That averages more than five companies per month going out of business for the last 6 years.

There are 1,120 active drilling rigs lost; from 1,980 in 1985 to 860 in 1991; a 57-percent decline.

That is the equivalent to 15.6 active rigs each month over the last 6 years being shut down.

We are seeing a deliberate and rapid shift away from domestic oil exploration in the United States among the major oil companies. ARCO, Chevron, Mobil, Marathon, and Phillips are all companies that have recently announced sales of domestic reserves or large cutbacks in their domestic exploration and production staffs.

Some erroneously believe that the United States is drilled out. But the University of Texas has done an extensive analysis that shows that there is in excess of 100,000 intermediate fields to be found in this country. The Colorado School of Mines has quantified the remaining gas to be found in this country, and it far exceeds that which has already been produced throughout history.

The plight of the oil and gas industry even made it into the "Talk of the Town" section of the February 10, 1992, New Yorker.

Looking up at the silent, rusting rigs from the riverbank, we felt as if we had wandered into a graveyard for sci-fi monsters. The rigs were gargantuan. They also are fantastically expensive . . . and when there was no immediate prospect of them operating profitably, their owners often had them cut up for scrap * * * which is what a lot of them are doing right now.

The tax title of the energy strategy bill includes some important provisions to reverse this trend:

Repeals the excess IDC preference and the excess percentage depletion preference for oil and gas for taxpayers other than integrated oil companies. Repeal of the excess IDC preference may not result in more than a 30 percent reduction in AMT tax liability for tax year 1993, and 40 percent for taxable years after 1993. This should reduce independent producers' taxes by $1 billion between 1992 and 1997.

For corporations other than integrated oil companies, the bill would repeal the accumulated current earnings adjustment [ACE] for: First, IDC's paid or incurred in taxable years beginning after December 31, 1992; and second, percentage depletion for oil and gas. The bill also repeals the AMT energy deduction.

Other important energy tax provisions include:

Providing favorable tax treatment of public utility rebates. Customers would not have to report as taxable income and consequently pay taxes on the value of any rebate provided by a utility for residential energy conservation equipment. Beginning in 1993, the exclusion would be available for 80 percent of the value of any rebate provided to a commercial or industrial customer. It is an equitable provision because the conservation promoting provisions apply to both electric and gas utilities. Rural electric co-opts, State and municipality owned utilities are also eligible.

This provision accomplishes many of the same objectives as a bill I introduced earlier this session, S. 1305, the Conservation and Energy Efficient Investment Act. My approach would have conditioned the favorable tax treatment upon the customer purchasing the most energy efficient equipment available in the marketplace. I think this is a better approach, but I am nonetheless pleased that natural gas utilities' rebate programs are eligible for the tax incentive.

The bill includes a tax deduction for the purchase of alternative fuel vehicles; a lesser deduction for flexible fuel vehicles that can use both conventional fuel; and alternative fuels and a tax credit for electric cars.

My State is a tremendous natural gas producer and I am looking forward to the day I can buy my first natural gas powered car. Natural gas is an environmentally preferable fuel. These incentives are an important component of an energy strategy.

The bill also makes the 10-percent solar and geothermal credit permanent.

The two national laboratories in my State and many New Mexico companies have been at the forefront of developing solar energy technology. I am pleased that this credit is becoming permanent.

I think that the tax title of the energy strategy is an important contribution to America's energy policy and I am pleased that the Senate is including the tax title in this comprehensive package.

I thank the Senator for yielding.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I ask the Senator from Texas if he would yield me 5 minutes.

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. I thank my friend and colleague, Senator BENTSEN from Texas, and also Senator WALLOP for his leadership, in addition to Senator DOMENICI for his excellent statement, as well as the statement made by my friend and colleague, Senator BOREN from Oklahoma.

I rise in very strong opposition to the Bradley amendment which would strike out the provisions in the pending bill dealing with the alternative minimum tax.

Mr. President, I would just like to say that I think a lot of my colleagues do not really understand the provisions of alternative minimum tax as it pertains to the oil and gas industry. Because this industry, is unlike any other industry, when you are talking about intangible drilling costs—and most people do not know what intangible drilling costs are. Intangible drilling costs are the costs you incur when you drill a well. When you drill a well, sink a hole in the ground, you have nonrecoverable expenses. And in any other business in America—and I happen to know a little bit about that because I ran and operated a manufacturing company—we expense expenses. But not in the drilling industry today because of the tax change that we made in 1986.

A serious mistake was made. It placed a tax surcharge on drilling expenses. Now that makes no economic sense whatsoever. You are supposed to tax net income. You are not supposed to have a tax surcharge on an expense item. And if you have a tax surcharge on an expense item, you are going to drill a lot less. You are going to have a lot less of that expense item.

It was ridiculous tax policy, a serious mistake that was made in 1986 and it needs to be reversed.

The bill does not reverse it totally, but it is a step in the right direction. It minimizes the damage, and I wish we could go further. We should deduct 100 percent of expense items on intangible drilling costs. They should not be subjected to the alternative minimum tax in any way, shape or form. The committee bill did not go that far. So to some extent I am disappointed. We really did not go far enough toward sound economics and allow business people to deduct their expenses.

But if we pass the Bradley amendment, we will be doing great damage and continued harm to our country; not just to the oil and gas industry, but to our country as well.

Last year, we spent $44 billion importing oil; 66 percent of our negative trade imbalance was the cost of imported oil, not to mention the impact in the oil patch. Not to mention the fact, as my colleague, Senator JOHNSTON mentioned earlier, 400,000 jobs have been lost in the last 10 years, not to mention the fact that we are hardly drilling anything in this country.

Today we have an active number of drilling rigs of 688. We actually dipped below 600 earlier year this year. Let me put that in perspective.

I will tell my colleagues, we were right at 4,000 rigs about 10 years ago. Today, we are at 600-something. We are at the lowest number of active rigs that we have had since we kept records, going all the way back to the late thirties.

We are in a depression in the drilling industry. And you might say, why? One of the reasons is because we have a tax surcharge in drilling. It makes no sense. It needs to be repealed. Not to mention the jobs, not to mention the economic activity, not to mention the fact that we want to reduce our dependence on imported oil.

I just fear for the fact that a lot of our colleagues, I think, have very little understanding of the Tax Code, and particularly when it comes to business. And for crying out loud, we should make a common-sense ruling that we do not place tax surcharges on out-of-pocket, nonrecoverable, business expenses.

This amendment that we have in this bill will go a long way toward doing that. If we adopt the Bradley amendment we are going to say, no, we want higher AMT even on expense items. We are going to keep a tax surcharge on drilling expenses.

That does not make sense. If we allow that to happen, we are going to devastate this industry and continue to import more and more oil. That makes no sense whatsoever. It makes no economic sense. And I would just hope that my colleagues would show great wisdom and defeat the Bradley amend-

ment and, I hope, defeat it overwhelmingly, because it does not make sense.

We have several provisions in this energy bill that will help. Certainly, if we pass the Bradley amendment we will be doing great harm.

Mr. President, I strongly oppose this motion to strike on several grounds; not the least being that our domestic oil and gas industry is bleeding to death increasing our Nation's continued dependence on foreign oil. Mr. President, we are debating a national energy bill that is intended to help reverse this trend of increasing dependence. The Bradley amendment, if adopted, would eliminate one of the most necessary provisions in this bill that would have direct impacts on increasing domestic exploration and help decrease the need for foreign imports.

Independents drill 85 percent of the oil and gas wells in the United States. Over two-thirds of these independents are small, often family-run, businesses with less than 20 employees. The AMT in its current form has an especially punitive impact on these small producers, denying them the deduction of their most fundamental ordinary and necessary business expenses. Because the amount of IDC allowed under the AMT is tied to the producer's net income from oil and gas, the lower the amount of production, the lower the deduction for drilling costs. In addition, the percentage depletion deduction, which allows smaller producers to replace increasingly costly reserves and prevents the premature abandonment of many properties, is disallowed under the AMT.

If the AMT provisions in this bill are passed, drilling would increase between 17 and 24 percent and would result in almost 7,000 new wells drilled each year. This would increase the rig count by at least 200. On average, each rig operating full time directly creates 150 to 200 new jobs. Therefore, between 30,000 and 45,000 additional jobs could be created in the United States in the first year alone as a direct result of eliminating the nondeductibility of drilling costs and percentage depletion under the AMT.

As you know, current provisions in the Tax Code treat intangible drilling costs and percentage depletion as preference items for purposes of calculating a taxpayer's alternative minimum tax obligation. These provisions are causing irreparable harm to an industry that is vital to our national security.

A rig count of 688 indicates that the industry has entered a period of accelerated decline. The Nation's domestic oil production is falling at annual rate of 300,000 barrels a day, and foreign imports are rapidly approaching 50 percent of our domestic needs. We have lost nearly 400,000 jobs, almost half of the oilfield worker jobs since 1981 when the rig count reached 4,000.

Independent producers have been devastated by a combination of low oil and gas prices and high taxes. Every rig that shuts down means jobs that are lost and increased dependency upon foreign oil for our energy needs. I strongly believe that tax relief is needed to save the domestic industry from collapse.

The time to act is now. The independent procedures say that unless tax relief is provided, the industry will collapse. With the energy bill on the floor of the Senate it is time to act and act decisively.

I am convinced that the alternative minimum tax relief is the single most important agenda item for the oil and gas industry. It does little good to talk about extending incentives unless we remove alternative minimum tax impediments.

When a recession coincides with sustained low oil and gas prices, the alternative minimum tax works like severe penalty that gets progressively worse the longer the taxpayer fails under it. The longer prices are low and profits thin, the harsher is the alternative minimum tax's impact.

Under current law, when percentage depletion and intangible drilling costs are added back to income in calculating alternative minimum tax tax liability, it can result in a 70- to 80-percent effective tax rate for some producers. The result is indisputedly punitive, if not confiscatory.

Including intangible drilling costs and percentage depletion as preference items in 1986 was a mistake. It has been referred to by some Americans trying to increase oil production here in the United States as a drilling penalty tax for independents. In the fall of 1990, Congress made a change to these provisions by reducing the amount of intangible drilling costs that independents must include in the alternative minimum tax by 75 percent for exploratory wells and 15 percent for nonexploratory wells. But the penalty is still 25 percent for exploratory wells, including all developmental wells, We need to eliminate IDC's entirely from the alternative minimum tax.

IDC's are the only out-of-pocket business expense in any industry or profession that are treated as a preference item in the alternative minimum tax. Inclusion of IDC's was unfair, and another example of treating the domestic industry as a cash cow to be milked every time revenue is needed.

Taking IDC's and percentage depletion out of the alternative minimum tax is appropriate not simply because they are a unique penalty on oil and gas producers, but because in practice these provisions have been both anticimpetitive and regressive and have had the effect of significantly reducing drilling activity in the United States.

It is imperative that the Bradley amendment be defeated. The independent oil and gas producers are being unfairly penalized by the 1986 tax amendments. If the AMT tax provisions contained in this bill are not adopted the results will be a continued decapitalization of a strategic sector of our industrial economic base, a continued loss of jobs and a continued risk to our Nation's ability to respond to requirements for domestic oil and gas production. The AMT tax provisions of this bill must be enacted now if this industry is to survive and the national security of this Nation be preserved from further reliance on foreign energy sources.

I thank my friend and colleague from Texas.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I ask the Senator from Texas if I could have my 2 minutes.

Mr. BENTSEN. I yield that time to the distinguished Senator from Wyoming, the ranking member of the committee.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from Texas.

I was amused by the arguments of the Senator from Oregon [Mr. PACKWOOD] and indeed those of the Senator from New Jersey [Mr. BRADLEY] for eliminating the whole of the alternative minimum tax. I was on the exalted Finance Committee at the time that concept arrived on the Tax Code in 1986. I characterized it at that time as an admission of tax-writing incompetence. It was done to satisfy the needs that everybody should pay tax, literally, whether they made any money or not during the course of the year. They did not want to have a taxpayer with zero income.

Now I warned of the consequence late at night on this floor of what it would do to the oil and gas industry, and it has. One of the things that just seems to be lost in the argument of the Senator from New Jersey, the Senator from Minnesota, and the Senator from Oregon, is that there are occasions when people in the oil and gas industry are obliged to pay taxes when they have made no income, because of the peculiar quirks of tax treatment of the oil and gas industry.

I have friends in Wyoming. I have letters, which I will happily supply to the Senator from New Jersey, of people who go through in detail how they owed taxes, having made no money. That is ridiculous and it is one of the reasons why we are driving people out of the industry.

Last, Mr. President, Senator JOHNSTON and I and others, when we started trying to craft this bill, tried to pay equal attention, equal heed to both the production of and the conservation of energy. This is one of the critical points in the production of energy and

it is also a critical point in a whole lot of other things that have been described—jobs, balance of payments, and other kinds of things. But it makes environmental sense that America uses the resources that it has, that it produces well and under much more environmental stricture than anywhere else in the world. So there is no more important section of this bill for the domestic oil production side and it will help us seek the balance that we have tried to achieve from the beginning.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired. Who yields time?

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, how much time is left on the side of the proponents of the amendment?

The PRESIDING OFFICER. The Senator from New Jersey has 16½ minutes.

Mr. BRADLEY. Mr. President, let me see if I cannot deal with some of the issues that have been raised in this debate and then close off our side of the debate.

Let me begin by saying that I think the Senators who have spoken on this issue are very strong advocates of the interests of their States. There is no question about that. In the States of all the speakers—from Texas, Louisiana, Oklahoma, Colorado, Kansas, and New Mexico—there is an influential oil and gas industry. It is understandable that those Senators would be defending their States' industry. And they do a very able job of it. So let me begin by telling the full Senate that I respect their advocacy for their States' positions.

I also think other States have other concerns, and it is those that I want to try to address.

First, the point was made that we should provide this benefit to the oil and gas industry and if I seek to prevent this benefit from being provided, that somehow or other because we have not eliminated all benefits provided to all industries, that there is something questionable about this activity.

Let me say frankly, I would like to eliminate more than these benefits for the oil and gas industry. I would like to eliminate many more of the loopholes that remain in the tax base. I would like to go further than in 1986, as long as the money is used to either reduce the deficit or to reduce tax rates.

So let me be very clear about that. But we do not have the whole Tax Code before us now. We only have this provision before us.

The second point: The distinguished Senator from Louisiana made a point about environmental terrorism in the Appropriations Committee. I am not on the Appropriations Committee and this amendment does not deal with matters that relate to the Appropriations Committee. This amendment deals with whether we should provide over $1 billion in tax benefits to one industry, pure and simple.

Third, the distinguished Senator from Colorado raised the question that, would this be inconsistent because the bill is trying to promote natural gas? Somehow or other, this amendment would run counter to attempting to promote natural gas. He made the environmental argument.

I think natural gas has to be a major part of our future. I think natural gas is clean; it is efficient; it is abundant; it should be developed. But this provision is not directed only at natural gas, it is also directed at oil. So, while natural gas may be the clean lady at the dance, the partner is not so clean when it comes to environmental purity. That point should be made. If we were only dealing with natural gas maybe we would have another dynamic here.

Fourth, what about the price? What is the problem in the oil industry? Is it that they do not have special tax benefits, or is it that the price has dropped? The proponents of our amendment asserted it is that price has dropped. I believe if the opponents of this amendment were serious, they would propose this limited tax relief until the price of oil reached a certain level. At some level, why does the industry need that tax relief? Because they are making more and more money? That is not what is proposed here. This is a permanent benefit for the oil and gas industry. It is not temporary. It is not price contingent. It is permanent.

Fifth, the argument was that, if we simply had this tax benefit, we would not have had a war in the Persian Gulf. If we simply had this tax benefit, there would have been no war in the Persian Gulf.

I think that argument on its face is ludicrous and I hope it is not made seriously. Do we have a problem with foreign oil? Absolutely. Insecure sources of foreign oil? Absolutely. Is it more secure to get the oil in the United States than the Persian Gulf; from the United States than from Venezuela; from the United States than from Mexico? Yes. But this tax provision is not the difference between the United States going to war in the Persian Gulf and the United States not going to war in the Persian Gulf.

Sixth, there was a great case made for those who have lost their jobs in the oil industry. Let me tell you I have a personal feeling for people who lose their jobs in the oil industry, just as I have a personal feeling for residents of my State over the last several years who have lost their jobs. Many people thought they had lifetime employment with some of the major companies of America: IBM, AT&T. And they lose their jobs. If we simply put back in $1 billion in special tax relief, that is not going to save their jobs. The industry's fate is a function of price, not tax subsidies.

Next there was the argument made about trade; our trade partners are fully competitive; our trade partners are more competitive than we are. And we are burdened because we do not get enough oil domestically.

A lot of those trade partners of course get no oil domestically. They get no oil domestically.

Mr. President, another argument has been built, of course, around the famous 72 percent effective tax rate. Not that anybody is going to understand this, totally. Sometimes when I go through it, I do not know if you can make it clear. That is a part of the tax process, I think.

But, if you consider the effective tax rate, using the alternative minimum tax base, you discover that the rate is not 70 percent. It is 24 percent. Not 70 percent, 24 percent. So let us not parade the 70-percent effective tax rate on the regular tax base as if that is the answer. No, it is economic income that we are measuring under the alternative minimum tax, economic benefit. And the effective tax rate there is 24 percent, not 70 percent that we have heard on this floor for the last 2 hours.

But, Mr. President, all of these issues are somewhat secondary to the real question here, and that is what do you want a billion dollars to be spent for? We have a $400 billion budget deficit; this will increase it to $401 billion. We have pressing needs in this country, pressing needs that will remain unaddressed.

The billion dollars that we give to the oil and gas industry over 5 years is the billion dollars that we do not have for education, the billion dollars we do not have for cleaning up the environment, the billion dollars we do not have to reduce the deficit. These are not small questions.

The distinguished Senator from Minnesota, I thought, made several very important points about the crying needs of this country that remain unaddressed because we cannot find the money. But we can certainly find the money when it comes to a particular industry that petitions Congress very effectively.

Mr. President, let me share just a brief story with the Senate. I am a member of a commission called the Commission on the African-American Male, with Kurt Schmoke, the mayor of Baltimore.

We had one of our first meetings since we have taken over cochairmanship of that commission not so long ago at Morgan State. One of the witnesses was a young 15-year-old African-American male; he was strong and handsome. And he was asked by the commission to tell us what his hopes were and what his fears were.

He came before the commission that morning and said: Well, I hope I can become a player in the NBA, but, you know, not many people can make the NBA. So if I cannot make the NBA, what I want to do is work for the CIA.

And if not the CIA, the FBI. That is my aspiration.

What about fears?

He said: I have four fears. The first fear I have is when I walk out of my house I might be killed because three or four people have been killed in my neighborhood in the last month. My second fear is that my parents would be killed and I would have to go live with another family member who would not love me so much, or maybe a foster parent who would not create the environment where I could study and advance. My third fear is HIV. He said, I do not fool around, but look at the great Magic Johnson. It only takes once. He said, my fourth fear is if I was good enough, I know I could make the NBA. I know I could if I was good enough. He said, if I am good enough, I do not know if I could get into the CIA or the FBI. He said, I did not bring drugs into this country. I did not make money off the sale of guns. I do not close the schools on the weekends in the summertime. I do not fail to fund programs that help our neighborhood. I am just trying to do the best I can under difficult circumstances.

Point: What are we going to say to that young man about the billion dollars we have just given to the oil and gas industry as opposed to the billion dollars that might have made some difference in his life?

Choice, that is what this amendment is about. We can debate the narrow aspects of it, the effective tax rates of it, the trade balance, et cetera. The basic question is: How do you want a billion dollars of your tax money spent? Do you want that billion dollars going to one industry, a narrow element of that industry, the independent oil and gas producers, or do you want it for some other purpose, from deficit reduction to trying to change the circumstances under which this young man at Morgan State was growing up? That is the basic question.

We are going to face this. This is not a moment that is going to pass. We are going to have to respond to some basic questions in the next couple of years if we are serious about the deficit, and all the rhetoric actually means something.

How are we going to go about cutting that deficit? Are we going to cut it on the basis of equity and need? Does it really make sense to have a tax system where people who make more than $100,000 get a benefit greater than people who make under $10,000?

Generational issues are going to be another way to look at this. Does it make sense to continue to funnel money to people who are older or for people who are young?

Do we want the market to allocate resources in this country? Do we beat our chest and say, yes, we think that is the most efficient way to allocate resources in this country except when I can get a little favorable benefit through a subsidy in the Tax Code or a subsidy through the spending process? Then I will take that. I will still talk about markets, but I will want the step ahead that my subsidy gives me.

We are going to face this question because if you look at the Tax Code, there are billions of dollars in subsidies to this industry or that industry or another industry. These all distort the functioning of the market and take money away from other pressing public needs.

So, Mr. President, I look at this amendment as really the opening bell on what over the next few years I hope we are going to be able to do to focus on in getting control of this deficit. I hope that we will not decide to follow business as usual, and keep putting money in the pockets of this industry or that industry under the guise that this billion dollars will prevent the Persian Gulf war or make us immediately trade competitive or whatever. This is a moment for candor. I believe it is a moment for deciding. The time has now come to decide not to provide this billion dollars for the independent oil and gas industry.

The PRESIDING OFFICER (Mr. ROBB). Who yields time?

Mr. BENTSEN. Mr. President, I yield 5 minutes to my distinguished colleague, Senator GRAMM.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. I thank the distinguished chairman of the Finance Committee.

Mr. President, I always enjoy listening to our colleague from New Jersey. I have to say the last time I looked we were not short of NBA players and since the candidate of the party of our colleague from New Jersey wants to cut defense intelligence by a billion dollars, I submit we are not short of people who can or would work at the CIA. But the provision that we are debating today is about the fact that we are short of oil and gas in America produced at home at a price consumers, industry and farmers can afford to pay.

Second, I want to correct one point, and that is, we are not adding a billion dollars to the deficit. There is a corresponding revenue increase to pay for this tax change. The bill before us would be subject to a 60-vote point of order if it were not revenue neutral, and while we are talking about changing tax policy, we are not talking about raising the deficit.

Let me say a little bit about the alternative minimum tax because our dear colleague from New Jersey and I are 180 degrees apart on this issue.

I do not believe that we ought to have an AMT. I agree with our colleague that our Tax Code contains preferential treatment. I think we give people tax benefits for a lot of things we ought not to give it to them for. I would very much like to see us change some of these things and lower rates. But the problem with AMT is that we provide incentives with one hand and then we come back in under the table and take them back. We say the Federal Government ought not to tax cities by taxing interest paid on municipal bonds and, therefore, municipal bonds sell at a discount because their interest is tax free. But then we come in through the backdoor with AMT and try to seize some of the benefits we have given the cities. If we are going to give them the benefit, let them have it, and let it encourage people to buy municipal bonds. But we ought not to be coming in through the backdoor. I submit that while AMT may be good political policy, it is not good tax policy.

I wish the day would come when we could debate tax policy in terms of encouraging people to pull the wagon rather than lamenting the fact that if America is saved it is going to be saved at a profit.

Quite frankly, I do not think America is going to be saved unless it is at a profit, and I do not understand people who love investment but—to paraphrase a Democratic candidate for President—hate the people who engage in investing.

I do not hate poor people. I do not hate rich people. I want more people to be rich, and I want the people who have money to put it to work, and that is what the debate is about.

Let me talk about energy. If we were talking about a program—and we have thousands of them—to spend taxpayers' money to help some industry, very few people would be talking about unfairness. But somehow the concept of incentives, a concept that is accepted in all the world—is rejected only in Cuba and North Korea and here in Washington—is somehow wrong.

Here is the problem in a nutshell. If you look at this chart, you see what has happened to exploration expenditures on discovery and development of new natural gas and oil by our independent producers.

Well, what has happened is that in the last 10 years our expenditures have fallen by three-fourths.

If you look at what has happened to drilling for oil and for natural gas is that both have fallen through the floor.

What we are trying to do is very simply this: We want more energy from reliable domestic sources to turn the wheels of industry and agriculture. We can provide a very strong incentive for a very modest change in the Tax Code by exempting a portion of the expenditures for drilling from the alternative minimum tax. We do it only for independent producers with a very minor benefit for the larger companies. Quite frankly, I wish we could do it across the board. This is a change that needs to be made because America needs more oil and gas produced at home.

The PRESIDING OFFICER. The 5 minutes allocated to the junior Senator from Texas have expired. Who yields time?

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished chairman of the Finance Committee for yielding me this time.

I want to add my voice to those who are saying today that this amendment would continue to undermine the ability of a very important industry in the United States to produce oil and gas in an effort to help reduce our unnecessarily large dependence upon imported oil and other foreign energy sources.

The bill has a number of provisions in it that seek to help reduce our dependence on imported energy. Some of the provisions relate to increasing energy efficiency, encouraging the use of alternative fuels, and trying to develop electricity from nonfossil fuel sources. These are all very important provisions to be considered by the Senate. But the most important and the most helpful provision in this energy legislation is the repeal of the alternative minimum tax. This would do more, Mr. President, than any other provision in the bill, according to what I am told by people who are experts and understand the economic impact of that provision, to help stimulate the oil and gas industry so that it can produce again.

We are seeing more people go out of business in the oil and gas industry than almost any other industry I know of, except the defense industry maybe. Numerous layoffs have occurred in my State. One oil and gas producer, who is a small independent businessman, told me the other day he is having to cut back. He even had to lay off his own son. He has just a small number of employees, but the fact is they are not able to stay in business under the tax treatment, the regulations, the climate that exists for the industry in our country today. They are having to look to offshore opportunities, go to foreign countries, train workers there.

Driving American oil and gas producers out of business is not in our national interest because that will surely increase our dependency on imported energy. It is completely inconsistent with our efforts to reduce our dependence on foreign oil for the Senate to approve this amendment.

The amendment would impose a tax burden on independent oil and gas producers that will increase the likelihood that this important industry will continue to suffer. Relief from the alternative minimum tax for the small businesses who do 85 percent of the oil and gas exploration in the United States must be enacted to help resurrect this sector of our economy.

This industry has been devastated by the AMT treatment of their expenses. The practical effect of the tax treatment of intangible drilling costs and percentage depletion is that the ordinary business expenses of these producers are not deductible. This is different from the treatment of other businesses, which are allowed to deduct from their taxable income their ordinary business expenses.

When combined with the dramatic drop in gas prices since 1986; the wild fluctuation of oil prices during that time; and the increase in regulation of the oil and gas business, this tax has helped to eliminate an estimated 398,000 jobs that were once provided by this industry, including the producers themselves as well as those who contract with producers to do the actual drilling work. What that means is that half the jobs that existed 10 years ago in oil and gas and related industries do not exist today.

Another indication of the dismal health of this industry is the rig count—the number of rigs being used in oil or gas exploration in the United States. In 1982 there were 3,105 drilling rigs in operation; today there are less than 700.

The few independent producers that can afford to explore overseas are entering into what in many cases are high-risk ventures to produce oil in developing countries. This means two things: First, more oil will be coming to our country from foreign sources and less from domestic sources; and second, jobs that would exist in the United States are going overseas. In an April 20 article in the Wall Street Journal, a Pakistani employee of an American independent oil producer is quoted as saying, "We'll be hiring workers, and the contract will probably call for building a small colony of schools and public facilities." Those are benefits, Mr. President, that we used to enjoy in this country as a result of a vibrant oil and gas sector.

Relieving the burden of the alternative minimum tax on independent producers will certainly not solve all of the problems in the industry. But it will remove an artificial, counterproductive, government-imposed impediment to domestic production. The Office of Technology Assessment has recommended AMT relief as one way to help stabilize this industry.

Mr. President, the amendment before us is shortsighted and runs counter to the purpose of the underlying bill, and I urge the Senate to maintain the provision in the bill as reported by the Finance Committee.

The PRESIDING OFFICER. The time allocated to the Senator from Mississippi has expired.

Who yields time?

Mr. BENTSEN. Mr. President, I yield 2 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for up to 2 minutes.

Mr. MURKOWSKI. Mr. President, I thank my colleague, the floor manager.

I rise in support of the continuation of the alternative minimum tax. I am not going to speak at length about the merits of the tax; they have been addressed by my colleagues. But realism dictates that this body recognize oil imports are at their highest level since 1978. That is a fact. Domestic production is decreasing steadily. That is a fact. Imports again are over 50 percent. That is a fact. The number of active oil and gas drill rigs hit its lowest level ever recorded. That is a fact. Offshore drilling in this country fell by 47 percent this year alone. That is a fact.

Mr. President, the American oil industry and gas industry is moving overseas before our very eyes. American jobs are being filled in other countries, and Congress' inability to make tough decisions is allowing this to happen.

Mr. President, other countries encourage oil and gas development and exploration, and in the United States we are shutting off the most promising areas. Endless Federal regulatory hurdles prevent oil and gas exploration and development both offshore and on shore.

Mr. President, I could go on and on and on, but time is limited. I think it is time to reflect on the reality that we need to bring this industry back to America where it was initially founded. We need to reduce our dependence on imported oil. We need to recognize that half our trade deficit is the cost of imported oil. We do not have to put up with that, Mr. President.

I do not intend to pursue it now, but I will later in the day propose an amendment to study the future of gas potential and economic impact on our society.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

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

The PRESIDING OFFICER. The Senator from Texas controls 6 minutes and 23 seconds.

Mr. BENTSEN. The alternative?

The PRESIDING OFFICER. The alternative is 49 seconds controlled by the Senator from New Jersey.

Mr. BENTSEN. Mr. President, I have listened to my friend from New Jersey, his eloquent statement concerning individual concerns, plights, problems in the country, and how we devote $1 billion to try to assist in that regard. They are valid points.

But I also look at the situation where the principal industry in his State under section 936 gets from $3 to $3.5 billion a year in subsidies—three times as much as we are talking about in the amendment he is attacking.

They are different industries. The pharmaceutical industry is a booming industry, doing a marvelous job—growth, helping the economy.

But we are looking at an industry that is in trouble and has lost over 400,000 jobs. We must realize that oil is a depleting resource in this country.

Look at situations like the automobile industry, which is in trouble. And what have we done? We entered into an agreement with Japan on just how many cars can come in. We are not talking about entering into an agreement with Saudi Arabia as to how much oil can come in.

Those are the kinds of concerns we are currently facing and trying to address.

We are looking at something where 75 percent of the merchandise deficit last year in this country was oil, and we have a bill where we are talking about alternative sources and conservation and trying to not depend so much on foreign oil. That is what we are talking about. It is supported by people from oil States, because we know the dependence is dangerous for us, and it is terribly important we keep that domestic production going.

I know we need to sustain the jobs. It is important that we have someone left who still understands geology and petroleum engineering and who is able to bring about some of the alternative sources, whether we are talking about coal seam gas or we are talking about natural gas, a relatively clean-burning fuel.

That is what we are talking about. We are talking about increasing the foreign debt of our country, and we are trying to do what we can to not increase that dangerous dependence on oil.

Mr. President, I hope my colleagues will do as we did in the Finance Committee and defeat this amendment by a substantial margin.

The PRESIDING OFFICER. All time controlled by the Senator from Texas has expired. Who yields time?

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

The PRESIDING OFFICER. The Senator from New Jersey controls 45 seconds.

Mr. BRADLEY. Mr. President, 45 seconds; let me make one final point to the distinguished Senator from Texas [Mr. GRAMM]. Allow me to make it by using this chart that he used. The number of oil wells drilled in this country dropped from about 65,000 in 1981, to about 26,000 in 1986.

And then it went down a little bit, by about 4,000, from 1986 to 1989. And lo and behold, it increased after 1989.

So, to those who say that the tax benefit is the thing that will stimulate this drilling back to 65,000, or anywhere close, it just does not bear resemblance to reality.

The fact is, it was the price drop; it was not the tax benefit lost. And there it is, in black and white.

Mr. SIMPSON. Mr. President, I want to express my strong personal admiration for the distinguished floor managers of this legislation. My old friend senior Senator from Wyoming, MALCOLM WALLOP, the ranking member of the Energy Committee, and the able Senator from Louisiana, Senator JOHNSTON, have worked doggedly on this legislation.

What the Senate has before it today is the culmination of years of hard work by all the members of the Energy Committee and their fine staffs.

I would like to say a few words about the revenue provisions that are contained in this bill. These provisions represent the sort of bipartisan, thoughtful, productive effort that is becoming increasingly rare in this election year.

The debate on this issue smacks of election year politics, however.

This is not a debate about tax benefits to a single industry as my fine and respected friend, the distinguished Senator from New Jersey suggests.

This is a debate about whether or not, as the distinguished Senator from Louisiana so succinctly and forcefully pointed out—whether or not we as a nation are going to keep American companies working and producing oil and gas in America and not overseas.

Who will benefit when the decline in domestic exploration and production reaches zero?

Certainly not the U.S. economy and certainly not the consumer.

This energy bill is about charting the course for national energy independence. This amendment will do exactly the opposite: It will encourage dependence on foreign production.

I especially commend my distinguished senior colleague, Senator WALLOP, who while working vigorously on all of the issues surrounding energy security, did one excellent job of focusing his eye on the most helpful and important changes in the tax law.

We are faced with real difficulties throughout the oil and gas industry. This body hears a lot of contradictory messages regarding what needs to be done—this amendment is just an example.

Senators BENNETT JOHNSTON, LLOYD BENTSEN, and MALCOLM WALLOP have kept their eye on the rabbit throughout this process and have been most careful to make sure that the tax writing has taken our real energy problems into account.

The AMT was intended to prevent people from bucking the system during good times, but it has proved to be a dangerous double whammy during these most difficult times.

I am pleased that this has been correctly noted as the single most important tax issue pertaining to our energy self-sufficiency.

I would strongly encourage my colleagues in the Senate to reject the Bradley amendment.

Mr. BINGAMAN. Mr. President, I rise today to oppose the amendment by my colleague from New Jersey to delete language in the Comprehensive National Energy Policy Act which provides tax relief to our Nation's independent oil and gas producers.

The energy bill we consider today minimizes the damage inflicted on producers by the current Tax Code and recognizes the importance of items such as intangible drilling expenses to those producers as a legitimate cost of doing business. We need to produce more oil and gas here at home and reduce our growing dependency on foreign oil. That dependency now exceeds 50 percent.

A total of 400,000 jobs in this sector have been lost in the last decade. Additionally, spending on exploration and production has decreased dramatically in the past 10 years by almost 75 percent. Active drilling rigs in the United States have decreased from 4,000 to approximately 688 rigs today, the lowest number since records have been kept. In New Mexico this number has dropped from 135 in 1981 to 34 as of July 24 of this year.

Adopting the Bradley amendment will drive even more independent oil and gas producers out of business and further reduce our ability to meet our domestic energy needs. I encourage my colleagues to join me in opposing the amendment.

The PRESIDING OFFICER. All time on the amendment has expired. The question occurs on amendment 2782.

Mr. BENTSEN. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. BENTSEN] to lay on the table the amendment of the Senator from New Jersey [Mr. BRADLEY].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—63

Akaka	Exon	Murkowski
Baucus	Ford	Nickles
Bentsen	Garn	Nunn
Bingaman	Glenn	Pressler
Bond	Gorton	Pryor
Boren	Graham	Riegle
Brown	Gramm	Robb
Bumpers	Grassley	Rockefeller
Burns	Hatch	Sanford
Byrd	Hatfield	Seymour
Chafee	Heflin	Shelby
Coats	Inouye	Simon
Cochran	Johnston	Simpson
Conrad	Kassebaum	Smith
Craig	Kerrey	Specter
D'Amato	Lott	Stevens
Danforth	Lugar	Symms
Daschle	Mack	Thurmond
Dixon	McCain	Wallop
Dole	McConnell	Warner
Domenici	Moynihan	Wirth

NAYS—32

Adams	Jeffords	Mitchell
Biden	Kasten	Packwood
Bradley	Kennedy	Pell
Bryan	Kerry	Reid
Cohen	Kohl	Roth
DeConcini	Lautenberg	Rudman
Dodd	Leahy	Sarbanes
Durenberger	Levin	Sasser
Fowler	Lieberman	Wellstone
Harkin	Metzenbaum	Wofford
Hollings	Mikulski	

NOT VOTING—5

Breaux	Cranston	Helms
Burdick	Gore	

So the motion to lay on the table the amendment (No. 2782) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

AMENDMENT NO. 2783

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2783.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

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

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, this amendment essentially contains the provisions of two bills introduced many months ago, last November, Senate bill 1936 and Senate bill 1995.

Senate bill 1936 is a bill which was cosponsored by 17 Senators with the principal sponsor being Senator CHAFEE. I have discussed with my distinguished colleague from Rhode Island, Senator CHAFEE, my intent to offer most of his bill for which I was an original cosponsor, and adding to it the provisions of S. 1995, a bill which I introduced, captioned the Health Care Access and Affordability Act.

Mr. President, the problems of health care are well known in this country. There is an urgent need to provide affordable health care to all Americans. There are many bills which are pending and precisely how we get there is a very, very difficult matter.

After extensively studying the matter and after working on the Labor, Health and Human Services, Education Subcommittee of Appropriations for the 11½ years that I have been in the Senate, it is my sense that we can provide affordable health care for all Americans within the range of expenditures which are currently being made.

The best estimate which I have seen for last year puts the total cost of health care in the United States at $738 billion. It is my sense, that we can extend affordable health care to the 37 million Americans now not covered and, in fact, reduce health costs as well within that range by undertaking a number of lines of activity.

One line of activity is managed health care, which has the potential for savings in the range of 20 percent or perhaps even more.

Another line of health care savings lays in preventive care on a program now incorporated in Healthy Start. I was amazed to find several years ago that Pittsburgh, PA, had the highest infant mortality rate of any major city in the United States for African-American babies. I was amazed the first time I saw a 1-pound baby, a baby about the size of a person's hand. It is a human tragedy for a child to come into this world weighing, 16, 18, 20 ounces, and that is something which can be prevented by proper nutrition, by proper diet, really informing the many teenage young women who give birth to 1-pound babies about what they have to do to take care of their bodies and to take care properly of their child to be.

I am working, as a matter of fact, on some supplemental legislation on this subject in an effort to quantify what the savings would be or will be through Healthy Start, and I think it will range into the high billions.

In conjunction with Dr. Louis Sullivan, Secretary of Health and Human Services, a program has been introduced called Healthy Start to give adequate nutrition to the mothers so that children will not be born weighing 16, 18, 20 ounces. I am pleased to note that two of those Healthy Start units are in Pennsylvania.

Mr. President, beyond managed health care and the Healthy Start Program there are enormous savings which can be achieved through cracking down on fraud which is estimated to range into the $60 billion and upward category. There is another range of savings which may be possible with so much of the cost of medical care being occasioned in the last few days, few weeks, or few months of a person's life, and that is also legislation which I am working on at the present time.

The amendment which I have proposed moves to some very, very important items which will make material benefits in our health care delivery system in the United States today.

The major provision of S. 1936, which is incorporated into this amendment, provides for full deductibility of insurance for self-employed individuals. Currently small self-employed individuals can deduct only 25 percent of their health insurance costs, while employers may deduct 100 percent of what they pay for the health insurance costs of their employees.

It is hard to find a provision in the Internal Revenue Code which is more discriminatory than this one. There have been many proposals to try to make this modification. I am pushing it today because I think it is high time action was taken on this very important and fundamental inequity.

S. 1936 had some other provisions which have not been included in the amendment which I have submitted because of the impossibility of getting a precise fix on how much the cost would be. We have a precise item on the cost providing full deductibility for individuals for self-insured individuals of $8.7 billion, and it is covered with offsets which were provided within the text of this bill, offsets on this item, as well as offsets on other items.

Other provisions, Mr. President, of S. 1936 provide for small business purchasing groups, which would authorize the Secretary of Health and Human Services to make grants to approved groups which have been certified by the State where these nonprofit groups would help enhance the purchasing power and consolidate administrative costs for small businesses to pool resources for the purchase of group health insurance. This would, through the pooling approach, involve very considerable savings for small businesses.

Another key part of S. 1936, which is incorporated into my pending amendment, is important insurance regulation reform. The bill would establish a small business insurance market to accomplish quite a number of improvements.

First of all, to preempt State-mandated benefits for small businesses. To qualify for the preemption, the insurance policy would have to meet a minimum health package which would be established by the Secretary of Health and Human Services.

Next, there would be a provision for the guaranteed availability and renewal of a basic health package for viable small businesses that wish to purchase them.

There also would be a limited insurer's coverage restriction, such as exempting individuals with known health risk from coverage under a group plan.

That is one of the exclusions, Mr. President, which has cost more in litigation and travail than it is really worth. This is part of an evolving system where the question of preexisting conditions will be ruled out as a matter of some State laws and this advances that general public policy to some extent at the Federal level.

Another provision under the insurance regulation reform would be to limit rates for new policies to between 80 and 120 percent of the average rate of the class.

Next, limit the annual rate of changes to the level of rates charged to new businesses with adjustments for changes in a group's coverage.

Another provision from S. 1936 would relate to State barriers to managed health care plans by providing for an insurance to require the Institute of Medicine of the National Academy of Sciences to develop standards for managed health care plans. Plans which then meet these standards would be exempt from State laws which impede the development and cost-effective operation of managed health care insurance plans.

Mr. President, I compliment my distinguished colleague from Rhode Island, Senator CHAFEE. and the other cosponsors of S. 1936 for all the constructive work which they have done. My amendment does not take all of the provisions of S. 1936 but takes key provisions which should materially enhance the delivery of health care services in this country.

Other provisions in the pending amendment, Mr. President, are taken from the legislation which I introduced last November captioned "Health Care Access and Affordability Act," S. 1995.

This proposal builds upon existing Federal programs to reduce the need for treatment of disease, expand the availability of federally supported primary care clinics, and reduce the cost of care.

It includes the following items: An expansion of federally supported primary care clinics by $380 million to improve access to care in medically underserved areas to reduce costly emergency room care.

Next, an expansion of federally supported health promotion and prevention services by some $720 million, with programs being focused upon reducing health risk through changing the behavior of both providers and consumers, and encouraging greater responsibility for healthy behavior.

Another provision would encourage the modification of provider practice styles by changing provider behavior through medical effectiveness research and direct modification of medical practices.

Next, the establishment of an initiative on drug development, with the focus on the diseases that have high mortality and societal costs, with an authorization of some $120 million.

In addition, this bill directs the Secretary of Health and Human Services to issue a report to the Congress regarding the feasibility of establishing national spending targets for health care and health care services as a means of controlling health care costs.

This would focus attention in a very constructive way, on cost containment.

Those are the essentials of the amendment, Mr. President.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I would like to see if we can arrive at an agreed time limitation. I have discussed this with the distinguished Senator from Pennsylvania. Would an hour and 20 minutes, equally divided, suffice?

Mr. SPECTER. That would be acceptable.

Mr. BENTSEN. All right. If there is no objection, I ask unanimous consent that we limit the debate on this amendment by the Senator from Pennsylvania, and that there be no amendments thereto to the amendment, to an hour and 20 minutes, equally divided, under the control of the manager of this particular piece of legislation on this side of the aisle, and the Senator from Pennsylvania managing the other side of it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the senior Senator from Texas?

If not, that will be the order of the Senate.

Who yields time?

Mr. BENTSEN. Mr. President, we have just received the amendment, which makes it very difficult to fully debate it, so we are perusing it now, studying it, to see the application of it. What I have seen thus far, part of it, four points of it look like they have been taken out of S. 1872, a piece of legislation sponsored by the Finance Committee's chairman of the subcommittee on health care.

As I have seen the amendment thus far, it has nothing to do with the energy bill. It is not a part of the energy bill and really should not be the subject of debate during our study and our debate on the energy bill and the tax portions of it.

The other point is, I looked for the revenue sources by which he would pay for this piece of legislation. It appears that much of that comes from revenue sources we have discussed in previous bills from the Finance Committee—one that we are considering at the present time on enterprise zones, which hopefully will be a bipartisan piece of legislation that I will be bringing before the Finance Committee this afternoon for determination as to its final form.

If we were to lose those revenue sources by an amendment to be agreed to this afternoon here, it would throw us totally out of compliance on the Finance Committee bill for enterprise zones, for the extenders, for the repeal of the luxury tax, for the application of the IRA's—expansion of the IRA's. Frankly, I do not know where we would turn in order to accomplish that objective.

So I strongly urge the Members of this body to deny this amendment. It really should not be on the energy bill, and it gives us serious problems insofar as addressing the President's request for enterprise zones and the other things we have put in that piece of legislation to encourage savings in our country so we can have more capital so we can do things about the productivity and international competitiveness of our country. Those things are in that piece of legislation.

In addition to that, we have legislation, S.4, which will help us in some of these areas insofar as substance abuse, pregnant mothers on drugs, trying to assist in that regard, trying to bring families back together and trying to do something to help children who end up with no parents at all—trying to see that we do something about the incredible increase in children being forced into foster homes because of lack of parental supervision or attention or care or love.

Those are all in this piece of legislation before the Finance Committee this afternoon and, frankly, if this amendment would be agreed to and deny us the sources of revenues to comply with the Budget Act, we would be running aground. I do not know of any way we could accomplish our objectives here. So I strongly urge my colleagues to turn down this amendment, as well-intentioned as I am sure it happens to be.

Mr. President, I suggest the absence of a quorum. I ask that time be charged equally to both sides.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, the time of the quorum call will be charged to each side equally.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. 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. WALLOP. Mr. President, there is about this amendment, as there will be about other amendments that are offered to the energy package, a good deal of what might best be called political sex appeal.

The topic is popular. The need exists. The solution is, at best, awkward. The chairman of the Finance Committee will have more to say about that later. But these are significant actions that are proposed by the Senator from Pennsylvania, the most significant of which will be paying for it.

I will allow that argument to be developed to its greatest extent by the chairman of the Finance Committee. But where I come in is that this, Mr. President, is an energy bill. It is a tax bill only insofar as the energy portions of it require certain tax treatment, as in the alternative minimum tax that has just been adopted.

We have struggled mightily since the initial introduction of this legislation to keep it from being anything but an energy bill for a lot of reasons, Mr. President. One is that this Congress has never politically been able to restrain itself when it came to energy policy, and it used the pack mule called energy policy to take out all the other daydreams of Congress. What has happened time after time after time is that it has been energy policy that was sacrificed in conference.

This is not an environmental bill. This is not a health and human services bill. It is not a farm bill. It is not a transportation bill. It is—and must remain—an energy bill.

So I register my opposition to the amendment of the Senator from Pennsylvania. Not that it is a wrong thing to do to provide these deductions, but the forum is the wrong place to do it. These complicated issues over how payment under the Budget Act is satisfied, revenue neutrality, cannot be done on the floor of the Senate.

We can propose, as has been, a means of payment. But we, on the floor of the Senate, will not be able to weigh all the things the Finance Committee must weigh before entering into these things, balancing this need against other needs within the confines of the Budget Act and the budget agreement.

So what we have is a very politically attractive attempt to use the very politically attractive pack mule called energy policy to haul out extraneous matter from this Chamber. If experience has any validity, this amendment, and others like it allowed to proceed, will ultimately break the back of this mule we call energy policy.

And, once again, Congress, in its politically motivated self-interest, will have sacrificed energy policy, through the motivation of very sexy political bullets that are attractive, that are useful, that have a place in the dialog; but not just rained from on high, but having been seriously and carefully considered by the committees of jurisdiction.

So as much as I am in sympathy with the ultimate goal of the Senator from Pennsylvania, I must say, Mr. President, that I will do whatever it is that I possibly can to see to it that it does not become a part of this energy bill. We have come too far. We find ourselves now too close to lapse into the traditional behavior and indulge ourselves at the expense of finally getting a coherent, balanced national energy strategy for America.

Mr. President, I yield the floor, and I suggest the absence of a quorum, with the time to be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, rather than allowing the time to elapse on a quorum call, there are a few responses I think are worth making at this time.

When my distinguished colleague from Wyoming, Senator WALLOP, comments about this amendment having, as he puts it, political sex appeal, I think a more accurate characterization would be that it has great national importance. It has great national importance because there is an urgent need for Congress to act to provide affordable health care for all Americans.

There are many bills which are pending, but this issue has not been taken up by the Senate of the United States. In offering this amendment at this time, it is an effort to bring certain important aspects of health care to the floor for decision. This will not solve all the problems, but it will be a very significant step forward by encouraging self-employed individuals to become insured, because the deductibility will be 100 percent, which is the same as it is for their counterparts who are employees of corporations, for example, or employees of other employers.

It is a very important matter to be taken up. That is why I am pressing it at this time.

I hope that this amendment might bring other amendments to the floor on this issue, because while energy is a matter of enormous importance for America, it is no more important than national health coverage.

When the distinguished Senator from Wyoming [Mr. WALLOP] as well as the distinguished chairman of the Finance Committee [Senator BENTSEN] say that this amendment has nothing to do with energy, this amendment is being offered because there is a tax component to the pending legislation. Under the rules of the Senate, it is not possible to bring up this amendment unless there is a tax component. The legislative measures, the so-called vehicles which come to this floor with a tax component, are very few and far between.

This is an occasion to put on the floor of this Senate the tax issue, to make fully deductible the insurance premiums paid by self-employed individuals. It is a travesty, Mr. President, that self-employed individuals can only deduct 25 percent of their health insurance costs, where employees in other standing have a 100-percent deduction.

So the matter is being brought at this time because it is possible under the rules. It could not be done on the Agriculture appropriations bill, which was on the floor yesterday, or the appropriations bill for State, Commerce, and Justice, which was on the floor the day before. There is a very definite reason and purpose for why this amendment is being offered on this bill.

When my distinguished colleague from Wyoming, Senator WALLOP, says that it is too much to do on the Senate floor, I have to disagree with him categorically. The measures comprehended here have been pending in the Senate for months.

Senator BENTSEN had made a comment that a good bit of this was taken from S. 1872.

Well, it is not taken from S. 1872. As outlined initially, it has been taken from S. 1936, where this Senator was an original cosponsor, with Senator CHAFEE's task force, and from S. 1995, which this Senator authored.

Now, it may be that some of the provisions overlap with S. 1872. S. 1872 was passed by the Senate and was not ultimately enacted into law. So to the extent that some of these provisions have been considered before, it negates the argument Senator WALLOP has made that there is too much to do on the floor.

These issues are not too complicated. They have been with us for some time. They are well known, and we could act upon them today. We could act, for that matter, Mr. President, on a broader range of issues. I think back to the Clean Air Act of 1990, which was passed by this body, a very complicated piece of legislation brought to the floor of the Senate. There were groups which worked on the legislation off the floor and ultimately crafted a very comprehensive Clean Air Act, taking 10 million tons of sulfur dioxide out of the air every year, important provisions on tailpipe emissions, important provisions on industrial pollution. When health care comes to the floor of this Senate, Mr. President, it is going to be very complicated, but it is not going to be solved until it comes to the floor of the Senate. This is a start, I think a significant start and an important start.

One final issue which was raised by the distinguished Senator from Texas was about the offsets being used in some other bills.

Well, no one owns offsets, Mr. President. There are possible ways of saving money on other tax changes to finance a new bill. The offsets which are set forth here, Mr. President, were taken

from S. 2612 where Senator DOMENICI and I had cosponsored an economic recovery program. When S. 2612 was put on the Senate floor and there was a need for some $12.6 billion in offsets, Senator DOMENICI and I took a close look at the possible offsets. Every time there is an offset, somebody will be hurt, to some extent.

My analysis, when S. 2612 was introduced, was that these were the best offsets to make. This needed more than $8 billion, and that is why I utilized that prior work of S. 2612 to put it on this bill, so that this would satisfy the provisions of the Budget Act, since we cannot increase spending without an appropriate offset.

I offer these words of rebuttal very briefly, Mr. President, since no one else is seeking the floor, but that summarizes or takes care of the contentions which have been advanced by the distinguished Senators from Wyoming and Texas. That concludes my argument for the moment, Mr. President, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. SPECTER. With time charged, Mr. President, equally to both sides.

The PRESIDING OFFICER. Time will be charged equally to each side.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. 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. MITCHELL. Mr. President, I yield myself such time as I may use.

Mr. President, over a year ago I joined with other Senators in introducing the legislation to provide comprehensive reform of our health care system. Having served as chairman of the Senate Finance Committee's Subcommittee on Health, I have been and continue to be aware of the need for comprehensive reform of our system of health care. I strongly favor such reform.

I give that background to urge my colleagues not to support the pending amendment. I hope that if and when a motion is made to table the amendment that our colleagues will join with us in tabling this amendment.

First, as has been stated by the distinguished chairman of the Finance Committee—and I believe the distinguished Republican manager of the bill—it has nothing to do with the subject of the energy bill which is comprehensive in nature, important to our Nation's future, and is a bill that we have been struggling with over a very long period of time trying to advance.

Adoption of this amendment will greatly complicate and retard, perhaps fatally, the prospects of trying to get action on energy legislation.

Second, I think Senators should be aware that the provisions in this amendment to pay for the costs incurred by the amendment are already used to help pay for other pending legislation, including some aspects of the energy bill itself, but most notably they are intended to be used to pay for the provisions in the urban aid package which has now been expanded to an economic growth program that the Finance Committee by previous scheduling is to mark up at 5 o'clock this afternoon.

So that this amendment with the payment provisions in it in effect preempts the ability of the committee to act on the measure which includes enterprise zones, the repeal of luxury excise taxes, extension of expiring provisions of law such as the low-income housing tax credit, the research and development tax credit, and other measures such as the expansion of individual retirement accounts.

In effect, Senators would be precluding action on those measures at least to the extent that the financing mechanisms which were to be utilized for those measures will have been consumed in paying for this amendment.

In addition, I am advised by staff that one of the payment provisions in this amendment takes money in from legislation now pending in the Veterans' Committee, which has been intended there to pay for reform of the veterans' disability program; that again we would either have to not act on reform of the veterans' disability program or would have to find some other revenue source different from that which has previously been identified and intended to be allocated for that purpose.

So I hope that Senators will realize that adoption of this amendment would first seriously impair the possibility of getting action on the energy bill, which in and of itself in my view is a sufficient reason to oppose the amendment because I believe that we need a comprehensive energy bill. And it is for that reason that I am so committed to moving this energy legislation forward.

Second, it will have the same effect with respect to the tax urban aid and economic growth legislation that is being developed in the Finance Committee, and is to be marked up today in the Finance Committee.

Again, if these tax provisions are utilized with respect to this amendment, they will be unavailable for use by the committee in the other legislation, and therefore, will seriously jeopardize any prospect of enterprise zones being adopted, the luxury excise tax being repealed, the extension of expiring provisions of law such as I previously identified, the research and development tax credit, the low-income housing tax credit, and others.

So, Mr. President, while I believe that the objective of changes in health care is an appropriate one, I do not think this to be the appropriate legislation on which to attempt to do that, nor do I believe this to be the proper amendment by which to do that.

I urge and encourage all of our colleagues to join the distinguished managers of the bill, the chairman of the Finance Committee and others, who have spoken in opposition to the amendment, to defeat the amendment, and permit us to complete action on the energy bill so that that bill can go to conference and we can hopefully have a comprehensive energy bill passed during this Congress.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, would the distinguished majority leader be willing to answer a question?

Mr. MITCHELL. Yes. Certainly.

Mr. SPECTER. Mr. President, I can understand the concerns about these offsets being used, although I must say that when it comes to a matter of repealing the luxury excise tax, I would think that those offsets would better be used on programs for expanding health coverage in this country. When the distinguished majority leader talks about enterprise zones, and a variety of other legislative proposals, I do not disagree with their importance; but I do not think they supersede the importance of health care.

My question is whether the distinguished majority leader, on the scheduling, has in mind a timetable for taking up the issue of extension of health care in America.

Mr. MITCHELL. As I have stated many times publicly, from the very place that I am standing now, as well as others, comprehensive health care reform is one of my highest legislative priorities, and it is my hope and intention to bring to the Senate this year, if at all possible, such legislation.

Mr. SPECTER. Well, Mr. President, if the majority leader would be in a position to make a commitment—I am not saying he should be, because I understand the complications of his work, and I am on the floor a great deal, but I have never heard the statement made that the majority leader just made.

But if the majority leader is in a position to make a commitment to bring health care legislation to the floor this year, this Senator would be willing to withdraw this amendment.

Mr. MITCHELL. Mr. President, I am not able to make a commitment, as the Senator full well knows, because under the rules of the Senate, I do not have control over how long it takes to consider legislation. A bill comes up one day, and it may take a day, a week or a month.

Therefore, since certain actions are required by law—particularly the 13 appropriations bills—and since, as we all

know, many Senators regularly use the delaying tactics permitted by the rules to delay action, I cannot foresee how long it is going to take to do various bills.

It is a high priority of mine. I have made the statement many, many times, and I repeat it. I hope very much, and I expect to, and it is my intention to bring a bill to the floor, if we can. But to make an absolute commitment is really beyond my authority or beyond my ability at this time.

I do not want to make a commitment that I am not certain I can comply with, because of so many other factors—primarily, the limited legislative time, the large amount of business that we have to do, and my inability, because of the rules of the Senate, to control the length of time which the Senate takes to consider any measure.

Mr. SPECTER. I appreciate what the distinguished majority leader has said, and I note the complexities of scheduling and the responsibilities which he has, and only he has.

I just say in passing that, as I understand it, there has been a date set for product liability legislation, a date fixed immediately after we come back in September. I know, from what I have heard the majority leader say publicly and on television, that he regards extending health coverage to be second to none among the priorities.

It would just be my hope that the distinguished majority leader would bring this issue to the floor at the earliest possible time, which is what he has said. This Senator would certainly like to see it done this year, as the majority leader said he would like to see it done. But if it is not possible to make a commitment, I repeat that I understand the distinguished majority leader's situation, and I am under no illusion that when the majority leader makes a request, Senators from a majority side of the aisle are gathering. I do believe firmly that this is an important amendment, and that the offsets are better used for this amendment than they are for items like the repeal of luxury taxes.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I yield 3 minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I will echo everything the majority leader said, and this is indeed kind of a "race to the courthouse" as to who uses up which money first.

Tonight, at 5 o'clock, the Finance Committee is meeting on what will be, I think, the only major tax package of this session, and it has to be revenue neutral. It has been structured in such a way that it raises as much money as it spends.

I will give one example of the tax that is being used. It is the excise tax on ozone depleting chemicals. Those are chemicals that go into the air and deplete the ozone, and it is bad for the health of humans and the health of the Earth. It raises about $1.4 billion.

That is part of the tax package to achieve the balance—one of the taxes that the Senator from Pennsylvania takes to pay for his health bill. I am not in any way critical of him. He uses a number of other taxes also, but it means, therefore, in that case that there will be no tax bill tonight, and probably no tax bill at all, including a great variety of provisions that 95 percent of the Senate is going to support.

So I think we have no choice in this case but to defer to the committee that has to balance this and has jurisdiction over health care; I might add, it has to balance all of the equities, revenues, and expenses. I project, if not in this Congress, by the end of the next Congress, we will have passed a health plan that will cover everyone in America, with few exceptions; and we will have taken care of the problem that the Senator from Pennsylvania now is talking about.

I have to encourage all Senators on both sides of the aisle to vote against this amendment, or else assume that anything they might have wanted in a tax package, which will come out of the committee tonight, simply will not come out.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I came to the floor somewhat ambivalent on this issue, because many of the people you see standing here on the floor speaking today are members of the Finance Committee, and we are all going in our usual bipartisan or nonpartisan fashion to markup a tax bill that some of us believe in and some of us do not believe in.

When I got here and listened to the debate, I must say I have a great deal of—not sympathy for my colleague from Pennsylvania, but I think it is important that those of us who are here in the last few weeks of this session recognize the fact that, back in Pennsylvania, in November of last year, the whole country was awakened to what many of us knew was a major problem facing the people in this country, and that is that we are depriving a lot of people in this country of access to health care, because we cannot do anything about containing its costs or reorganizing the way health care is delivered.

As I say, the public woke up to the problem, and a lot of the people in the electoral process woke up to the problem. I must say that my colleague from Pennsylvania did not have to have an election on the other part of the representation from the State to wake him up. He has been the chairman of the appropriations subcommittee, and the ranking member of the appropriations subcommittee on Labor and HHS, for much of the time that I have known him in this body.

He is not putting before us a so-called comprehensive health care reform bill. It is a relatively elemental, but very, very critical, and very important beginning to deal with the problems that we face.

In fact, the first part would be reform—small business reform—and the full deductibility for self-insured.

We have been debating that in the Finance Committee for 10 years. We can never get the money to take it 100 percent. There is a consensus in the country that we ought to give the self-employed the same financial crack at Federal subsidies that the people working in big companies get.

Then he gets to insurance regulation reform, and I introduced the first bill on that a year and a half ago—S. 700. The distinguished chairman of the Finance Committee and I are the coauthors of the bill to do it. All of those measures, including State barriers to managed care plans, have already been passed out of the Finance Committee, and on the floor of the Senate, where they got tossed out, because they were tied to a tax bill that we did not prefer earlier in the year.

So this is nothing new. This has been around. It is something that some of the States are working on. They are working on small group insurance reform.

I have a lot of sympathy for the fact the Senator would like to see this passed. The remainder of the money goes to primary care, clinics, and preventive services. These are the things the Senator from Pennsylvania has been trying to work on in the subcommittee for a long time. So the issue is, one, is this the right place to do it and, two, are you using somebody else's money.

I am in the minority. I cannot deal with the first of these. I raised this same argument in the Finance Committee markup. I said why cannot we do S. 1872, the small group insurance reform and State barriers to managed care plan; why cannot we do what the Senator from Pennsylvania asked us to do on this tax bill this afternoon? I was told by the majority this is not the time to do this sort of thing; maybe we will do it in September.

Mr. President, I do not think it is our party and I do not think it is our representatives in this body that are keeping tax reform bottled up in this country. It looks to me as though some vague plan either coming out of the House or the Senate, both of them controlled by the other party, is going to produce some form of comprehensive tax reform. But nobody will tell us when.

The majority leader talks about the busy schedule and this is not the vehicle using somebody else's money. When do we do it? When do we pass the Democratic reform plan? When do we pass the plan of the chairman of the Senate Finance Committee, S. 1872?

I think there is not a consensus on comprehensive reform. There is not a consensus on the Democratic side. There is not a consensus on our side. That is because there is not a consensus in America.

But we have something right here that most of us agree on and it is presented to us by our colleague from Pennsylvania.

I just rise to urge the majority to think about the difficult position that this statement puts us all in. If, in fact, we cannot do it on this bill, then what bill can we do it on?

I rise to send that same message to my colleague from Oregon, who is my ranking member on the Finance Committee. We cannot do it on this bill and we cannot use the money from the tax bill, because at 5 o'clock we are going to use it for something else, at least tell us what money can we use and when can we use it?

Mr. President, if I cannot get answers to those two questions I intend to support my colleague in his amendment.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. SPECTER. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator from Pennsylvania controls 14 minutes and 14 seconds; the managers control 13 minutes and 30 seconds.

Mr. SPECTER. Mr. President, I yield 5 minutes to Senator CHAFEE.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. CHAFEE. Mr. President, I commend the Senator from Pennsylvania for his concern in connection with these health care matters. It is something that he has been involved with. As he mentioned earlier, he was an original cosponsor of the measure which I introduced last November, which has more cosponsors than any other single health measure before the Senate. That is S. 1936.

Mr. President, I share the concern that the Senator from Pennsylvania has voiced, and it seems to me it comes down to this: Should we do something or should we wait for the great supermeasure that might someday come through here? I very strongly believe that we ought to take those steps that we can agree upon and take them now.

I think it is critical that we move forward. I think now is the time to act.

This measure that the Senator from Pennsylvania has brought before the Senate is helpful to low- and middle-income families, it is helpful to small businesses, and I think he has done a good job.

Now the argument is that it soaks up money that is involved with other programs. I might say some mention was made of the luxury tax—and I did look over the items that the Senator provides for his source of revenues, and it does not involve those moneys that were to pay for the elimination of the luxury tax.

I will say this, that these issues that come before us now, as has been mentioned before, are not new issues; they are issues that are common to all the various health care measures that are put before the Senate currently.

What are some of the measures we are talking about? There are the small business purchasing groups. The distinguished majority leader has legislation in and it involves the small business purchasing groups. So does the legislation that I have, S. 1936. So do a series of other measures.

There are insurance regulation reform, the preempting of State-mandated benefits, the guaranteed availability and renewal of basic health packages for small businesses.

And, so these measures, State barriers to managed care plans, we all have that. We all recognize that in certain States there are barriers to managed care plans.

So, Mr. President, this is not new territory that is being plowed here. What the Senator from Pennsylvania has done is very carefully selected to those measures that are pertinent to many others that we have before us. So I commend him for his concern and urge that the Senate adopt the amendment which the Senator from Pennsylvania has proposed.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield 4 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 4 minutes.

Mr. PRYOR. Mr. President, I thank the distinguished chairman for giving me this opportunity to talk on the Specter amendment just for a moment.

Mr. President, the Specter amendment has embodied within it many, many of the proposals that many of us on the floor this afternoon have worked very hard for and have diligently strived to have enacted into law.

One of those, and I think it is certainly one that the Senator from Pennsylvania will certainly recognize that the distinguished chairman of the Finance Committee, Senator BENTSEN, and the distinguished Senator from Minnesota, Senator DURENBERGER, have long fought for, is the 100-percent deduction for the self-employed for insurance premiums. This is, of course, embodied in the amendment of the Senator from Pennsylvania and this is one of the very, very attractive features, and it is for this reason that this amendment, that includes the 100-percent deduction and many other items, I might add, I find very difficult to oppose on the floor at this time.

Mr. President, I applaud the Senator from Pennsylvania for attempting to do this. The bottom line is this: We have only a very few minutes remaining on this amendment. This amendment consists of 120 pages. None of us have really had an opportunity to see what is in this amendment. None of us have had an opportunity to really sit in a hearing and listen to the pros and cons of what this amendment entails.

Mr. President, I think it is very, very necessary at this point to point this out, and we just asked if it would be permissible to quote him, and I am going to quote John Motley, who is with the NFIB, the National Federation of Independent Business. We called him. We said, "Mr. Motley, are you supportive of Senator SPECTER's amendment on the 100-percent deduction?" He said, "Of course I support the substance of this. This has been one of NFIB's goals; however, we did not seek for this proposal to be included in the Specter amendment. We did not encourage it. In fact, you may quote me by saying we feel that it will damage future efforts to bring 100-percent deductibility for the self-employed for health insurance premiums."

I think, too, Mr. President, it is very necessary to note that we do not know where the revenues are coming from. We do not know which of these revenues are real revenues. We do not know which of these might be classified somewhere down he line as "funny money." I do not want to imply in any way that the Senator from Pennsylvania would engage in trying to pay for a serious program like this or a series of programs with funny money.

Mr. President, there is a time for everything, there is a place for everything, but this is not the time nor is this the place to have a major health care bill where we do now know what is in the legislation, we do not know how we are going to pay for it, we do not have time to debate as we speak, and I urge my colleagues to vote against the Specter amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the pending amendment would increase and extend deductions for self-employed individuals. That provision, thus, would reduce Federal revenues. The Senator seeks to offset that revenue loss with both revenue increases and outlay reductions. The Congressional Budget Act distinguishes between revenues and outlays. In the absence of a budget resolution provision, called a reserve fund, the Budget Act does not allow legislation to pay for tax cuts with outlays reductions.

The pending amendment would reduce revenues on a net basis by in excess of $4 billion over 5 years. The adoption of the amendment would, cause the current level of revenues to fall below the revenue floor in the most recent budget resolution. It, thus, violates section 311(a) of the Congressional Budget Act. It takes the affirmative vote of 60 Senators to waive section 311(a).

At the appropriate time, Mr. President, after all time has been yielded back on the amendment, I shall raise a point of order against the amendment.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Texas controls 8 minutes and 41 seconds. The Senator from Pennsylvania, 10 minutes and 45 seconds.

Mr. BENTSEN. Mr. President, this amendment is not germane to the energy bill. We sure do not need to open up this debate to unlimited tax amendments. I understand the desire of the Senator from Pennsylvania to promote his agenda; much of it comes in a bill that I have introduced myself, and that we have passed before through the Senate. So I am sympathetic to those objectives.

But, frankly, we have been working on the enterprise zone bill; and with that, a restoration of the IRA, and with that the utilization of S. 4, which addresses some of the problems of drugs and substance abuse, and mothers and parents, and trying to help those children see that they have care and love and are not forced into foster homes. Those are parts of the legislation we are talking about.

We are addressing the problem of the 58 people who were killed in the riots in Los Angeles, and trying to respond to the President's request insofar as enterprise zones. We are seeing to it in that legislation that we put money in there to train those young people, to find jobs for them, to give a wage credit for them. We put incentives in there to encourage investments in that enterprise zone; to bring back that neighborhood; to turn it around. That is a part of the legislation that we will be considering in the Finance Committee this afternoon.

We also have to pay for it, to be in budget compliance. If this amendment is adopted, we would not be in budget compliance, and you can forget it. There is no way we can pay for it and bring it about. The problem you have is you can only spend that money once.

So a vote for this amendment is against the low-income housing credit that we have in that piece of legislation. It is against the extension of the Research and Development Act. It is against the repeal of the luxury tax on boats and aircraft. Frankly, it is against the President's own initiatives insofar as economic growth.

So I am deeply concerned about the Senator's offering it. I urge very strongly that my colleagues defeat this amendment.

I withhold the remainder of my time.

The PRESIDING OFFICER (Mr. SANFORD). Who yields time?

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time, if we have no further speakers on my side.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, how much time remains on my amendment?

The PRESIDING OFFICER. Ten minutes and forty-three seconds.

Mr. SPECTER. Mr. President, I think this has been a very illuminating debate.

Let me deal first with the issue of funny money. The budget offsets which are contained in my amendment were a part of the S. 2612, where Senator DOMENICI—the ranking member of the Budget Committee, and formerly chairman of the Budget Committee—and I had surveyed appropriate offsets on an economic recovery package which Senator DOMENICI and I introduced.

I am sure that, given the thoroughness and competency of Senator DOMENICI in his long practice in the Budget Committee, and his staff, that these are accurate.

I am a little perplexed at the reference by the Senator from Arkansas to funny money. Although he says he is not suggesting there is funny money, I do not know what he is doing when he talks about funny money, that this is funny money. I do not think it is very funny. This is a very serious matter, and this itemization is very carefully crafted.

I ask unanimous consent that, at the conclusion of my remarks, this schedule be printed in the RECORD.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, if the Senator from Arkansas wants to categorize it as funny money, let him be specific. I consider that a pretty serious charge. Let him say what is incorrect about this.

The Senator from Texas plans to raise a point of order. I have no illusions about how that is going to come out, either. But I would be interested to know, from a ruling from the Chair, what is incorrect about these figures.

These figures were not drawn out of the air. These figures have been pending before the Senator for a long time in S. 2612, which has been pending for weeks and months. As I say, they were crafted by the Senator from New Mexico, who had been chairman of the Budget Committee, and is now the ranking member. They are accurate.

Now, the most revealing part of this debate, Mr. President, and the revealing part about the vote will be where Members place health care on the range of national priorities. That is what this vote is going to be about.

The Senator from Texas, on a tabling motion, or the Senator from Texas, on a point of order, does not need 60 votes to defeat this amendment. We all know that. There are 57 Members on the other side. And the balance of power is clearly on the side of the aisle controlled by the Democratic Party. So I do not really care whether the Senator is looking for 51 votes or 60 votes on this particular item.

But when Senators vote, they are going to be voting on what their priorities are, because the people of America look behind the procedural facade.

Whether it is a point of order, or a tabling motion, or whatever, they will say that if someone votes to sustain the ruling of the Chair, about which I have no doubt will be adverse to this Senator—if people vote to sustain the ruling of the Chair, they are voting against putting this issue on the bill: Significant steps for health care, as identified by two long-standing members of the Finance Committee who have taken up these issues in great detail—Senator CHAFEE and Senator DURENBERGER—pointing out how it is for small business, regardless of what representation there may be about the president of some association, and how it helps small business and how it helps middle-income Americans.

When there is an objection raised by Senators repeatedly on the floor that if we pass this amendment, we will not be able to repeal the excise tax on luxury items, I wonder where I am. Is a repeal of the luxury tax more important than extending health care in America? That is the quintessential rhetorical question. Of course, repealing the luxury tax is not more important then extending health care in America.

I would say to you, Mr. President, that even when it comes to enterprise zones, as important as enterprise zones are—and there is no reason why we should be, in 1992, with the enterprise zone legislation pending for more than a decade, there is no reason that we have not passed it long since. I think it has potential.

This Senator has been an avid supporter of it. But I do not think anyone would say that it is a higher priority than extending health care in America. We all know if an effort is made by the chairman of the Finance Committee and by the majority leader and by the expert staffers, we can find the money or offsets to pay for it.

So I think it has been a very revealing debate. I made the flat offer to withdraw the amendment if there would be a time certain fixed for legislation to come to the Senate floor, and there has been a commitment on some legislation to come to the Senate floor by the distinguished majority leader. I do not think any commitment on any legislation is more important then extending health coverage for America.

So I want to see how the Senators vote on this issue because the interpretation is clear; if you vote to sustain the ruling of the Chair on the point of order, you are voting for the luxury tax over health care.

How much time remains on my side, Mr. President?

The PRESIDING OFFICER. Four minutes.

Mr. SPECTER. I thank the Chair and reserve the remainder of my time.

EXHIBIT 1.—DOMENICI HIGH VALUE ECONOMIC GROWTH ACT

[CBO/JCT scoring, in millions of dollars]

	1992	1993	1994	1995	1996	1992–96
Growth incentives:						
Homebuyers' tax credit	−300	−2,700	−2,500	−500	−100	−6,100
Investment tax allowance		−7,700	3,600	1,000	800	−2,300
Pres. modified IRA incentives	−(*)	−185	4	4	4	−172
Passive loss	−75	−700	−700	−800	−800	−3,075
Real estate/pension funds	−(*)	(*)	(*)	(*)	(*)	(*)
Cost of growth package (revenue loss (−)/gain)	−375	−11,285	404	−296	−96	−11,647
Pay-as-you-go offset options:						
Collection of defaulted student loans	−305	−68	−68	−73	−73	−587
Increase excise tax on ozone depleting chemicals	−20	−43	−377	−583	−341	−1,364
Conform book and tax accounting for securities inventories	−122	−368	−498	−508	−518	−2,014
IRS 45-day processing rule		−50	−50	−50	−50	−200
FCC spectrum auction			−2,000	−1,600	−700	−4,300
Extension of expiring provisions:						
Eliminate CSRS lump-sum					−2,063	−2,063
Patent and Trademark surcharges					−107	−107
Customs user fees					−740	−740
VA pension verification		−47	−70	−82	−90	−289
VA housing reforms		−406	−87	−88	−87	−668
FEHB reforms		−85	−40	−75	−85	−285
Savings from potential offsets (deficit reduction)	−447	−1,067	−3,190	−3,059	−4,854	−12,617
Net deficit impact	−72	10,218	−3,594	−2,763	−4,758	−970

Note.—Prepared by SBC minority staff, June 25, 1992.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, it is very difficult in 2 minutes to discuss health care policy, but I do want to respond to the point that the Senator from Pennsylvania made. He said this is a vote about whether or not we make health care reform a priority. I say, for those of us who make health care reform a priority, we want to make sure there is a package of benefits for citizens in this country that is tilted toward preventive health care, and this proposal introduced by the Senator from Pennsylvania, as far as I can tell, fails that test. For those of us who are concerned about health care as a priority, we do not want to be just talking about an advisory committee to deal with the question of cost control. Businesses and people throughout this country want to have assurance that there will be real cost control, but that does not seem to be in this proposal.

So, from the point of view of those of us who make health care a priority, we will not be able to vote for this amendment.

Finally, for those of us who care about health care as a priority, we want to make sure there are long-term care provisions to deal with the problem of costs for older Americans and other people with disabilities. This particular proposal seems to be very ambiguous on that count. So, I think, if it is a priority for us, we would have a difficult time.

My point is that we should not be fooling people in this country. We should be talking about public policy that will make a huge difference, responding to these major concerns about making sure that health care is available for citizens, it is affordable, it is dignified care, and, yes, there is effective cost control. I do not see that in this proposal. We have not even had a chance to debate it. For that reason alone, it would be irresponsible for Senators to support this.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, how much time have I left?

The PRESIDING OFFICER. One minute—four minutes.

Mr. BENTSEN. I will take the second ruling. I yield 2 minutes to the distinguished Senator from Montana.

Mr. BAUCUS. Mr. President, essentially this is not the right time for this amendment. I think we all know that. We all know health care policy is probably, if not the most important, one of the most important issues this Congress must face. We know that. We are grappling with it.

We also know this is the first time we have seen this quite comprehensive amendment. We have not debated it. It was not debated in committee. It has not been debated in any form whatsoever. Here it is now thrust upon us.

We also know—at least I have been told—that we will be considering health care legislation this fall, in September. The House will be sending over a Medicare bill. We will be dealing in this Senate with Medicare. That will be the appropriate place to deal with health care legislation, on a Medicare bill, not out of the blue, sprung upon us suddenly on a tax provision in an energy bill.

One of the reasons I think the country is a bit disappointed with the Congress and thinks it is too gridlocked is because, under our rules, any amendment generally can be offered on any subject at any time. And it causes all kinds of problems here. I do believe, if we are going to restore the faith of the American people, we have to be a bit more orderly. We have to deal with the most important issues, but we have to deal with them in an orderly way.

We will be dealing in an orderly way with health care legislation this fall. We should not be taking up this amendment at this time. For that reason I urge Senators to vote to sustain the Chair on the point of order which will be made shortly.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in response to the Senator from Montana, if he was correct that we would be taking it up in the fall, this amendment would have been withdrawn. He is not the majority leader. The majority leader refused to give a commitment to take it up in the fall in the face of my unequivocal offer to withdraw the amendment if that commitment were to be given.

When the Senator from Minnesota argues against the pending amendment, Senator WELLSTONE—distinguished from Senator DURENBERGER who spoke in favor of it—I outlined during the course of the presentation that there are programs here for prevention and health promotion. When the Senator from Minnesota criticizes the idea of having a committee work on the targeting of health care costs, I will say to him and the rest of my colleagues, that is a more profound step than no step at all. What ought to be

happening here is the Senator from Minnesota [Mr. WELLSTONE] who has legislation pending, ought to be pressing to have a commitment to have his legislation brought up. Or, I suggest to him, he ought to seek to have his legislation brought up.

Mr. BIDEN. Mr. President, there is very little debate in our country or in Congress on the need for comprehensive health care reform. But there is much debate over how to go about that reform. While we need to reform the health care system—and I believe it will be reformed and will be reformed soon—this bill is neither the time nor the place.

The various proposals—be they pay-or-pay, national health insurance, a voucher system, or the solution offered in the amendment by Senator SPECTER—should be subject to due deliberation, thorough consideration, and a full debate. The Senate and the American people must understand what the reforms will achieve and how they will be achieved. That is not happening—and cannot happen—with this amendment on this bill.

The debate is taking place in other venues in Congress and has been for several months. The Finance Committee and the Labor and Human Resources Committee have been examining the range of health care proposals that have been offered. Just yesterday, I chaired a hearing before the Judiciary Committee on health care fraud—an important component of whatever health care reform is adopted. The Majority Leader has made it clear that health care reform will be debated in the Senate—on its own, not as a last minute, poorly understood amendment to this important bill to establish a national energy policy.

The Senate's leadership is strongly committed to health care reform. While President Bush has given one speech and sent Congress only parts of his proposal, the Senate majority has been working to find a solution to provide affordable health care to all Americans.

I support those efforts, and I support reform of the health care system. But, I also support undertaking that reform in a logical, deliberate, and responsible fashion. Otherwise—if it is hurried and poorly developed—it could prove to be more harmful to the health of America than our current situation. For that reason, I cannot support this amendment, and I urge my colleagues to reject it.

Mr. WELLSTONE. Will the Senator yield?

Mr. SPECTER. Yes. On your time.

Mr. WELLSTONE. That may not be possible.

Mr. SPECTER. How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes and 18 seconds.

Mr. SPECTER. I will yield for a question within 30 seconds. I do not want to yield all my time and have none left for reply.

Mr. WELLSTONE. Let me just provide the Senator from Pennsylvania—and I appreciate his courtesy—with a clarification. My argument was not that an advisory committee in and of itself was a bad thing. I just simply said we are at the point in time right now where we need to be introducing legislation that has the cost control built into it. We do not need to study it any longer. People are telling us, "Do not give us legislation unless you have the teeth to control the costs." That was the point I meant to make.

Mr. SPECTER. Mr. President, if that was the point, I say I would be delighted to see that legislation on the floor and I would be delighted to vote on it. That is what I would like to vote on.

Mr. President, in a nutshell, in the minute and a half remaining, this debate really may come down to what is more important, moving ahead on health care or standing by procedural niceties of the Senate. What is more important, allocating some budget resources and some money for health care or repealing the luxury tax?

Mr. President, I move to waive the Budget Act for consideration of amendment 2783.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second at this time.

Mr. BENTSEN. It has not been raised. I will raise it at the appropriate time.

The PRESIDING OFFICER. The motion is in order prior to the point of order.

Mr. BENTSEN. Well, Mr. President, then I raise the point of order that the pending amendment violates section 311(a) of the Congressional Budget Act of 1974.

Mr. SPECTER. Mr. President, I again move to waive the Budget Act, which I believe was in order before. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Point of order. Has the Chair ruled? Has the Chair ruled on the point of order?

The PRESIDING OFFICER. The Chair did rule because of the motion, but the waiver preempts a ruling of the Chair. All time has expired.

The question is on agreeing to the motion of the Senator from Pennsylvania to waive section 311(a) of the Budget Act for the consideration of amendment No. 2783 to the committee substitute for H.R. 776.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

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

The yeas and nays resulted—yeas 35, nays 60, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—35

Bond	Gorton	Murkowski
Brown	Gramm	Nickles
Chafee	Grassley	Pressler
Coats	Hatch	Roth
Cohen	Hatfield	Rudman
Craig	Jeffords	Seymour
D'Amato	Kasten	Specter
Danforth	Lott	Stevens
Dole	Lugar	Symms
Domenici	Mack	Thurmond
Durenberger	McCain	Warner
Garn	McConnell	

NAYS—60

Adams	Fowler	Moynihan
Akaka	Glenn	Nunn
Baucus	Graham	Packwood
Bentsen	Harkin	Pell
Biden	Heflin	Pryor
Bingaman	Hollings	Reid
Boren	Inouye	Riegle
Bradley	Johnston	Robb
Bryan	Kassebaum	Rockefeller
Bumpers	Kennedy	Sanford
Burns	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Cochran	Kohl	Shelby
Conrad	Lautenberg	Simon
Daschle	Leahy	Simpson
DeConcini	Levin	Smith
Dixon	Lieberman	Wallop
Dodd	Metzenbaum	Wellstone
Exon	Mikulski	Wirth
Ford	Mitchell	Wofford

NOT VOTING—5

Breaux	Cranston	Helms
Burdick	Gore	

The PRESIDING OFFICER. On this vote, the yeas are 35, the nays are 60; three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The motion to waive having failed, the Chair responds to the request for a ruling. The amendment of the Senator from Pennsylvania would result in a loss of revenues for the time period covered by the budget resolution, causing those revenues to fall below the revenue floor set out in that resolution. This violates section 311(a) of the Budget Act. The point of order is sustained. The amendment falls.

Several Senators addressed the Chair.

Mr. JOHNSTON. Mr. President, I think it is now becoming clear to Senators that this bill is not to be a grab bag for all kinds of different unrelated matters. It is certainly my intention—I think that is shared by the Senator from Wyoming, the distinguished rank-

ing minority member, and I know the chairman of the Finance Committee has spoken out here about not bringing up all of these matters which have not been considered by committee here.

So I hope Senators will be cooperative and let us move this bill quickly. I personally have received many, many requests from Senators who do not want another late night session. So I will strongly urge Senators not to bring up matters that are going to go down to inevitable defeat, and simply delay the Senate.

I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, before the Senator from Louisiana takes his seat, it would be my hope that at some moment, perhaps soon after the Symms amendment, which I understand is going to be offered next, that we might begin to propound some sort of unanimous consent that would contain the array of amendments so that we could begin to get some idea of what it was that we had to accomplish.

So I hope that we might begin to work on such a thing as unanimous-consent requests to limit amendments, not necessarily to get time agreements now, but just to get them in terms of amendments.

So I would say to colleagues on my side, if there are amendments, bring them to me, and do not bring me ones that have nothing to do with energy.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I certainly endorse the idea of the Senator from Wyoming. I would also state that I do not know whether my distinguished colleague from Texas is anxious to hear me say this or not, but I would invite the Senator's attention to the fact that the Finance Committee is having a markup at 5 p.m. today, as I understand it. Matters such as the high-speed rail tax are to be considered in the Finance Committee. It would certainly be my intention to move to table without debate the major matters, such as the high-speed rail tax, which have not been considered there simply because I think they have no chance of passage here unless we have the advice of the Finance Committee on those matters.

I know the Senator has plenty to do, our colleague from Texas, in the 5 o'clock markup. But Senators ought to know that this is not the only opportunity Senators have to bring up major matters of a financial nature.

This is basically an energy bill in which we have a few tax provisions, which are good tax provisions. But there is another major tax bill that is going to be moving through.

I wish that they would direct their attention to the committee of jurisdiction rather than to come in with amendments of first impressions to the floor of the Senate.

Mr. BENTSEN. I say to my distinguished colleagues, the chairman of the Energy Committee, and the ranking member, that I would also be concerned that we have tax measures introduced as amendments to this that do not pertain to the energy business at all. I really do not think they are relevant to the debate. We just disposed of such a matter just a few minutes ago.

I regret to see them presented.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I appreciate and I have great respect for the Senator from Louisiana—he knows that—and the chairman of the committee, the Senator from Texas; Senator WALLOP; Senator PACKWOOD. But I would just point out that the reason that this amendment was not offered to the Finance Committee energy portion of this—this is clearly an energy-related amendment that I plan to offer here in a few moments. I want to say why.

Trains require one-third as much energy as cars and one-fourth as much energy as airplanes. That is high-speed transportation technology that we are talking about here. So it is clearly energy related. It was not offered in the Finance Committee due to the deference and the respect I have for the chairman.

For every Senator in this Chamber, this is a national issue. It just happens that the first project of this nature is prepared to be built in Texas. So it becomes more than a national issue in Texas. It becomes an issue of local politics in Texas.

I respect the chairman for that. I understand that. That is why I did not offer the amendment at the opportunity in the committee. But it will be my intention to offer this amendment at this markup later in committee because this is an amendment that must become law.

My experience in this body is that you have to catch every train that leaves the station if you are going to make it. That is why I think we should offer this today. I am willing to expedite the debate. It is an issue that the majority leader is well aware of. The minority leader is well aware of the issue. It is a very simple up or down issue that will not take a long, complicated debate. But it is related to energy policy, and I think it is appropriate.

Having said that, Mr. President, I have an amendment on behalf of myself and Senator BOB GRAHAM from Florida.

AMENDMENT NO 2784

(Purpose: To amend the Internal Revenue Code of 1986 to remove certain high-speed intercity rail facility bonds from the State volume cap for tax-exempt bond financing)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself and Mr. GRAHAM, proposes an amendment numbered 2784.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following new sections:

SECTION 1. REMOVAL OF VOLUME CAP FOR CERTAIN HIGH-SPEED RAIL FACILITY BONDS.

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exception for certain bonds) is amended by inserting ", other than any such bond described in subsection (h)(1)" after "rail facilities".

(b) CONFORMING AMENDMENT.—Subsection (h) of section section 146 (relating to exception for Government-owned solid waste disposal facilities) is amended—

(1) by striking "section 142(a)(6)" in paragraph (1) and inserting "paragraph (6) or (11) of section 142(a)", and

(2) by inserting "AND HIGH-SPEED RAIL" before "FACILITIES" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

SEC. 2. DEDUCTION FOR MOVING EXPENSE.

(a) IN GENERAL.—Paragraph (1) of section 217(c) of the Internal Revenue Code of 1986 (relating to Conditions for allowance) is amended by striking every occurrence of the phrase "35 miles" and replacing it with the phrase "55 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after January 1, 1993.

Mr. SYMMS. Mr. President, I offer this amendment with Senator GRAHAM to make a minor modification to the Tax Code which will have a substantial positive impact on the Nation's future transportation environmental and energy policies.

This amendment is good economic policy. It is good transportation policy. It is good energy policy. And it is good environmental policy. It is good tax policy. I urge my colleagues to support it.

The amendment would simply remove the requirement that 25 percent of each tax-exempt bond issue to finance inner city high-speed rail facilities be counted toward the State private facilities activity bond cap for publicly-owned facilities.

As many of you are aware, this is a slight change from the way the amendment was when it was brought forward last year, and not actually offered—it was taken back down—that I spoke about here on the floor. But in talking with many of you, listening to the concerns of Members, the amendment has been changed to require public ownership, just like airports, seaports, and waste facilities. This amendment has support from both sides of the aisle. The administration has spoken out in favor of high-speed rail numerous times.

Governor Clinton, the Democratic Presidential nominee says, "* * * new high-speed rail and maglev technologies offer ways to improve competitiveness, create jobs, reduce pollution, combat gridlock, and provide access for disabled citizens and save energy * * *. Only with strong leadership in Washington can we encourage the kinds of innovative public-private partnerships necessary for success in such large infrastructure projects."

Currently, high-speed rail facilities can be financed with tax-exempt bonds. I will repeat that to my colleagues. Under current law, you may now finance high-speed rail facilities with tax-exempt bonds. However, there are two conditions that first must be met: First, the private owner must waive any claim to depreciation. Second, 25 percent of each bond issued must receive an allocation under a State's private activity cap. That is why this is necessary. These projects cost enough money that it crowds out the other public tax-free bonds that the State would like to sell under the cap. That is why it is necessary.

Most airports and seaports are paid for and financed with these kinds of bonds. In this instance, the project that has heralded so much controversy in Texas is a $7 billion project, and it is projected that $5.1 billion of the financing will be equity and taxable bonds, private financing, and $1.9 billion will be tax-free bonds. So it is not going to be a project that is entirely financed with tax-free revenue bonds.

This amendment is simply a perfecting amendment to existing policy. It is not a debate on whether high-speed rail facilities should be financed through tax-exempt bonds. The issue has been decided. High-speed rail facilities can be financed through tax-exempt bonds. Currently, airports and seaports are exempted from the State activity bond cap, simply because they are too expensive to fit under the State cap for precisely the same reason. Mr. President, high-speed rail tax-exempt bonds must be exempt from the cap.

Some will argue that this exemption from State bond caps for inner city high-speed rail is not comparable to the exemption provided under current law for airports and seaports. Let us look at the facts. The last major airport built in the United States was the $1 billion Dallas-Fort Worth Airport. That, like most airports before, was financed primarily with tax-exempt bonds. The next major airport is being built in Denver, for which nearly $3 billion is tax-exempt revenue bonds have already been sold. Neither of these projects—both vital to the Nation's modern transportation system—would have been possible had the tax-exempt revenue bonds been limited by State bond caps. Further, airports are eligible to receive direct Federal support through the Federal Aid Construction Grant Program. These grants are an important source of the construction funds.

The infrastructure for high-speed rail—the rights-of-way, the rail bed materials, the bridges, and other structures—can be built with tax-exempt revenue bonds. But unlike airports, there is no program providing direct Federal subsidies for high-speed rail construction, and the tax-exempt revenue bonds sold for high-speed rail projects must be counted against the State's bond cap.

In other words, the current law creates an uneven playing field among differing modes of high-speed transportation. The amendment I offer simply treats high-speed rail construction the same as airport construction, or Government waste facilities. This is not a tax subsidy.

Mr. President, I also want to remind my colleagues that this amendment does not change current law with respect to the applicability of tax-exempt revenue bond financing for high-speed rail. These bonds can only be issued for high-speed rail infrastructure, which does not include the rolling stock. Our amendment does not change the law with respect to that provision.

What is at issue is whether 25 percent of those bonds must remain stuck under the State cap. Sixty percent of the bonds to be issued for the Texas project are taxable. I am afraid those opposed to high-speed rail just want to keep out the competition. I understand that, Mr. President, and I cannot blame anyone for trying, if they are going to be in direct competition with the high-speed rail train.

If is true that high-speed rail offers an alternative to flying for relatively short distances. But competition leads to innovation, which is vital to our domestic and international economic health. Protection will lead only to stagnation, which will ultimately put us at a disadvantage.

I also understand that there is a concern about removing caps from privately owned facilities, because under current law, only publicly owned facilities are exempted. My amendment would require public ownership similar to airports and Government waste facilities.

Mr. President, you can see from my first chart that high-speed rail projects create tens of thousands of jobs. This chart represents an example of the potential range of employment generated by the Philadelphia-Pittsburgh line.

The small revenue loss of $178 million will actually be buying a multibillion-dollar investment which would create a tremendous amount of taxable income. With a small amount of Federal participation, billions of dollars of private capital will be unleashed to finance the much-needed high-speed rail infrastructure.

This is undoubtedly the most cost effective method of expanding our transportation system. The revenue loss caused by this amendment is because the interest generated by those bonds is not taxable. There will be no Federal money used to buy the bonds or back the bonds. All of the tax-exempt bonds will be backed by private entities. Private citizens will be able to buy the bonds and then take a deduction for the interest gain on the bonds. They actually will not take a deduction. They simply will not pay taxes on the revenue that they generate from the bonds.

Although the Joint Tax Committee scores the bonds as a revenue loss, I must once again point out that these are static revenue losses, static estimates, and I challenge the very premise of these estimates. These static revenue estimates do not include the taxable bonds which will be issued along with the tax exempt bonds and will generate revenues.

It also does not take into consideration all of the revenue created by the FICA and payroll taxes resulting from the jobs created. This is not a time, however, Mr. President, to get into a debate over static versus dynamic revenue estimates. It is important to understand where the revenue loss comes from, and that it is in no way a Government subsidy.

In any case, we are left with the current system, and we are required by the 1990 budget agreement to pay for the amendment. So Senator GRAHAM and I have this method to pay for this amendment. To offset the cost of this proposal, the amendment will increase the mileage required for the moving expense deduction from the current 35 miles to 55 miles. The 50-mile requirement was the law prior to 1978.

According to the Joint Tax Committee estimates, this change in the moving expense deduction will raise the adequate amount of revenue to offset this. So that makes it a revenue neutral amendment.

I want to make it clear to all of my colleagues that I do have a constituent interest in this. Morrison-Knudsen is an Idaho-based company, who won the contract to build the Texas high-speed rail system. I want you to note the substantial number of jobs for the project, which I have just mentioned. These jobs are not going to be in Idaho. The job potential in Texas for this project will be substantial. It is going to be a $7 billion investment, creating 12,500 jobs initially, and then 2,500 jobs once the system is operating, to operate the trains themselves. High-speed rail will play a major role in our future transportation policy. It is safe and efficient. The United States, is the only industrialized country in the world that has not developed a high-speed rail system.

Right now, the British are working to connect themselves to the continent with high-speed rail, and to connect

that to an expanding European rail system.

We are always talking about the importance of the United States international competitiveness. Japan has its bullet train and the entire European Community is covered with high-speed rail lines and working on more. Is this yet another development that the United States wants to ignore—so that in 10 years we can say we should have pursued high-speed rail?

All we are doing here is giving the United States an opportunity, if private entrepreneurs want to invest in high-speed rail, that there will be a method that they can do it.

I would like to refer to the second chart, Mr. President, and that is a chart that will demonstrate why I think this is an important energy-related amendment.

Passenger energy efficiencies, Btu to move the passenger one mile. Intercity bus is the most efficient, .939. The TGV technologies that will be out with this dispersed high-speed train project in Texas, 1.147. And it comes on down way to the end, air commercial, 4.7 Btu's to move people, per person per mile. So I think that this is clearly energy related.

It is efficiency related. The trains run on time. They do not have to wait for the weather. They do not have to wait for the FAA to decide whether or not they can take off and go. They can run the trains on time and clearly improve efficiencies for people.

The other thing that is happening with population growth in this country, one study showed that a 44-lane highway from Miami to Orlando will be necessary to meet the needs of local population. I am sure my good friend from Florida will have more to say about that. We need to address how we are going to move the people between cities during the next century. Building 44-lane highways is not going to be the answer.

High-speed rail is one of the answers, and it is one of the keys to our future transportation infrastructure. High-speed rail offers a safer, energy efficient, and environmentally sound way to move people. These systems conserve space: A 600-mile high-speed rail system requires less space—I want my colleagues to get this point—than the most recently built major airport. When you talk about taking up ground to be used, the space used for a 600-mile high-speed rail system is less space than a major metropolitan airport the size of the Dallas/Fort Worth Airport. This is a significant reason why we need this amendment.

We simply cannot continue—and, as a matter of fact, Mr. President, I mentioned the project that is being built in Denver, CO, right today, the airport that is being built in Denver. It will make Stapleton obsolete. It is further out of town. And I say that, probably with respect to Denver and the West, it will be a long, long time before anyone will not want to fly by air or travel by air because of the magnitude of the distances. But it is questionable to me, when I look at what the United States is doing with our transportation infrastructure dollars, how could we be spending all these billions of dollars to further consolidate airport hubs in major cities such as Denver when, in fact, we could be spending money efficiently to make it possible for people to travel intercity on very fuel-efficient, time-efficient, on-time, comfortable schedules. I say to any of my colleagues, if they have not had the opportunity to do so, I urge them, if they are in France, to ride the TGV train in France. I have had that opportunity and have done that, and it is a very highly efficient, comfortable way to move people, very safe and certainly very comfortable for the passengers and a very attractive, I think, method of transportation for people.

Mr. President, as I said, airports are almost entirely funded by tax-exempt bonds, Federal aid, and airport construction grants. Highways are built with substantial Federal support in the form of fuel taxes and other user fees. Highways traditionally have been built almost entirely with public funding.

We are talking about allowing people to sell a percentage of the cost of a project in tax-free bonds, which will then generate huge, enormous investments of private capital into the overall running and operating of the project, for the rolling stock, for the infrastructure that goes with it, and it will make a very, very positive investment and a very positive, competitive way to move people.

I know that some of my colleagues think that this amendment will only benefit Texas. This is simply not the case. This is not, I repeat not, just a Texas amendment. It is important to remember that we have to start somewhere. It just happens that the Texas project is the one on the starting blocks.

I would like to refer you, Mr. President, to the chart showing the many proposed high-speed rail projects across the country. Right now, there are groups studying the feasibility of at least 10 high-speed rail systems in the United States. These include—

A Chicago, Minneapolis, St. Louis and Detroit hub;

A Florida hub;

A Pacific Northwest hub;

A Pittsburgh to Philadelphia hub; and

A Las Vegas to Los Angeles hub, just to mention a few.

But access to capital is the problem, and the simple fact is, if the Congress does not pass this amendment and remove high-speed rail from the State caps, there will be no high-speed rail systems in the United States for the rest of this century. I do not know how long it will take for another American corporation to take the risk that has been taken by the groups that have put together this coalition in Texas to build this system, Mr. President, if we refuse them the opportunity now.

So I think what we are saying is that there is a lot at stake in this, and I hope my colleagues will vote for it. For those of you that I know have concern—and I hate to be in here asking you to go against my own committee chairman, Senator PACKWOOD, Senator WALLOP, and Senator JOHNSTON on what it is they wish. They have their mission, I understand that. In my opinion, this amendment in no way, absolutely in no way, should in any way stop the energy bill from becoming the law. I am a strong supporter of this energy bill that is before the Senate.

But for those Senators who vote for it, it will be a very positive vote with many of our constituents, and I see my good friend from Ohio on the floor, and he will start laughing when I tell him this, Mr. President, because Friends of the Earth is for this legislation, as well as the National Audubon Society, the Sierra Club, the National Wildlife Federation, the Environmental Defense Fund, and so on and so forth.

I can see that my colleague from Ohio is saying, SYMMS is offering this amendment. This is a very positive amendment for this bill. It is good for America's energy policy. The reason that these people are supporting this is because high-speed rail will give people a choice of rides in transportation, these trains will require one-third as much energy as cars, one-fourth as much energy as airplanes, and for every person traveling by high-speed rail rather than by car, there will be an enormous reduction in carbon monoxide hydrocarbons and nitrogen oxide.

This amendment, as I said at the outset, is good economic policy, good transportation policy, it is good energy policy, it is good environmental policy, and it is good tax policy. I urge my colleagues to vote for it. I say to my colleagues, if you get in your car and start driving from the Nation's Capital, say, to Atlanta, you will be amazed at the kind of traffic on I-95 day and night around the clock. If you can think down the road 25 years, if we make this possible for the private sector to develop and operate these systems and people can ride the trains, there will be a lot more room on the roads then, and, as population grows, it may not seem like there is more room, but it will make those roads more adequate for what is needed to be done.

Second, it is very important in this country that we have a good, integrated intermodal transportation system so that trucks can run and automobiles can run and other systems. And this will make more room on those interstates for other transportation ve-

hicles. So I urge my colleagues to support Senator GRAHAM and myself on this amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition?

The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, this is deja vu. This is a matter of now going back to industrial revenue bonds. This body spent a considerable amount of time some years ago trying to get rid of industrial revenue bonds, because they were eating up the Federal budget. Here we have a new one. Now we have one for intercity high-speed rail.

I do not have any problem about the concept. I do have a problem about digging into the Federal Treasury to ask all the people of the country to subsidize this proposition. That is not right. The American people have been burdened with sufficient amount of taxes without calling upon them to pay additional taxes in order to pay for this subsidy now.

What we are talking about is whether or not one area or several areas that are interested in high-speed intercity rail, whether or not they are going to be able to issue revenue bonds, tax-exempt bonds, in order to pay for that facility. Well, if they issue tax-exempt bonds, then they are going to have some impact upon the Federal Treasury. And so you are going to cost the American people a certain number of dollars by the permission to issue revenue bonds.

We used to have a situation in this country where you could issue revenue bonds for almost everything under the Sun. I remember debating that subject many a night here on the floor of the U.S. Senate. And I remember that finally we were able to eliminate some and keep in just a few, but we eliminated most of them. And we got rid of that concept.

Now this is the first foot in the door to open the door again to industrial revenue bonds. And so the argument is made, "Well, wait a minute, Senator. This is not going to cost all the people of this country this money."

No; it is just going to cost the working people. It is not going to be a tax on the corporations to make up the money. It is not going to be a surtax on the rich people of the country to make up the money. No, it is not going to be a special tax on the biggest States to make up the money. No, it is going to be a tax on the blue-collar worker.

And once again we see my colleagues on the other side of the aisle, an aisle that seems more disposed to levy taxes upon the average Joe and Joanna working in the job to pay for the special projects they are interested in.

Let us look at how the money is going to be made up. Right now, if you travel, if you move to a distance more than 35 miles from your home, your moving expenses are deductible. Under this amendment, they change the 35 miles to 55 miles. So if you move to a distance that is more than 55 miles from your home instead of 35 miles it is deductible. But if it is somewhere in between, what will happen is, if you make that move under the proposal of the Senator from Idaho, you are going to be stuck in 1993 with $5 million, $46 million in 1994, $50 million in 1995, $53 million in 1996, and $57 million in 1997. So this is a new way of taxing blue-collar workers in this country.

And if this body is prepared to say to the blue-collar workers in this country who are moving from one job to another, and certainly they are trying to find a place of employment, certainly it is not easy to find a job, but they are saying, your moving expenses are deducted if you only go so far, but we change the limits. We change the limits.

It is unfair. It comes in the dead of the night. Nobody is paying much attention to it. We slide an amendment like this through. The American people are not aware of what is happening, and so we say: "One of those things." Joe working-collar guy, or gal, is stuck with the bill.

This amendment should not be considered as an amendment on the floor of the Senate. We are dealing with an energy bill.

Now we have, as part of that energy bill, some portions having to do with Internal Revenue, with the Finance Committee. And what we now have is an amendment that belongs directly in the lap of the Finance Committee. Hearings should be held, consideration should be given to both sides. The question of where the money should come from should be determined by the Finance Committee and by all the Members of the U.S. Senate.

But, no, we get an amendment here on the floor in the middle of the afternoon. Nobody knows it is coming. And, as a consequence, working people in this country are going to be asked to pay for one high-speed railroad in, I think it is supposed to be, Texas; maybe there is one going from Texas to Florida, I am not sure what the story is.

But whatever the case, it is not right if there is a high-speed railroad in Ohio, it is not right if there is a high-speed railroad in Florida, it is not right if there is a high-speed railroad in Idaho, it is not right to come to this floor and propose this new tax exemption and then to shift the burden of paying for that tax exemption on the average working people. This amendment should be defeated.

Mr. WOFFORD. Mr. President, I support the amendment to remove State caps from tax-exempt bond funding for high-speed rail and magnetic levitation projects. Bringing down this tax barrier will encourage investment in magnetic levitation and other high-speed rail projects.

This amendment is especially important to my State of Pennsylvania, a leader in the development of maglev technology. MAGLEV, Inc., a unique public/private/labor partnership, has been working to develop a regional maglev system with a planned demonstration line running from downtown Pittsburgh to the new airport. Shareholders and members in MAGLEV, Inc. include the Commonwealth of Pennsylvania, Allegheny County, Carnegie Mellon University, the United Steelworkers of America, and other labor, industry and Government groups.

Maglev and high-speed rail would update our outdated transportation infrastructure, giving our citizens a convenient and affordable travel option. Technology development, planning and construction would bring thousands of much-needed jobs to Pennsylvania and other States. And the trains would do much to ease urban and suburban gridlock and pollution, improving our citizens' quality of life.

France, Germany, and Japan have been quick to capitalize on maglev and high-speed rail technology. We can't afford to sit idly by. Projects such as MAGLEV's show what can be accomplished when business, government, academia and labor work together toward a common goal. We should be encouraging this type of project and I believe this amendment would be a significant step in the right direction. I hope my colleagues will join me in supporting this amendment.

Mr. KERRY. Mr. President, the pending amendment offered by the Senators from Florida and Idaho pertains to a matter I believe is critical to meeting the Nation's transportation, environmental, and energy needs. The enactment of this amendment will facilitate the development of high-speed rail and maglev systems in the United States.

The objective of the amendment is to eliminate the requirement that an allocation from State volume limitations must be obtained for 25 percent of all tax-exempt bonds issued to finance intercity high-speed facilities. Eliminating this requirement is a necessary step if such projects are to secure the enormous amounts of private investment capital they need to cover the costs in the high density corridors where they are most needed and which they can service most efficiently.

Importantly, and responding to some of the points made by my friend the Senator from Ohio, making this Tax Code alteration would provide high-speed rail and maglev with the same access to tax-exempt bonds currently afforded to airports and other transportation systems. It levels the playing field. This amendment does not offer an unequal tax preference to high-speed ground transportation, although some of us might argue that it would

be in the best interests of the Nation to do so. It would provide for equal treatment.

Further, this amendment is not about providing a cushy tax benefit to moneyed special interests; it is designed to make financially feasible publicly approved efforts with substantial if not preponderant public involvement to establish functioning high-speed ground transportation systems for the public's benefit.

Support is growing in this country, Mr. President, for developing an up-to-date national transportation system by bringing high-speed rail and maglev into a revitalized intermodal travel network. High-speed rail is a proven technology with years of very successful operating experience in Europe and Japan. Maglev is a new, cutting-edge technology nearing deployment overseas and in intensive development in the United States.

Plagued by years of disinterest, miscalculation and footdragging by Federal officials, high-speed ground transportation won a strong endorsement from Congress in the Intermodal Surface Transportation Efficiency Act last year. The environmental community has provided its support, because high-speed ground transportation offers the promise of a safe, energy-efficient, and environmentally sound way of moving passengers between cities.

Eliminating the applicability of a State's tax-exempt bond ceiling to high-speed ground transportation projects will facilitate the formation of the creative public-private partnerships required to successfully pursue these large infrastructure projects which I believe will make tremendous contributions to a strong, competitive economy.

Mr. President, this is an energy issue. That's why it is appropriate that it has been offered to this bill. It is an environmental issue. It is a tax policy fairness issue. It is a transportation issue. It is a lifestyle issue. It is a technology development issue, and it is a competitiveness issue.

On all of these grounds, the calculus suggests the wisdom of approving this amendment. I enthusiastically support the amendment, and I urge all Senators to join in supporting it.

Mr. GLENN. Mr. President, I rise today in support of the goals of the Symms-Graham amendment. But I am constrained to vote against this amendment based upon the revenue offset that has been chosen by its authors. I am committed to work with the authors so that in the future we can develop a more appropriate offset for this worthy proposal.

Recent studies show that our Nation's transportation infrastructure is not adequate to meet America's future needs. It is estimated that increased highway congestion of 300 to 400 percent by the year 2010 will result in annual costs from delays of $30 billion. High-speed rail technology will not only alleviate these costs, but will reduce costs associated with transportation-related pollution and accidents.

Given Ohio's global leadership in science and innovation, it is not surprising that the Ohio Legislature had the foresight to create the Ohio High-Speed Rail Authority [OHSRA] in 1986. The authority has adopted plans for a high-speed rail system that will link Cleveland, Columbus, and Cincinnati. A bullet train traveling between these cities at speeds of up to 186 mph will take passengers from Cleveland to Columbus in just 69 minutes. And passengers can travel from Columbus to Cincinnati in only 72 minutes.

The system will not only offer convenience and accessibility to Ohioans, it will foster a new industry for Ohio. This industry will create 16,000 construction jobs over 5 years and provide almost 4,000 permanent jobs for Ohioans. It will help to revitalize Ohio's steel industry. And high-speed rail in Ohio will reduce travel time and congestion, save fuel, improve air quality, and promote travel safety.

But none of this is possible unless the authority can attain the financing necessary to undertake its ambitious project. Competition for allocations under the State of Ohio's private activity bond cap is heated. Many worthy projects involving critical public purposes such as housing and environmental cleanup are unable to obtain adequate financing under the volume cap restrictions. This volume cap is now more strained than ever because the recently enacted Clean Air Act has resulted in more solid waste cleanup from coal scrubbing which is competing under the cap.

If the current 25 percent allocation under the cap for high-speed rail remains, it will hamper the ability of the Ohio High-Speed Rail Authority to attain the necessary $3 billion in financing for its system. And it will similarly hold back other high-speed rail systems throughout the Nation.

Mr. President, I commend the distinguished Senators from Idaho and Florida for their efforts on behalf of high-speed rail development and look forward to working with them in the future to obtain a viable offset.

Mr. LAUTENBERG. Mr. President, I am going to reluctantly support the motion to table the amendment by the distinguished Senator from Idaho.

Mr. President, I stand second to no one in my support of high-speed rail development in the United States. It should be a central element of our Nation's transportation infrastructure. In fact, in my view, the Federal Government should develop a comprehensive policy on the development of high-speed rail. That policy should address a range of related issues, including project financing, technology selection, location, and regulatory mechanisms.

While I support the goals of the Senator from Idaho, his amendment, in my view, is premature. The Congress has not thought through the proper manner by which high-speed rail should be financed, or any of these other issues. And there is no comprehensive policy in place.

Mr. President, high-speed rail is too important for us to deal with in a piecemeal manner. It may well be that federally tax-exempt financing is an appropriate element of such a policy. However, Mr. President, there is no pressing need to enact this proposal at this time. Few high-speed projects are close to realization. In fact, most of the benefits of this amendment in the immediate future are likely to flow only to the State of Texas. That project may well be worthy. But if we want to support that project, we should do so only after carefully examining its merits. To adopt a national policy on the financing of high-speed rail only so that this one project can move forward, is shortsighted and unnecessary.

Again, Mr. President, as chairman of the Transportation Appropriations Subcommittee, I want to emphasize that I believe strongly in the value of high-speed rail. In fact, as chairman of the Transportation Appropriations Subcommittee, I've fought to keep passenger rail service alive in this country. And, I'm working to expand and improve that rail service, including thorough electrification of the Northeast corridor from New Haven, CT, to Boston. This afternoon, as chairman, I presented the subcommittee with the fiscal year 1993 transportation appropriations bill, which I am pleased to say was approved by the subcommittee. The bill contained $204.1 million for the Northeast Corridor Improvement Program, which includes not only safety and efficiency upgrades, but also the electrification project. I note for my colleagues that neither the House nor the Bush administration would provide one dime for this high-speed-rail program.

But it's because I feel so strongly about this that I cannot support this amendment. High-speed rail is too important for piecemeal policymaking, Mr. President.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. JOHNSTON] is recognized.

Mr. JOHNSTON. Mr. President, in exactly 1 hour and 35 minutes the Senate Finance Committee is going to meet in markup. The distinguished Senator from Idaho is a member of that committee. I urge him—I believe he said he was going to bring up this amendment at that time. The matter to be considered by them, as I understand it, is the tax extender bill in the Senate Finance Committee. And that is exactly what

this should be a part of. There he can make the arguments, and those who feel strongly on both sides can be heard in the committee of jurisdiction.

Mr. President, on a matter this far-reaching, this important, it ought to be considered by the committee of jurisdiction. And so I am therefore ready to make a motion to table.

Does the distinguished Senator from Florida wish to make some comments?

Mr. GRAHAM. Yes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be recognized to make a motion to table immediately after the presentation of the Senator from Florida.

Mr. SYMMS. Would the Senator allow me 2 minutes right now before he goes to the Senator from Florida? If I could just have the floor for 2 minutes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senator from Idaho be recognized for 2 minutes, followed by the Senator from Florida, and then I be recognized to make a motion to table.

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

Mr. SYMMS. Mr. President, first off, the Senate has been well aware of this amendment. I hear the Senator from Ohio. But this bill itself has transportation energy items in the finance part of the bill. Deductions for employee-provider parking, allowable employer-provided transit passes, provides a deduction for a portion of the cost of clean burning motor vehicles. So it has transportation taxes in it.

The Senator was not on the floor, but I said earlier the reason it was not offered in the committee is the chairman asked me not to offer it in the committee. The Senate has been blanketed with "Dear Colleague" letters. This is no surprise and no secret to the Senate. This is an issue that has been well ventilated in the Senate. So Senators do not need to think this is some surprise attack.

Second, the Senator says that we are trying to subsidize some project somewhere. That is simply not the case, Mr. President. The decision is already made in the United States that tax exempt bonds may be sold for high-speed rail.

The problem is that in the dark of the night once before, 25 percent of that part was put into the State cap to generate a little revenue on our static bookkeeping here, which now has dislocated the level of the playing field of the competitiveness between building airports and building high-speed rail.

The way it is right now, you may end up—and I want the Senators to hear this—you may end up building airports that you really do not need because they can build them with tax-free revenue bonds.

We are talking about projects that will be probably 20 percent financed by tax-free revenue bonds, 80 percent financed by private equity, and then you have competition in it.

So, I really think that the Senator from Ohio, if he examined this a little more carefully, would be on the side of allowing this cap to make it even. We make the playing field level between airports and seaports and high-speed rail beds. The way it is now, they are going to be building airports that they do not need because they can sell revenue bonds outside the State cap, and they will not be building high-speed rail beds that they do need because they cannot get them outside the State revenue cap and they cannot get the bonds sold that way. So this is clearly a competitive issue. It is clearly a transportation issue.

I urge my colleagues to vote against the tabling motion.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, it was about 100 years ago that a question was asked of the American railroad industry.

The question that was asked is, what business are you in? The industry thought that was a fairly simple question to answer. We are in the railroad business.

That answer to that question consigned the railroad industry to bankruptcy, bankruptcy because they were committing themselves to a form of technology which would, over this century, be increasingly competed with and technologically overtaken for many of the railroads' historic functions.

Could there have been a different answer to that question, what business are you in? Of course. And what should the answer have been? The answer should have been, we, the American railroads, are in the transportation business. And, has they answered it in that manner, they then would have broadened their concept of their future and their potential, to the substantial change of their own well-being and probably the nature of the American transportation system as we near the end of the 20th century. We would have had a different transportation system had the railroad seen their role as a broader one than operating a railroad.

I think in many ways we face that same question today. What is the character of the American transportation system? Essentially, we are challenged by the issue, are we going to take the same approach that was taken 100 years ago, and that is define it in static—status quo terms? Or are we going to see the kind of challenges and opportunities that exist in, not revolutionary forms of transportation, but the application in America of the highest forms of technology to ground transportation which are being utilized today in most of our major economic competitor nations—in the European Community and in Japan specifically?

I think there are many reasons why we should take a broader view of what our transportation future should be and to incorporate within that view the opportunities for the United States taking a leading position in the 21st century in the development of high-speed rail. Is this an energy issue? I have had some questions, and the chairman of the Energy Committee knows this because we have discussed it, as to how we should diagnose America's energy problem. What is it that challenges us in terms of energy policy for America?

I will define what I think the challenge is. I think the challenge is to conserve the rapidly diminishing storehouse of energy resources and particularly petroleum that we have within the United States of America. Here are the statistics. The United States is currently consuming something over 6 billion barrels of petroleum per year. We are importing about half of that. Half of it is coming from domestic sources.

The United States, by the most liberal estimates, has approximately 75 billion barrels of reserves and resources within the continental United States, including Alaska. That includes all the offshore petroleum resources and resources throughout Alaska—75 billion barrels.

It does not take much of a mathematician to divide half of 6, or 3, into 75 and say that we have approximately 25 years of domestic petroleum left at our current level of total consumption and the proportion of that consumption coming from domestic resources.

One of the stated goals of the energy bill is to reduce our level of dependence on foreign energy sources including petroleum. If we do that and make no other changes, what we are doing is, instead of having 25 years of domestic petroleum remaining, we will be down to 20 or 15 years or less.

So I believe fundamental to a national energy strategy is a strategy to conserve that 75 billion barrels that stands between the United States and total dependence on non-U.S. sources for petroleum. One of the keys to do that is to develop within our economy means by which we can be less dependent on petroleum. We know petroleum's principal use in the Untied States is for transportation. Therefore, if we are going to attack the challenge of reducing our level of dependence on petroleum, we must find alternative forms of transportation that will be less petroleum-demanding. High speed rail for those persons who would find it as an option to the use of their automobile requires one-third of the energy that would be required to propel those people from their place of origin to destination than would the use of an automobile. For those who are using an air-

plane, it uses one-quarter of the energy that would be utilized in an airplane.

But beyond the fact it is more energy efficient, we would also have a chance to be using alternatives to petroleum as the means of providing that energy. Many of these high-speed trains will be electrified. They will be operating on energy sources such as coal, an important new market for that very available domestic source of energy. They will be operating on electricity generated by natural gas, an increasingly important area for the electric energy production of America and a resource of which we believe there is considerable domestic abundance. We will be operating these trains on electrified systems where the source of power is nuclear, an item which this bill intends to encourage by making it more feasible for utility companies to construct nuclear facilities.

I believe rather than question whether this is an energy proposal, this goes directly to the core issue that any American energy policy must address, and that is how to reduce our overall utilization of petroleum in order to conserve the 75 billion barrels remaining petroleum within the continental United States.

Is this a transportation issue? We cannot, as a nation, continue our level of reliance on the automobile and on the airplane for intercity—particularly relatively closely related intercity areas. We have reached almost gridlock on our highway system.

In 1991, the Senate passed a Surface Transportation Act. As one of the provisions of that act, we have put severe limitations on the expansion of the Interstate System to meet capacity purposes. We came close to adopting a policy that said the only expenditures on the Interstate System will be for maintenance purposes and safety purposes but not to add lanes for capacity.

As was indicated, if we continue in my State to add the population that we are doing, which is about 1,000 people a day, we are going to be up to 30 and 40 lanes of traffic to get people between south Florida and central Florida; between Orlando and Tampa. Clearly, that is contrary to national policy. Clearly, it is even more contrary to any sense of logic.

We also know that many of our close intercity air routes are reaching capacity. How many planes can you fly between Los Angeles and San Francisco? How many planes can you fly between Washington and New York? How many planes can you fly between New York and Chicago, before you reach a level of congestion that becomes a daily threat to the safety and well-being of the commercial aviation passengers and community?

I believe it is critical we begin to provide, today, for the complimentary transportation system that we must have, a system which virtually very other nation that is facing the same challenges that the United States is facing has found to be that complementary system, which has been high-speed rail.

The Senator from Ohio raises a question of subsidization. The Senator from Ohio understands who is going to be paying for those 40 lanes of interstate, if that is the way we move people between Orlando and Tampa. That is not going to come from Santa Claus. That is going to be subsidized by the taxpayers through the form of all of the taxes that will be paid directly and all of the public expenses that will come indirectly to build that kind of massive highway system.

Mr. METZENBAUM. Will the Senator from Florida yield for a question?

Mr. GRAHAM. I will be pleased to yield.

Mr. METZENBAUM. Mr. President, is there not a distinction that the Senator recognizes that when you subsidize, for example, the highways, and getting the money from the highway trust fund, and it gets its money directly from the sale of gasoline, that so much a gallon goes into the highway trust fund? In this instance, it is not like that at all. What you are doing is reaching out to the working people in the State of Ohio, the State of Washington, or the State of Pennsylvania, and saying to them, if you move, we normally would have permitted you to deduct your expenses up to 35 miles, and we now change it to 55 miles. So blue collar workers of America come along and subsidize this railroad project.

Mr. GRAHAM. I am going to discuss the financing of this in a moment. The fact is we have already the principle that this is an appropriate method of financing high-speed rail. We have fallen short of the principle by requiring a portion of the high-speed rail, unlike what we have required of airports, sea ports, and other forms of transportation.

The purpose of this amendment is to achieve parity. But I would like to reserve the opportunity to discuss that when I can put it into a fuller context. But the fact is we are going to move people, we are going to move goods. The question is, Are we going to do it by what is a much greater public cost of enormous interstate systems and enormously expanded commercial aviation capacity, or are we going to provide it in a system that virtually every other nation of the world, which is of comparable development to the United States, has found to be the appropriate complement to automobiles, other vehicles and aviation?

Third, this is an appropriate policy for America in 1992. We are facing the prospects of hundreds of thousands of very skilled Americans who have spent their lives building the strength of America militarily facing unemployment. Many of those are in the State of the Senator from Ohio, the Senator from Louisiana, the Senator from Wyoming, Idaho. All of our States are going to be affected by this.

While I am not an advocate of an industrial policy, I am an advocate of the United States having an intelligent program to try to see how we can continue as a nation to take advantage of this great resource that we have spent the last half century or more developing. How do we transition the technological capability to conceptualize, to design, to produce military technology of the highest order of sophistication, how do we, Mr. President, give those people from Connecticut who have been engaged in that activity some alternatives for the use of their skills.

I am proud of the fact that Governor Clinton has seen, as one part of that conversion process, that the United States ought to be using this time as a time of opportunity to begin to develop high technology areas for civilian application that can utilize the skills of those individuals and firms which have been so successful in the military applications of technology.

What better area for us to be doing this in than the field of modern American transportation systems.

I go back to my introductory story about the railroad industry being asked, what business are you in?

And, answering it in a way that virtually assured their bankruptcy.

I think the same question could be asked today of many of our aerospace and aviation industries. What business are you in? Because I see the proper answer to that question not being we are in the production of airplanes but, rather, we are in the production of the highest state-of-the-art transportation. The people who ought to be building these systems are the people who today are building F-15's and F-18's and other military aircraft. They are the people who today are contributing to our aerospace program.

Frankly, the people who probably ought to be running these systems are the airlines. Their skills in terms of the organization of technology for transportation, of marketing, of management, of computerization, are exactly the kinds of skills that are going to be called upon to operate these new forms of transportation.

So I believe we have a tremendous opportunity and challenge to use this as one of the core areas of new technology for a new post-cold war America. If this is not the kind of area in which we want to provide new technology and opportunities for our people, what are the areas that we want? What imaginative ideas we are going to come forward with if this is not the kind of challenge we should be seeking and accepting with enthusiasm?

Finally, Mr. President, this is a proposal which makes eminent environ-

mental sense. We are concerned, as we have demonstrated in the Clean Air Act, with the reduction of emissions which will adversely affect our environment. We know that the greatest single source of those emissions is motor vehicles. That is why we have had such a focus on those areas of the country with high concentrations of automobiles and other motor vehicles.

This offers a partial, not only safe but environmentally sensitive, alternative to those large numbers of motor vehicles. It has proven that in Japan, where Japan's bullet train has for 40 years had a fatality-free record. I do not know if there is a transportation system in the history of the world that has ever carried so many people over such an extended period of time at such high rates of speed with such a safety record. And the same is true of the systems which have been developed in Europe.

The major environmental organizations of America are supporting this amendment. These include the National Wildlife Federation, the National Audubon Society, the Natural Resources Defense Council, Friends of the Earth, the Environmental Defense Fund, and more. They have seen this as not only good energy policy, good transportation policy, good policy in terms of conversion of military to civilian applications, but sound environmental policy.

If all of these reasons commend a strong American initiative to create the atmosphere, the environment for the development of high-speed rail, what are the barriers? We have dealt with some of those barriers, Mr. President, in the 1991 Surface Transportation Act. We took some major initiatives, particularly in the area of encouraging the most advanced form of high-speed rail, in magnetic levitation. We have appropriated $750 million to fund major research, development and experimentation on magnetic levitation which many feel will be the dominant transportation system by the midpoint of the next century, if not earlier.

We also did some things that will make current high-speed rail technology more accessible such as making interstate corridors available for high-speed rail. So this Congress, led by the Senate, particularly by the Senator from New York, has taken leadership in this area and recognized its importance.

There continues to be another significant barrier, and that is the lack of parity in terms of financing the system.

At this point I would like to return to the comments and the questions of the Senator from Ohio. The current law is as follows: In the area of transportation, virtually all of the traditional means of transportation are 100 percent available for tax-free financing. If you want to build an airport, you get 100 percent tax-free financing. If you want to build a wharf at a current seaport, 100 percent tax-free financing; highway systems, 100 percent tax-free financing. All of those are currently covered. High-speed rail is covered.

You can do tax-free financing, but it is the only category in which there is a restriction on the amount of tax-free financing which is available, and that restriction is that 25 percent of the tax-free financing has to be within the revenue cap applicable to the State or States in which the high-speed rail system is constructed.

That may not seem like much of a constraint but let me put some numbers behind that limitation. Let us assume that you are in a State of 10 million people. I think that is more or less the size of the State of Ohio. The cap is based on the population of the State, and it is $50 per person. So the State of Ohio each year would have available to it $500 million for everything from housing to water and sewer systems to all of the ways in which the State and local communities utilize tax-free financing.

Because of the scale of these high-speed rail systems, and the intensity, the focused nature in which they are constructed and financed, they tend to be heavy capital demands for short periods of time. For instance, the high-speed rail system which has been suggested in my State that would run from Miami to Orlando/Tampa has a cost of in the range of $4 to $5 billion. That is a lot of money, but that is for a system of over 300 miles. If you calculate what 300 miles of Interstate System would cost, it is not such a prohibitive expenditure.

But let us assume that it was $4 billion to be financed and it was going to be constructed over a 4-year period at $1 billion a year. If you had to take 25 percent of that $1 billion, or $250 million, and apply it against your $500-million-a-year cap, that would mean that for 4 years the State of Ohio, if that were the State in which this were occurring, would have half of the funds that would otherwise have been available for all that other range of activities financed by tax-free financing. That is why this provision has been such a barrier to States moving forward aggressively with considering high-speed rail as an alternative to highways or airports or other more conventional forms of transportation.

Now, to the Senator from Ohio again, I am not terribly enthusiastic about the specific form of financing that we have found. I might say to the Senator from Ohio that that exact provision has been suggested in the past for a variety of other items. The fact is that money is going to flow into the national Treasury not earmarked to finance high-speed rail. It is just going to add to the total aggregate of resources in the national Treasury. The estimate is that over a 5-year period it will produce approximately $190 to $200 million. That is the estimated cost over the 5-year period of making tax-free financing available to all 100 percent of high-speed rail as opposed to the 75 percent which is currently authorized.

I underscore that that difference is more than just the difference between 75 and 100 percent. It is the difference between zero and 100 percent, because unless high-speed rail has access on a parity basis with other forms of transportation to tax-free financing, these systems simply are largely not going to be built.

Therefore, we are going to go into the 21st century with largely a 19th century transportation system. We are going to have missed the opportunities for enormous energy efficiency as we approach the time we are going to be exhausting our domestic petroleum reserves. We are going to have missed this window of opportunity of using this modern, challenging technology as a means of assisting in the transition from a military to a civilian economy. And our environment will have lost the benefits of the additional benign qualities that are associated with high-speed rail.

So, Mr. President, I believe as a legislative body we do not get faced with large, dramatic statements of ultimate destination for America. We get faced with incremental opportunities. Today we have one of those incremental opportunities. I would say with a high level of certainty that if we adopt this proposal and it becomes law, we will see, before this decade is out, the commencement of a new form of transportation in America which over the 21st century will serve our children and grandchildren and great grandchildren very well.

If we turn our backs on this opportunity today, I think that we are going to be consigning those same future generations of America to greater energy dependence, to a less pure environment, and to a transportation system that will be systemically constrained in terms of its ability to serve our Nation's needs and to contribute to an economically competitive America.

Mr. METZENBAUM. Will the Senator yield?

Mr. GRAHAM. Yes.

Mr. METZENBAUM. I very much question who is going to pay for this if the amendment of the Senator from Idaho would prevail. It is going to be working people. My question to the Senator from Florida is, no matter how strongly he feels about these projects, does the Senator really believe that there should not be estate taxes, should not be a surtax on the wealthy, a special tax on those with incomes over $200,000 or $1 million a year, there

should not be a tax on corporations, they should not bear a part of the burden?

Why is it that you come before us with this proposal to stick it to the average Joe, the working Joe?

Mr. GRAHAM. First, Senator, what we are doing, current law as I understand it is that if you move more than 35 miles that you can deduct the cost of that move. This amendment would say you now have to move 55 miles in order to take advantage of this. Whatever you think about that as a matter of tax policy, it is not an overwhelming issue to say that you have to have moved an additional 20 miles in order to have been able to take advantage of the ability to deduct your moving expenses from your Federal income tax return.

Mr. METZENBAUM. It is not overwhelming unless you happen to be the guy who is paying it, and the working guy who is moving a little bit further down the road.

Mr. GRAHAM. I am concerned about the working guy who is currently working for a defense facility in Connecticut who may have a job if this Nation commits itself to developing modern forms of technology including high-speed rail.

Mr. METZENBAUM. I do not have any quarrel about the high-speed rail.

Mr. GRAHAM. I am concerned about the position that working man is going to be in 25 years from now when the last of the American petroleum comes up out of the ground probably at ANWR because we had drilled that last remaining reserve of American petroleum. I am concerned about what that is going to mean to the national security of that working man and woman and every other American.

Mr. METZENBAUM. I would say to my colleague, first of all my friend from Idaho is one of those who is strongest against increasing taxes. Every time we talk about increasing taxes, they blame that all on Democrats. This is an increase in taxes, no argument about it. This is an increase in taxes.

I think that there may be a need for some increase in taxes on those who are able to pay. So I say to my friend from Florida, my friend from Idaho, if you think this amendment is so great, why do not you provide for a surtax on millionaires, or a tax upon those who have an income over a particular amount, or on estates that are beyond a certain amount? Why do not you do that? Instead of that, no, the faceless, nameless, working people in this country are being called upon to pay the bill.

Mr. SYMMS. If the Senator will yield.

First off, I would just say to my colleagues that the reason we do this is because of the 1990 Budget Act. As far as I am concerned, I think I could empirically prove to the Senator from Ohio that we should not have an offset in it because this is going to make money for the Federal Treasury. The Texas project is going to have $1.9 billion in tax-exempt bonds, $3.4 billion in taxable bonds, $1.7 billion in equity financing. They are going to hire 12,000 people, pay them $15 an hour, and they are all going to be paying taxes.

We are sitting in here arguing about some Mickey Mouse thing. I agree with the Senator. I do not like to do it, but I am trying to go by the rules and the law. I think we ought to fire all the people that work for the tax-writing committees that use static financing. We ought to go back and do this on growth-oriented models. But that is not what we are debating here today.

So my colleagues in the Senate, do not let the Senator from Ohio get this distorted from what the fact is. This is the least painful way we can find to make this thing fit in the budget.

I did not vote for the 1990 Budget Act. I do not know how the Senator from Ohio voted. That is why we are doing it.

Mr. GRAHAM. I would like to also point out to the Senator from Ohio that I believe yesterday he supported a series of amendments that the Senator from Arkansas and I introduced which held the overhead constant in just three Federal agencies: Commerce, Justice, and State. If those provisions are sustained throughout the appropriations process and then carried forward in future years, those will produce about three times more revenue savings than this proposal will entail in terms of a tax loss.

So I appreciate the Senator's concern for fairness in taxation, a concern that I share. I wish we had a different and more perfect world in which to operate. But we deal with the world as we find it. I believe that the world as we find it will be better served by making this minimal Federal commitment toward the accomplishment of a very significant national goal.

The PRESIDING OFFICER (Mr. CONRAD). Under the previous order the Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, as I had stated earlier, the Finance Committee is going to meet in a little less than 1 hour, at 5 p.m. This tax extender measure will be the measure to be considered at that time.

Mr. President, Senators are simply going to have to be cooperative with us and let us get on with this bill. If this becomes a grab bag, we are not only going to be here all night, but we are not going to be able to get an energy bill.

I wanted to be considerate to Senators in their ability to speak. I believe the Senator from Pennsylvania wanted 2 minutes.

Mr. President, I ask unanimous consent that the Senator from Pennsylvania be recognized for 2 minutes after which I be recognized to make a motion to table.

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

Mr. SPECTER. Mr. President, I sought the floor for a brief period to lend my support to the pending amendment because I believe high-speed ground transportation is very, very important to the development of this country.

This is a subject that I have been working on for the better part of a decade, in conjunction with State Representative Richard Geist from Altoona, PA. There are very elaborate plans in Pennsylvania for the development of a high-speed train system, with Pittsburgh as the center for the development of maglev technologies.

It is a marvelous projection to think of a train running from Philadelphia to Pittsburgh in 2 hours and 7 minutes with intermediate stops at Lancaster, Harrisburg, State College, Altoona, Johnstown, Greensburg, and Pittsburgh. Such a system would be very development for this country. It is high time we move ahead with real development of our Nation's infrastructure on capital investments which will yield great fruits to this country.

I commend my colleague from Idaho, and my colleague from Florida, for advancing this proposal. I have no illusions about this being adopted here. I think the debate has been very constructive. I do hope that it will be adopted one day soon.

I thank my colleague from Louisiana. I thank the Chair.

The PRESIDING OFFICER. Under the previous order the Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, this is a very far-reaching amendment. If my motion to table fails, frankly we are here for a long time just on this amendment.

I know the Senator from Ohio has second-degree amendments. They will be very long, and it is a weighty issue, Mr. President.

In 55 minutes the Finance Committee is going to be open for business. The Senator from Idaho, the chief sponsor of this amendment, is a member of that committee and he can bring this up. If it is a good idea, let him at least get the advice of the Finance Committee. At least give them a bite, if they want to do it, at deciding how they are going to finance it, whether they finance it with increasing the number of miles with the move from 35 to 55, as the Senator from Idaho as he suggested, or maybe some kind of alternative kind of tax that he would propose.

In any event, Mr. President, on behalf of the distinguished Senator from Wyoming [Mr. WALLOP] and myself, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana [Mr. JOHNSTON] to lay on the table the amendment of the Senator from Idaho [Mr. SYMMS]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

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

The result was announced—yeas 40, nays 55, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—40

Akaka	Gramm	Packwood
Baucus	Hatfield	Pryor
Bentsen	Heflin	Rockefeller
Biden	Hollings	Sanford
Bond	Inouye	Sarbanes
Boren	Johnston	Sasser
Bradley	Kennedy	Seymour
Bumpers	Lautenberg	Shelby
Byrd	Leahy	Simpson
DeConcini	Levin	Smith
Dixon	Lieberman	Wallop
Dodd	Lugar	Wellstone
Ford	McCain	
Glenn	Metzenbaum	

NAYS—55

Adams	Garn	Nickles
Bingaman	Gorton	Nunn
Brown	Graham	Pell
Bryan	Grassley	Pressler
Burns	Harkin	Reid
Chafee	Hatch	Riegle
Coats	Jeffords	Robb
Cochran	Kassebaum	Roth
Cohen	Kasten	Rudman
Conrad	Kerrey	Simon
Craig	Kerry	Specter
D'Amato	Kohl	Stevens
Danforth	Lott	Symms
Daschle	Mack	Thurmond
Dole	McConnell	Warner
Domenici	Mikulski	Wirth
Durenberger	Mitchell	Wofford
Exon	Moynihan	
Fowler	Murkowski	

NOT VOTING—5

Breaux	Cranston	Helms
Burdick	Gore	

So the motion to lay on the table the amendment (No. 2784) was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the motion to table was not accepted. I think the Senate has spoken on this. I hope the Senator from Ohio will be willing to go ahead and let us voice vote the amendment.

Mr. METZENBAUM. Not at this point.

Mr. President, 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. JOHNSTON. 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. JOHNSTON. Mr. President, I ask unanimous consent that we temporarily lay aside the instant measure in order to consider a Pressler amendment on pipeline safety.

The PRESIDING OFFICER. Is there objection?.

Mr. METZENBAUM. Is there any time limit?

Mr. JOHNSTON. Mr. President, we intend to accept the amendment, really, without debate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Without objection, it is so ordered.

The Senator from South Dakota is recognized.

AMENDMENT NO. 2785

(Purpose: To amend the Hazardous Liquid Pipeline Safety Act of 1979)

Mr. PRESSLER. Mr. President, 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 South Dakota [Mr. PRESSLER] proposes an amendment numbered 2785.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . AMENDMENT.

The Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 220. FIELD PERSONNEL.

"(a) IN GENERAL.—To the extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of Transportation, in fiscal year 1993, shall employ and maintain thereafter an additional 12 pipeline field personnel above the number of field personnel authorized for fiscal year 1992 for the Research and Special Programs Administration. These personnel will work primarily on public water supply protection and other environmental public health and safety aspects of pipeline regulations. The Secretary shall take such action as may be necessary to assure that the activities of such additional field personnel focus on—

"(1) inspecting intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program that meets the requirements of subsection (a) or (b) of section 205 of this title;

"(2) assisting the States identified under paragraphs (1) and (3) in developing hazardous liquid pipeline safety programs that meet the requirements of subsection (a) or (b) of section 205 of this title;

"(3) inspecting interstate hazardous liquid pipeline facilities constructed prior to 1971; and

"(4) providing technical assistance and training to State pipeline inspectors and assisting in the review and management of pipeline safety grants.

"(b) ASSIGNMENT OF FIELD PERSONNEL.—The additional field personnel provided under subsection (a) shall be assigned by the Secretary to the Research and Special Programs Administration pipeline safety regional offices on the basis of the extent to which—

"(1) hazardous liquid pipelines constructed prior to 1971 exist in a region;

"(2) there are in a region States having intrastate hazardous liquid pipeline facilities that do not have a hazardous liquid pipeline safety program meeting the requirements of subsection (a) or (b) of section 205 of this title; and

"(3) there are other factors, including those based on public water supply protection and other environmental public health and safety concerns, which the Secretary deems relevant to improving the extent and quality of Federal and State hazardous liquid pipeline safety programs.

"(c) FUNDING.—The Secretary of Transportation may use such sums as may be necessary of funds appropriated pursuant to section 17(a) of the Natural Gas Pipeline Safety Act of 1968, as amended, and section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as amended, to carry out this section.".

Mr. PRESSLER. Mr. President, I introduced this amendment as a free standing bill, S. 2375, on March 20, 1992, because I am deeply committed to helping prevent any further environmental disasters like the one that recently occurred in my home State of South Dakota.

We need pipelines throughout our Nation to move energy resources, including a variety of fuels and natural gas. These pipelines are vital—both for economic and national security reasons. However, they also represent a potential environmental hazard. When they leak, the consequences can be devastating. I am offering this amendment because this risk can be mitigated best by increasing the number of Federal inspectors for hazardous liquid pipelines.

Now, let me share with you some of the facts surrounding a recent incident in South Dakota. On January 13, 1992, the Williams Pipeline Co. reported a fuel leak near Sioux Falls, SD, to the Office of Pipeline Safety at the Department of Transportation.

I was alarmed to learn of this leak, as were many of my constituents. Any leak is of concern, but this one was most disconcerting. First, the leak went undetected for nearly 6 months. Second, it occurred only three-fourths of a mile from a major aquifer in eastern South Dakota which serves as the primary water supply for our State's largest population center. Third, the original estimated size of the leak was

literally only bucketfuls. However, further examination resulted in estimates of some 400,000 gallons, making it the largest leak in the history of South Dakota. Revised estimates are now closer to 200,000 gallons. To date, over 160,000 gallons have been recovered and pumps are still recovering product. A leak of this magnitude certainly should have been detected earlier.

So, Mr. President, to paint the picture of what happened at that major pipeline leak; it was detected 6 months late; it was first reported as a very small leak. Then it was realized that it was huge—the largest leak in a pipeline in our State's history; and, fortunately, it did not reach the aquifer but it was only a half or three-quarters of a mile away. The point I am making is that we had a major leak that almost went undetected until it was too late. It was the worst, but it was not the first. I fear it will not be the last. My amendment is designed to reduce the risk.

Mr. President, I feel very strongly that everything possible must be done to prevent such leaks from occurring in the future. They are too costly to the environment and to everyone involved. Therefore, I carefully studied what happened in this case. South Dakota and other States that have this type of pipeline ought to be concerned over the possibility of future leaks. However, the number of such leaks can be reduced through a coordinated effort by Federal, State, and local government officials, and private industry leaders.

I serve on the Commerce Subcommittee on Surface Transportation. Last year, the Senate passed, by voice vote, S. 1583, the Pipeline Safety Improvement Act of 1991. This legislation will help address the safety of pipelines in a number of important ways. But it is not enough.

Since this leak was reported, I have carefully revisited this issue. First, I was briefed in detail by Mr. George Tenly, Associate Administrator for Pipeline Safety, head of the Office of Pipeline Safety. I learned many specifics regarding safety and inspection procedures on the section of pipeline in question, as well as the pipeline inspection program in general.

The enormous task of inspecting 1.8 million miles of pipeline in this country under Federal inspection jurisdiction falls on only 24 Federal inspectors. So, for our entire nation with 1.8 million miles of pipeline, we have only 24 Federal inspectors.

Mr. Steve Cropper, president of Williams Pipeline, met with me to explain the industry side of this critical issue. I was pleased to learn several new technological advances were being applied to assist the industry in deterring future leaks. As I continued to study this matter, I worked closely with officials in my home State that deal with pipeline safety, learning the problems they face.

Currently, hazardous gas and liquids are transported via pipelines throughout the United States. Of the approximately 1.8 million miles of pipeline, roughly 1.6 million miles are natural gas pipelines and 155,000 miles of pipeline transport hazardous liquids. The leak in South Dakota falls in the latter category.

Mr. President, 48 States have their own natural gas pipeline safety inspection programs. However, only 10 States have a similar program for the inspection of hazardous liquid pipelines.

The Federal Government retains primary inspection responsibilities for pipelines in those States without their own programs, but the Federal office is understaffed. States need greater assistance from the Federal Government in implementing their own inspection program.

This problem must be corrected. My amendment would do the following: First it adds 12 new Federal pipeline safety inspectors above the number authorized for fiscal year 1992—a 50-percent increase. Second, these inspectors will focus specifically on inspections in States that do not have their own hazardous liquid pipeline safety programs in place.

Third, inspectors would provide technical assistance and training to these States to help them develop their own pipeline safety programs. These personnel will focus primarily on public water supply protection and other environmental public health and safety aspects of pipeline regulations.

They will pay particular attention to pipelines constructed prior to 1971 which are more likely to develop problems. They will assist States in the review and management of pipeline safety grants. These provisions, together with others, offer a good first step in improving overall pipeline safety.

South Dakota Department of Environment and Natural Resources Secretary Robert Roberts fully supports this amendment. The fact of the matter is that States are usually in a much better position to handle these inspections than is the Federal Government. They best understand the intricacies of their own State. In addition, the local citizens are in closer contact with State officials than regional Federal offices.

The bottom line, Mr. President, is that local, State, and Federal governments, as well as the pipeline industry, must cooperate in improving pipeline safety. By providing greater assistance to those States that need it most, my amendment will provide a first step to improving overall pipeline safety.

So, Mr. President, to conclude, let me say I think that our entire Nation can look to the spill that occurred near Sioux Falls, SD, as an example of the dangers to which the public and the environment can be subjected if a pipeline leaks. We certainly need pipelines throughout our Nation to move energy, to move gas, to move natural gas. We certainly need to improve the technology of pipeline safety. But we also must have prompt pipeline inspection and notification so that any problems can be corrected.

My amendment would be a step forward. It would add 12 additional Federal pipeline inspectors. It would improve the cooperation between Federal, State, and local governments.

I think we can learn from the near disaster that took place near Sioux Falls, SD. I think we can improve pipeline safety throughout our Nation. It is a subject to which we need to pay attention because the transportation of energy is so important to our citizens. But that transportation must be safe.

Mr. President, finally I would point out that the Office of Pipeline Safety is funded through user fees and is authorized to increase those fees to cover amounts needed for this type of program. Therefore, this amendment costs the taxpayer nothing. Indeed, it is cost effective for the pipeline industry as the cost of the expanded program would be less than the cost associated with the cleanup of many individual fuel spills. I urge the adoption of my amendment. This additional State oversight is very desperately needed.

Mr. JOHNSTON. Will the Senator yield?

Mr. PRESSLER. Yes.

Mr. JOHNSTON. Mr. President, I am advised that the Senator from South Dakota has discussed this with the Commerce Committee, which does have jurisdiction over this matter.

Mr. PRESSLER. Mr. President, I cannot say the Commerce Committee has cleared it; I do not know. I have discussed it. I am a member of the Commerce Committee. We had hoped for a hearing on it, but it did not materialize. It was not denied, either.

Mr. JOHNSTON. Mr. President, I believe the Senator from Wyoming, the distinguished ranking minority member, and myself are willing to take this to conference, and we will seek the advice of the Commerce Committee in the meantime.

But we are willing to take this to conference.

Mr. PRESSLER. Mr. President, is my friend saying to me if the Commerce Committee somehow wants jurisdiction over this, which they could have exercised, that it will be taken out in conference?

I really would like to go to a vote, if I need to have a stronger hand in conference.

Mr. JOHNSTON. Mr. President, I thought this would be a matter we could accept. If the Senator wishes to wait, we may well oppose it later. But that is up to him.

Mr. PRESSLER. Well, if the Senator will accept it—I will always take an amendment if I can get it passed. But

I would not want the implication to be that it is going to be taken out in conference.

The Senator will give me a fair shot in conference?

Mr. JOHNSTON. Mr. President, what I am saying is that the Commerce Committee has jurisdiction over this matter. If they are against it, I am sure it would weigh very heavily with me as one member of conference, and I am sure with other conferees.

Indeed, if we want to extend the debate here and get the Commerce Committee over to talk about the matter at this time, I am sure it would make it difficult to pass here, as well.

Mr. PRESSLER. If the Senator will take the amendment, I will agree to that. I am a member of the Commerce Committee, and I am 99 percent sure that I can persuade them not to have any objection to it. Famous last words.

Mr. WALLOP. Mr. President, I echo the words of the distinguished committee chairman.

There is also, I say to my friend, yet another piece of relevant legislation coming through to which he could add this amendment, and that is the Department of Transportation Appropriations Act, upon which the Senate has yet to act.

Mr. PRESSLER. Mr. President, someone told me that would be legislating on an appropriations bill.

Mr. WALLOP. The Senator can do as he wishes. The Senator from Louisiana and I are willing to accept the amendment, Mr. President.

Mr. PRESSLER. I am glad to hear that. I thank the Senator very much.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2785) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, I wish to state my support for the amendment from my colleague from South Dakota, Senator PRESSLER, relating to pipeline safety. It is a good first step to improving pipeline safety, and it should be enacted.

In South Dakota, we have seen the pitfalls of shoddy pipeline management. As a result of a crack in the product pipeline between Alexandria, MN, and Sioux Falls, more than 200,000 gallons of gasoline spilled beneath and onto a field near Renner, SD. Renner is just 4 miles north of Sioux Falls, the largest city in the State, and the spill occurred less than a mile away from the edge of the aquifer that provides the drinking water for Sioux Falls. After the leak was discovered, by a farmer walking in his field who suddenly discovered he was ankle-deep in gasoline, we learned that the pipeline must have been leaking for weeks, and the 200,000 gallons of lost product was never noticed to be missing by the owner of the pipeline, the Williams Pipe Line Co.

Clearly, the current system is inadequate to protect the people from spills like the one we experienced in Renner. I still do not understand how that much product can be lost without anyone noticing.

Adding 12 more inspectors to the Office of Pipeline Safety is a good first step. But I must be frank, I do not know if it would have made a difference in Renner if we had had even 100 more inspectors. Unless you have better and more comprehensive monitoring, inspection, and reporting requirements, it will be simply impossible to have enough inspectors in the right places at the right times. Unless we can establish better mechanisms for States to assume partial regulatory control over interstate pipelines, those with the most direct contact with the pipelines will have only limited input. Finally, unless we can establish comprehensive, nationwide standards for aboveground storage tanks, we may get the product into the tank farms safely only to have it leak away there. This has also been the experience in Sioux Falls as well as Fairfax, VA, and so many other places.

On the last point, Senator ROBB and I have legislation, S.1761, pending before the Senate Environment Committee that would establish comprehensive regulations for aboveground storage tanks. It was our intention to have this bill become a part of the RCRA reauthorization this year, but it now seems that this will have to wait until the next Congress. With regard to improving pipeline safety, it is imperative that Congress pass the long-stalled Pipeline Safety Act reauthorization, and that improved environmental safeguards be adopted, as well as better mechanisms to establish State jurisdiction over interstate pipelines.

In closing, I thank my colleague from South Dakota for offering this amendment, and I hope we can use this momentum to address the larger problem of pipeline and storage tank safety.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I rise today——

The PRESIDING OFFICER. The Chair alerts the Senator from Virginia that the Symms-Gramm amendment is the pending business before the Senate.

Mr. ROBB. Thank you, Mr. President. I ask unanimous consent that the Symms-Gramm amendment be temporarily set aside.

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

Mr. ROBB. Mr. President, I rise today in support of the pending energy legislation.

This bill represents that which is, at the moment, politically possible.

The chairman of the Energy Committee, Senator JOHNSTON, has done a masterful job, of crafting a bill which has the broad support, of environmentalists; support from industry; support from the administration.

The first vote on this bill, in the Senate was 94 to 4, and in the House, the margin was more than 10 to 1 (381 to 37).

I support the measure, as far as it goes, because it does take some important steps to wean our Nation from its overreliance on imported oil.

But the truth is that this bill is missing what is the most potent tool available, to reduce our reliance on imported oil: shifting taxation from income to the motor fuels pump.

By shifting, without increasing, the existing burden of taxation, we can encourage Americans to buy more fuel efficient cars, to car pool, and to use alternative forms of transportation.

Changing the point of tax collection can save us millions of barrels of oil, unleash investment into alternative fuels, and reduce the risk of global warming.

Omission of the gas tax in this energy bill has not gone unnoticed by those outside the Halls of Congress.

When the energy bill passed the House in late May, the New York Times headline read: "Congress Appears on the Verge of Creating A National Policy That Does Not Cover Oil."

The piece quoted Wilfrid L. Kohl, director of the International Energy Program at the Johns Hopkins School of Advanced International Studies.

"I would call [the bill] a positive first step on the way to something we don't ever seem to achieve, which is a comprehensive national energy policy," KOHL said.

Such a policy, he said, would require a stiff gasoline tax.

The article also quoted Eli Bergman, director, of Americans for Energy Independence.

"Senators and Congressmen will whisper that the thing that would do the most would be a $1 hike, in the gasoline tax," Bergman said.

He continued: "They'll whisper it, but they won't do anything abut it."

In June, the Washington Post ran an op-ed by J. Robinson West, president of the Petroleum Finance Co., Ltd., declaring:

> The energy bill * * * ignores, the fundamental issue, surrounding energy, and represents a refusal, to make, difficult choices.

He continued,

> Congress, and the administration know how to reduce our reliance on oil, but they are too timid to act.

He went on:

> Almost every other government has had the courage to raise the price of gasoline, with the result being enhanced fuel effi-

ciency, and conservation. Unfortunately, a gasoline tax is considered a grudge tax that Americans don't want to pay, and their politicians, on either side of the aisle, and both ends of Pennsylvania Avenue are not about to propose it even if they know, it will work.

I did raise the gas tax issue on the first go around with this energy bill.

Realizing that this question is a very sensitive one, I offered a modest amendment, expressing the sense of the Senate that the Congressional tax committees study the question of whether we ought to shift some of the existing income tax burden to motor fuels.

The concept is straightforward: Reduce the income tax which on the margins discourages people from working and investing and place the tax instead where it will result in "less pollution" and "greater security".

If a phased-in 40-cents-per-gallon increase were chosen the tax credit would amount to $215 for individuals and $431 for married couples filing jointly according to Joint Tax Committee estimates.

This proposal should not be all that hard to swallow.

I personally would prefer a tougher approach, and have long advocated using revenues from an increase in the gas tax, to reduce the budget deficit, and/or invest in our basic infrastructure.

And I am pleased that recent proposals put forth by Paul Tsongas and Ross Perot to reduce the deficit, by increasing the gas tax by 50 cents, have been received favorably by serious observers.

But I have been persuaded that if we try to hit two birds at once—energy conservation and deficit reduction—we are likely to end up with neither.

So for now, I am pushing a tax shift rather than a tax increase. And will continue to pursue deficit reduction through other measures.

My amendment to study tax shifting, which was adopted in February and is part of the pending bill, represents a small step forward on an extremely difficult issue.

I do not plan to offer an amendment to increase the gas tax, at this time.

I realize that in an election year, the chances of passage are virtually nil, and that a negative vote now, on this issue, could actually damage its chances, in the future.

I am willing to be patient, because I am confident that once the Finance Committee looks at the gas tax more closely, the rationale for reform in this area will grow; and that building on existing information, we will, over time, forge an overwhelming argument, that a serious national energy policy requires the imposition of a conservation tax.

The case is already building.

Since the Senate adopted my amendment in February, two independent studies have further strengthened the case for imposing a conservation tax on motor fuels.

In April, the National Research Council, the research arm of the National Academies of Science and Engineering, released a 10-month study which found that increasing gasoline prices, was in many ways, a more preferable way of achieving energy conservation, than increasing CAFE standards.

The study, entitled "Automotive Fuel Economy: How Far Should We Go?" found that while CAFE standards are at odds with market signals—because increasing efficiency makes driving cheaper—increasing fuel prices would send an unmistakably, clear signal, to conserve.

In June, the World Resources Institute came out with a fascinating study, which found that the economic, environmental, health and security costs of driving, not covered by the current gasoline tax, total $300 billion a year.

To accurately reflect the true costs of driving—highway construction and maintenance, highway services, commuter parking, air pollution, global warming, national security risks, congestion, accidents, and noise—the study found that motor fuels taxes should rise more than $2 per gallon above their current levels.

Now, I realize that most politicians think that voters will not understand issues of externalities and social costs; but make no mistake: The American public knows the cost of foreign oil dependence all too well.

They know that in the late 1970's, our dependency cost us jobs, while in the early 1990's, it cost us lives.

They know that more than 100 of our Nation's cities are so polluted, in large part by automobile emissions, that they do not meet Federal clean air health guidelines.

They know the gridlock they face commuting each morning is getting worse and worse.

Mr. President, I am determined to move forward on this issue.

I am advised that pursuant to the sense of the Senate amendment, the Finance Committee has requested that the Congressional Research Service [CRS] study this issue.

I think this is a positive step, but it is my hope that once this study is complete, the Finance Committee will hold hearings on this subject.

I know that when I testified before the Finance Committee in mid-February, the chairman stated his interest in considering this proposal, and I look forward to working with him, on this issue in the future.

Mr. President, I thank the Chair. I thank the chairman of the Energy Committee for permitting me to offer these few words. I yield the floor.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Symms-Graham amendment, which recurs.

Mr. JOHNSTON. Mr. President, Senator METZENBAUM has now removed his objection, and we are ready for the adoption of that amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2784) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we are now ready for the Rockefeller amendment which is, as I look over this list of potential amendments, really the last really essential amendment to be considered. That is not to say that it will be the last amendment to be considered. So let the word go out to Senator ROCKEFELLER, wherever he is, to please come in and deal with his amendment. In the meantime, I suggest the absence of quorum.

Mr. WALLOP. Mr. President, will the Senator withhold?

Mr. JOHNSTON. Mr. President, I withhold.

Mr. WALLOP. Let me add my urgings to those of the committee chairman. This is an amendment which I think will arrive without need for considerable debate or controversy. But if that is not the case, it really belongs being in front of the Senate as soon as possible so that we can dispose of the amendment. A great deal of work has gone into the negotiations that brought us to this point, and the Senate needs time to consider it carefully.

I do not have any idea how long it may be debated, but should there be a desire to have extended debate, the Senate is entitled to have the debate begin as soon as possible.

Mr. President, 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. JOHNSTON. 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. JOHNSTON. Mr. President, we have just asked for a hot line to go out to ask Senators if they have additional amendments. We know there is a Rockefeller amendment which we are prepared to accept basically without debate, unless there is some unexpected glitch in the amendment. The rest of these amendments appear to us, Mr. President, to be the kind of amendments that may, and we hope will, go away when pressed to the issue.

So we are putting out a hot line. If we are lucky, we can finish this up in time for everyone to get away for an

early dinner. If Senators are really serious about some of these amendments, we may be here several days. We hope it is an early dinner, Mr. President, because I know there are a lot of Senators who are anxious to get away because they told me that they are. The hot line will go out.

Mr. WALLOP. Mr. President, I urge my colleagues on my side of the aisle to consider carefully how valuable a contribution their amendments may be to the process of America's energy policy. If they can find it in their hearts to look to another time, look to another vehicle, we would be most grateful. At any rate, I do urge my colleagues to make known their intentions so that we can draw a circle around this bill and at least get this energy policy to conference where it really belongs.

I urge a prompt response. Once again, we urge the arrival of the Rockefeller amendment.

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

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

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2786

(Purpose: To extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978)

Mr. JOHNSTON. Mr. President, I will send an amendment to the desk. It is somewhat in the nature of a technical amendment on behalf of Senator BROWN which extends the date of the Uranium Mill Tailings Radiation Control Act of 1978 from 1994 to 1998.

I say it is in the nature of a technical amendment because we think we can probably deal with this problem on the basis of the present legislation, that is, S. 1220, the bill presently under consideration. But it is probably prudent to accept this amendment. So I send that amendment to the desk at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BROWN, proposes an amendment numbered 2786.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . URANIUM MILL TAILINGS RADIATION CONTROL ACT EXTENSION.

Section 112(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7922(a)) is amended by striking "1994" and inserting "1998".

Mr. BROWN. Mr. President, I am pleased that the Senate has agreed to include my amendment, which will reauthorize the Uranium Mill Tailings Radiation Control Act of 1978, as part of the committee substitute amendment to H.R. 776, the Energy Efficiency Act.

In October 1991, I introduced S. 1885, which would have reauthorized the Uranium Mill Tailings Control Act of 1978 and extended the Uranium Mill Tailings Remedial Act [UMTRA] Program through September 1998.

Uranium ore was processed in large part by private companies for use by the Department of Defense from the 1940's through 1960. Once the contracts between these companies and the Federal Government were completed, the uranium mills were shut down and large piles of uranium tailings, which contain radioactive elements, were left on site. Recognizing the threat to human health and the environment that the tailing posed, Congress enacted Public Law 95-604, the Uranium Mill Tailings Radiation Control Act of 1978.

Since the law's inception in 1978, the Department of Energy and affected States have worked together to make the UMTRA Program a success. DOE, in conjunction with the States is responsible for the cleanup of 24 inactive uranium mill tailings sites in 10 States. Under the act, DOE provides for 90 percent of the costs associated with the UMTRA Program, while the States contribute 10 percent. To date, the cleanup of nine of the sites has been completed.

While significant progress has been made cleaning up these sites, we have been told by DOE that remediation of all 24 sites will not be completed by the stated expiration of the act in 1994. Of the sites in Colorado—Durango, Grand Junction, Gunnison, Maybell, Naturita, Rifle, and Slick Rock—only the Durango site has been remediated.

It is critical we assure affected States and communities that the program will continue, so that cleanup of all sites can be completed and the health and environmental risks associated with these tailings can be eliminated. The extension of the act also ensures the ability of States to budget for their required cost-sharing contributions to the program.

This amendment will ensure the Federal Government's commitment to the cleanup of these sites.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2786) was agreed to.

Mr. WALLOP. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. 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. JOHNSTON. 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. JOHNSTON. Mr. President, we now have the results of our hotline back. On our side of the aisle, the only amendment requested is the Rockefeller amendment.

I see Senator ROCKEFELLER on the floor, and we are prepared to do that now.

I wonder if the Senator from West Virginia [Mr. ROCKEFELLER] would tell me how much time he would like.

Mr. ROCKEFELLER. I say to the managers not more than 5 minutes for the entire amendment.

Mr. WALLOP. My suggestion is if that is the case, why do we not take 20 minutes, equally divided, with the intention of yielding back whatever time out of that that is not used.

Mr. ROCKEFELLER. That is fine by this Senator.

I say to the manager on the Democratic side, we are awaiting the arrival of Senator FORD.

Mr. JOHNSTON. Mr. President, I think we can go ahead and get these amendments identified at least.

Mr. President, I ask unanimous consent that the only amendments to be considered on the pending legislation H.R. 776 are as follows: A Rockefeller amendment with respect to coal miner health; a Dodd amendment with respect to rollup securities.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

There is now pending before the Senate a unanimous-consent request propounded by the senior Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I withdraw that request.

AMENDMENT NO. 2787

(Purpose: Substitute for the coal health provisions)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 2787.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(Subsequently, the following occurred:)

AMENDMENT NO. 2787, AS MODIFIED

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that my amendment be modified with the changes that I now send to the desk. And in case anybody is nervous, it is a simply a collating matter. We were advised by legislative counsel to do this.

The PRESIDING OFFICER. The amendment is so modified.

(The text of the amendment (No. 2787), as modified is printed in today's RECORD under "Amendments Submitted.")

Mr. JOHNSTON. Mr. President, I ask unanimous consent that there be a time agreement on the pending amendment of 20 minutes, equally divided between the Senator from West Virginia and the Senator from Wyoming, and that no second-degree amendments be in order.

The PRESIDING OFFICER. Is there objection.

Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, the Senate can be proud, the American people can be proud, that this legislation will see to it that the promise of health care is kept to tens of thousands of retired coal miners and their families.

Everyone acknowledges that these elderly people deserve their health care coverage. They earned it in some of the most dangerous and important work in America. As former Secretary of Labor Dole's Coal Commission said very simply, the commitment to health care benefits should be honored.

The history of the two financially troubled health care trust funds can be traced back to an historic 1946 agreement between the mine workers and the U.S. Government. Labor and industry leaders were called to the White House after President Truman seized the mines during a strike over the deplorable state of health care in the coalfields.

The world and the coal industry and health care in America have changed in many ways since then. Skyrocketing health care costs and a crazy quilt of court decisions on company liability have badly eroded the financial condition of the retired coalminer trust funds.

But certain things have not changed. Health care is still one of the most important things in the life of a retired coalminer. The need remains for statesmanship among industry and labor leaders in ensuring that there is good health care in the coalfields.

During the last few weeks I have been involved in intense and lengthy negotiations on this legislation. We have debated arcane points of law and obscure data about every facet of the coal industry.

But we must never forget that what is important here is the people involved.

Many of these retirees were born in the early decades of this century. Their active days in the mines were in the 1930's and 1940's and 1950's. They remember the days of the pick and shovel and dynamite, when caveins were not uncommon and methane explosions often brought sudden disaster.

These miners gave so much for our country. They fueled American industry to a position of world leadership and sustained the country as a bulwark of freedom in hot war and cold. What they won for themselves and their dependents was not a favor but what they paid for at a high price, often with their lives.

In the deal that created this health program in the 1940's, the miners agreed to mechanization of the mines, opening the way to the industry's prosperity. The miners knew that tens of thousands of jobs would be lost but that they would have good health care in their twilight years. The industry knew its labor costs would fall. This legislation is needed to see to it that the deal is honored. Mechanization is creating a very different economic future for the coal industry. But this legislation is needed to honor an historic promise from the past—to take care of the people who made industrial history.

In the coalfields, family is everything. Working together, families created riches for the coal industry and for the country. The modern industrial might of America rose on the backs of these families. To tell the story of one of many thousands of those families, I invited a widow from my own State of West Virginia to testify before my subcommittee last fall.

Dixie Woolum told us how in the late 1940's the health trust funds transformed health care in the coalfields. She said that her husband told her that if anything happened to him, she would be taken care of. Because of financial trouble in the funds and legal loopholes, however, things did not go smoothly. Her health benefits were cut off and it took lawsuits to get them back for people like Mrs. Woolum.

Mrs. Woolum spoke for herself and many thousands of others when she said:

> My husband was a devoted man to his work. He worked in bad conditions, but he never missed a day. * * * It is a blow in the face to think some day you have health coverage and the next you have nothing. * * * I am not an educated person, but I do know what is right and what is wrong. I hope through your work, this will not ever happen again to anyone else.

If this legislation is enacted into law, as I believe it will be, Mrs. Woolum's wish that others will be spared her difficulties will be fulfilled. Some say today that those who have worked hard and played by the rules have been slighted in America in recent years. Here is an opportunity to prove that isn't so. Here is an opportunity to show the world an older America and one that we can begin to rebuild here today. An America where those who work hard and do what is right for their country received in return their country's gratitude.

This has been one of the most contentious pieces of legislation I have worked on in the Senate. But I have said from the beginning that my goal was to protect the health care of retired coalminers and their families, and that I was not wedded to the details of how to do it. To get past the contentiousness, I have tried to listen to all concerned and accommodate as many suggestions as I could. That will continue to be my approach as the legislative process continues.

The legislation we consider today is significantly different from the bill I introduced last November. Instead of including a broad industrywide tax, the basic funding mechanism of this legislation generally requires premium payments from those for whom the retirees worked. These are the responsible companies. Under both bills, companies with retirees still in the existing health funds would pay for their own retirees. We must stop the past practice in which existing companies dump their responsibilities onto the companies that have faithfully kept their commitments.

The key difference between the two bills relates to the funding of health benefits for the orphan retirees. In general these are the people whose companies are out of business. Under the earlier bill, the tax would have funded those benefits. Here, in general, the responsible coal operators and related companies will fund the benefits. The two existing health trust funds will be folded into a new, combined fund, in general for current fund orphans and nonorphans. Additionally, a new 1992 fund will be required to provide for certain other retirees, including those who might be orphaned by future bankruptcies or liquidations.

The approach of the current legislation was not lightly arrived at. Lengthy and difficult negotiations were required because of the myriad of conflicting interests in our nationwide coal industry. As the Dole Commission indicated, more than one approach might be reasonable and fair.

The current approach is the one sought by the administration and in the end it appeared to be the one most likely to command a consensus in the legislative process. Under this legislation, the current health benefits will be preserved. The approach of this legislation rests on the important principle that responsible companies should bear the cost of these health benefits. It is a rational approach. It is a fair approach. It is a good and reasonable way for

Congress to see to it that the country keeps its word to the retired coalminers and their families.

That the country must keep its word to these elderly people is the ultimate meaning of this legislation. Many Senators and other people have worked hard to see to it that the promises are kept. I express my gratitude for his assistance to my senior colleague from West Virginia, Senator BYRD. I express my gratitude to Senator WALLOP for his cooperation and to Senator FORD and many others.

As the poet, Robert Forst said, "we have promises to keep and miles to go." But we will have taken a big step toward our goal when we pass this legislation. The Senate can be proud of it. The country can be round of it. The country can be proud of itself. Keeping this kind of promise is what America is all about.

Mr. BYRD. Mr. President, will the Senator yield to me briefly?

Mr. ROCKEFELLER. I am pleased to yield.

Mr. BYRD. I thank my colleague.

Mr. President, the purpose of the amendment offered by my colleague from West Virginia, Mr. ROCKEFELLER, is a simple one: it is to assure more than 100,000 retired coal miners and dependents that they will continue to have access to adequate health care beyond February 1, 1993.

It is to assure tens of thousands of retired coal miners—many of whom are in poor health, and all of whom who risked their lives to provide our Nation with the energy resources that made America the great economic and industrial power that it is today—that promises made to them during their working years are not now, in retirement, in their "golden years", going to be reneged upon.

It is to assure tens of thousands of dependents of such retirees, many of whom who saw their fathers, brothers, husbands, and sons sacrifice life and limb thousands of feet below ground in the dark and cramped recesses of an underground mine, and who must now watch their loved ones suffer the ravages of black lung and other debilitating health problems resulting from their work in the coal mines of America, that the health benefits upon which they so critically depend will not be suddenly taken away.

This amendment is about honoring commitments. It says that when promises are made, promises will be kept. It is that simple.

Yet, getting it to the floor has been anything but simple. The road has been long, filled with many twists and turns, and always seeming to be on an uphill climb.

My colleague, Senator ROCKEFELLER, however, has shown great patient and perseverance in seeing this matter through.

I know how hard he has worked to bring this amendment to fruition. He has talked with me from time to time about it. I commend him on a job very well done.

In addition, I wish to commend the Senator from Kentucky [Mr. FORD] and all of those who have worked so hard to bring this to a successful conclusion.

As a result of this amendment, Mr. President, retired coal miners and their dependents will no longer need to fear the loss of the health care benefits. Through the merger of the 1950 and 1974 United Mine Workers of America Benefit Funds, retired mine workers will continue to receive health care coverage through a new combined fund. Their benefits will be provided by those companies that are now or formerly were signatories to a National Bituminous Coal Agreement. It is these companies that made the promise of health benefits to their workers, and it is appropriate that these companies be collectively asked to provide these benefits.

And this amendment accomplishes that.

Again, I want to pay my highest compliments—and I fall short of the appropriate words to do so—to my distinguished colleague, Senator ROCKEFELLER. He has had his mind and his heart on this amendment for months and months, and he has spent many, many long hours in pursuing those efforts in support of the amendment over these many, many months.

I take my hat off to him. I admire him for his tenacity, his perseverance, his high purpose, and his faithfulness to duty, as he has toiled along the way to make this amendment a reality. It deserves the support of every Member of the body.

I close by once again commending my colleague, Senator ROCKEFELLER, and by thanking Senator WALLOP and the others who worked with Senator ROCKEFELLER on this matter for so long a time.

Mr. President, I thank my colleague for yielding, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming controls 10 minutes, and the Senator from West Virginia controls 3½ minutes.

The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I yield myself 4 minutes.

Mr. President, let me give my thanks back to Senator BYRD, Senator FORD, and Senator ROCKEFELLER. They know, and Senator JOHNSTON knows, and others know I did not want this provision on this bill. It is not energy legislation.

It was, nonetheless, part of the vehicle that arrived from the Finance Committee, and it was a circumstance with which we had to deal. It was not a question of wishing to, wanting to, not caring for, wishing to avoid, or not wanting to deal with the issue of the so-called orphans. I mean, they were never an issue. It was a question as to whose responsibility they were.

Negotiations were correctly described as difficult. But they were always conducted with at least a reasonable understanding of what was on the other side's plate, and what was causing difficulty.

To that end, I particularly wish to thank the administration's folks who came to help us: Tom Scully, Gail Wilensky, and Barbara Selfridge.

I also wish to thank Paul Joffe, Jonathan Wood, Kennie Gill, Ellen Doneski, and Jim Fransen, of the legislative counsel.

Of my own staff, Micheal Hoon; and of the Energy Committee minority staff, Marian Marshall and Gary Ellsworth.

I think it is fair to say these people put in probably longer hours on the resolution presented by this amendment than the collection of the other amendments which will come to rest on or around this bill.

I believe that the resolution which we have arrived at is as fair as we could possibly make it. I thank Senator BYRD, Senator ROCKEFELLER, and Senator FORD for their efforts to come to agreement, and for their understanding of the problems that the original amendment presented to me.

All of us have things with which we take some satisfaction. In this resolution, all of us wish there were some little piece of it that we could have left as originally drafted, or not have included even as finally drafted.

But, having said that, I think it shows the best traditions of the Senate that a resolution to a very sticky, very thorny problem was arrived at in as fair and equitable a manner. And the best part of it is that the innocents in the program, whose plight brought us to the table, have had their interests protected and assured.

Fundamentally, I think that was never a question that any of us wished to avoid. It was always my intention, certainly, that that should take place.

Mr. President, I would yield the remainder of the time that I have to Senator SPECTER.

But I would just like to make the following statement: That the amendment does not void the litigation known as the Evergreen case. I want to make clear that it is the Senator's intention that any liability ultimately assessed in that litigation shall apply only to that prior to the date of enactment, and not to future obligations.

It is also my understanding that moneys that may be paid for past liability will not be interpreted as contributions which were actually received after 1997 and before July 20, 1992, by the 1950 UMW benefit plan, or the 1974 one.

Mr. President, I yield the remainder of the time to the Senator from Pennsylvania [Mr. SPECTER].

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SPECTER. Mr. President, I thank the Chair, and I thank my esteemed colleague from Wyoming for yielding time.

Mr. President, I join in supporting this important amendment. I congratulate my colleagues for working out a very, very difficult issue. I compliment the Senator from West Virginia for tackling this complex matter, and for shepherding it through the stages which we have arrived at here today.

I know from personal experience the tremendous anguish of the retirees from the coal industry, because we have many of them in the Commonwealth of Pennsylvania. This issue was brought to my attention by repeated visits in western Pennsylvania, and especially southwestern Pennsylvania.

Last January, I went to Washington, PA—they call it "Little Washington"; maybe they should call it "Big Washington," but they call it "Little Washington"—to meet with several hundred of the coal retirees. During the course of that meeting, I heard of the kinds of problems that they were sustaining. It is especially tragic because they had expected to have benefits to have protected them from the ravages of aging, and the ravages of the need for medical care.

As this matter has worked its way through the legislative process, there have been a great many who have contributed. The Senator from Kentucky is on the floor. I really observed—participated to a slight extent, but really observed—the negotiations one evening last week with the chairman of the Appropriations Committee, attended by the majority leader and the Republican leader.

I believe this amendment takes the issue away from a contentious debate and a contentious vote and works it out, I think, on terms which are highly acceptable.

Again, I thank my colleague from Wyoming for yielding me time, and I yield the floor.

Mr. FORD. Will my distinguished friend from West Virginia yield me some time?

Mr. ROCKEFELLER. How much time remains?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent for about 2 minutes after that.

But I yield the remainder of the time to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

I am sorry, the Senator from Kentucky is recognized.

Mr. FORD. We have been giving so many accolades to the distinguished Senator from West Virginia we think we are all from West Virginia. I have been called a third Senator from West Virginia, and I do not mind that at all.

Mr. President, let me first say to my colleagues and good friends—Senator JAY ROCKEFELLER, you just could not ask anyone to work any harder and be more dedicated than he has been on this issue; and Senator BYRD, with his expertise and ability to work out the funding formula; and Senator MALCOLM WALLOP with his good, hard negotiation—that their leadership and untiring effort, in my opinion, has produced this compromise.

It was not always clear that we could accomplish our goal of protecting the health benefits of retirees and their families in the coal fields, including over 16,000 retirees in Kentucky. But after days, hours, and weeks of negotiations, we have achieved that end.

Throughout this process, I have had two goals: first, to ensure that the beneficiaries of the UMWA Benefit Funds did not lose their much needed health care benefits, nor have them interrupted; and second, that the funding mechanism for paying for these benefits not include a new tax on coal companies that were never a part of this problem.

This bipartisan compromise accomplishes both of these goals and I am pleased to support this agreement.

My main interest in this process has always been to protect the retirees who were promised lifetime benefits, without imposing a burden on Kentucky coal that would be devastating to our ability to remain competitive.

I can remember standing in the hot burning Sun on a Saturday afternoon in July at the courthouse in Harlan County, KY. The Junior Chamber of Commerce, the Jaycees at that time, had raised funds for a memorial for all those who had lost their lives, in Harlan County alone, working in the coal mines.

Close to 1,400 names were on that memorial. They were the names of hard working individuals that literally gave their lives to produce the energy that the rest of us in this Nation need to live our lives. Theirs was truly the ultimate sacrifice, in one of the most dangerous jobs I know.

And when I remember that hot July afternoon, I remember the wives, and the children, and the families that were there that day to honor their loved ones. It is for these families, and the promise given to their loved ones that if anything happened to them, their families would have lifetime health care benefits, that I remain committed to seeing this reasonable, and fair, legislation signed into law.

This bipartisan compromise ensures a permanent and stable funding base for the health benefits of existing retirees. It also puts in place a procedure whereby the United Mine Workers and the Bituminous Coal Operators will negotiate a new fund to ensure that the health benefits of a limited number of future orphans will be protected.

Many of the changes I sought to have incorporated into the original proposal have been adopted, and I am most grateful to my colleague, Senator ROCKEFELLER, and his most capable staff, for accommodating me. There is no new tax on nonsignatory coal in this agreement. We have closed the new orphan fund so to limit the problem and ensure a long-term solution. We have attempted to allocate costs according to the principle that those most responsible should bear the greatest portion of costs. And we have ensured that our retirees, and their families, will not have to bear the cost of future problems.

Of course, this is a negotiated settlement. And as with any compromise, no one Member, or party, got everything they wanted. But I believe that we can truly say that all of us, and the Nation as a whole, got something. And that is a stable coal industry that will not face the heartache and trauma of a nationwide coal strike next February. Coal can be the key to our energy independence, and this agreement we are adopting today will ensure the long-term stability, and competitiveness, of this industry.

I commend my colleague, Senator ROCKEFELLER, for his tireless efforts to resolve this problem. I also want to commend Senator BYRD and Senator WALLOP for their crucial participation in bringing together this compromise. and recognize the considerable contributions of the White House in putting this bipartisan compromise together.

The retirees owe Senator ROCKEFELLER a great debt of gratitude for ensuring that a promise made to them can be kept. This Nation owes the same gratitude for achieving a solution that is fair, and ensures that the coal industry, as a whole, can continue to prosper.

Mr. President, not many times do you have an individual that works on your staff that is as dedicated as one Kennie Gill on mine. She has worked diligently. She has never given up. She has stood her ground on occasions when it was necessary. I am very pleased that she is an individual that represented me in this negotiation. And I want to pay a compliment to her, to Paul Joffe, to Gary Ellsworth, to Ellen and Doneski, others that worked so hard as staff to be sure that this piece of legislation was put together.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. Will the Senator yield me 30 seconds?

The PRESIDING OFFICER. The Senator has no time to yield.

Mr. WALLOP. Mr. President, I yield the remainder of my time, first, to Senator JOHNSTON and the remainder to Senator ROCKEFELLER.

Mr. JOHNSTON. I thank my colleague.

I simply wanted to state my admiration for the distinguished junior Senator from West Virginia, Mr. ROCKEFELLER; to Senator FORD, from Kentucky; to Senator WALLOP; to the senior Senator from West Virginia, Senator BYRD; and the other Senators who have been involved in this matter.

Frankly, I thought they would never do it. I thought this amendment was a dagger pointed at the heart of energy legislation and that we would be dragged down into the mire of the impossible dream of getting this legislation passed. But the distinguished Senator from West Virginia, with his stick-to-itiveness, with his good humor, but with his absolute devotion to this idea, came and brought the parties together in an impossible dream.

It really is impossible the way he brought us to the brink of disaster and, at the last minute, scooped the baby off the tracks and in the process saved the coal miners of West Virginia. I hope they will always be grateful to him and to the Senator from Kentucky and the Senator from Wyoming, because they have accomplished the impossible.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

Mr. ROCKEFELLER. I yield one of those minutes to the Senator from Pennsylvania [Mr. WOFFORD].

Mr. WOFFORD. Mr. President, as a cosponsor of this amendment and as a supporter of the energy bill, at this creative, constructive and historic moment for coal miners and their families, I want to salute Senator ROCKEFELLER for his dedicated, outstanding leadership. Indeed, I salute the two Senators from West Virginia, Senator ROCKEFELLER and Senator BYRD our President pro tempore, as well as Senator FORD and my other colleagues who made this important solution possible. I see it as a promise fulfilled, a commitment honored.

America's retired coal miners have worked in dangerous, dirty and often unhealthy conditions and they were promised health care benefits. Coal remains the single largest source of energy in the United States and it is the miners who deserve the benefits promised them.

Like other Americans, coal miners went to work each day under the assumption that their health benefits would be there when they retired.

This amendment helps ensure that promise is kept.

Today, that promise is being broken for thousands of retired coal miners and their families. Not because they didn't work hard enough. Not because they didn't plan ahead. But because of economic forces over which they have no control.

Through no fault of their own, miners have become orphans in their retirement years. Their former employers have gone out of business or simply no longer make contributions to the existing health benefit trust funds. Now our miners have no place else to turn except here, to their Government. They played the game by one set of rules all their lives, and now somebody's changed the rules on them.

In large parts of Pennsylvania generations of miners have worked for over a century to bring coal out of the ground and provide the fuel that powered America's industrial might. In communities built by immigrants who came to this country looking for a better life for themselves and their children. Generation after generation, they were more than willing to work hard to fulfill the dream. Of a secure retirement if you work hard; of helping your children go to college if they study hard; of owning your own home if you save; and of having a doctor if you need one.

They did not expect anything handed to them on a silver platter. But they also did not expect to have the rug pulled out from under their feet when they retired.

For the miners and their families losing what they thought were guaranteed health benefits, the safety net is broken. Congress can fix it and this amendment on which the Senator from West Virginia has worked so hard over the last year will do it.

In 1990, a commission appointed by then Labor Secretary Dole, and chaired by former Secretary William Usery, addressed the problems facing retired miners. It reached a conclusion that ought to be a matter of common sense and basic fairness: that retired miners are entitled to the health care benefits they were promised and such commitment must be honored today. The basic recommendations of the Dole commission are contained in this amendment.

It is time for us to enact them into law. It is time to commit our will and our wallet to taking care of our own people and our own problems.

The health benefits provided to coal miners under this amendment are nothing more than what they are due. They worked hard for their retirement years. They have earned some peace of mind and a decent, healthy quality of life. This is not a handout. This is not a giveaway.

This amendment represents a promise kept, a commitment honored.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator from Pennsylvania, the Senator from Kentucky, the Senator from Louisiana, and the Senator from Wyoming.

I also want to thank Kennie Gill, with Senator FORD; John Wood, with Senator BYRD; Gary Ellsworth and Mike Hoon, with Senator WALLOP—all of them have been overwhelming; Jim Fransen, one of the Senate legislative counsel, who has not been mentioned. The degree of work the people like that put in, the public has absolutely no idea how deep that is.

I am very grateful to Tom Scully, Gail Wilensky, and Barbara Selfridge, of the White House, all of whom, once they came into the process, were dealing in very good faith and very constructive.

I want to say, however, that the individual who sits beside me as I now speak, Paul Joffe, stands out to me in heroic terms on this. For 3 years, without stopping, he has made this his cause. Last week, a colleague measured the amount of time that he spent on this particular project during the course of the week, and it was 120 hours. That was a typical week for him.

People out there do not know that people in the Senate work as hard as they do, that the staff works as hard as they do. To me, Paul Joffe, who sits at my side, my legislative counsel on these things and my counsel on many things, stands as a model of public service.

I think it is an inspiration. There are tens of thousands of coal miners out there who owe their health benefits to him and they do not know that but I so state them to him at this point.

I also want to thank Ellen Doneski who helped Paul and myself for this.

Mr. President, I conclude simply by saying that all of these things are terribly important because the work of the Senate is done by a combination of the willingness of Senators to dig in and take a position and then reach consensus. But all of the most difficult of all of that work is done by the staff of the Senate. That point constantly needs to be made.

I thank the Chair and I conclude by thanking Senator JOHNSTON for his extraordinary patience in this whole process. There were times when he was not actually in such a good mood. That simply reflected his desire to get on with the matter. I am very grateful to the Senator from Louisiana.

Mr. LIEBERMAN. Mr. President, Senators ROCKEFELLER, FORD, BYRD, and WALLOP have worked long and hard to craft a compromise provision on coal industry retiree health benefits which balances the needs of the United Mine Workers of America [UMWA] retirees and the interests of domestic and foreign coal mining companies. The task has been a difficult one because of the divergent interests among all the parties involved—union and nonunion coal companies, western and eastern coal companies, those who signed the 1988 BCOA-UMWA agreement and those who have separate agreements with the UMWA.

I am particularly concerned about those companies that previously were signatories to a BCOA-UMWA agree-

ment and now have separate labor agreements with the UMWA. In the case of the Pittston Co., which is headquartered in my State, they are being required to pay for retirees in the new Government fund created by this provision despite the fact that they had negotiated this issue as part of a separate UMWA collective bargaining agreement. I am concerned that Congress should not be in the business of abrogating collective bargaining agreements, except in the rarest circumstances. Congressional interference in the collective bargaining process could have troubling long-term repercussions. We should not be changing contract terms retroactively by congressional action.

I am also concerned about Congress interfering in pending court cases. In this instance, the evergreen case has been brought to determine Pittston's liability under its prior UMWA agreements. It would appear that the most appropriate way to resolve this issue is to allow this case to proceed to final judgment.

The Pittston-UMWA contract resulted from a painful, 14-month-long strike and is an elaborate agreement with contingencies to cover the possible outcomes of the evergreen lawsuit and an agreement not to support legislation which would impose a reachback obligation on the company. I am concerned by the fact that the action we take today abrogates a collective bargaining agreement which I believe was negotiated in good faith.

I am also troubled because this provision poses serious economic difficulties for those companies which export a substantial portion of their coal. Companies like Pittston cannot pass these costs through on the international export market, while those coal companies who sell to domestic utility companies have contracts which allow them to pass through Government mandated costs. Last year Pittston exported approximately 70 percent of the coal it mined. These exports are important to the economic strength of the United States. Particularly given the current state of our economy, we should be strengthening not undermining companies' ability to compete abroad.

I hope those who have drafted this provision will consider in conference establishing an export credit for those payments mandated by the provision. The credit would be based on the amount of coal mined in the United States and exported and should enable exporting companies to continue to compete on the international market. We cannot expect coal exporters to compete in the international market if their product is burdened by excessive Government fees or taxes. If these companies cannot continue to export coal, it is their employees in this country who will suffer. I appreciate all the hard work my colleagues have done thus far on this provision and I look forward to working with them as the bill goes to conference.

Mr. SIMON. Mr. President, I am proud to cosponsor legislation introduced to ensure the provision of health care benefits to retirees of the coal industry. I want to thank my good friend and colleague, Senator ROCKEFELLER for his hard work in drafting the provisions of that bill and working out this amendment. I also want to express my appreciation to all the other Senators who have also worked hard on this legislation.

Coal industry workers have contributed significantly to providing energy consumed in the United States and abroad. It is vital to every worker as well as the American economy that we maintain a stable and strong coal industry. The provision of lifelong health benefits is crucial to ensuring the continued well-being and security of coal industry employees, retirees, and their dependents many of whom work and reside in Illinois.

This bill provides a vehicle for insuring all coal industry employees and retirees, particularly those retirees who have been orphaned by bankrupt companies and coal companies which no longer are in business. As our Nation grapples with proposals for providing insured health care to all individuals, let this proposed legislation stand as an example of how industry producers and consumers should view their responsibilities to American workers. Once again, I am proud to cosponsor this legislation which directly responds to the overdue health care needs of a dedicated and well-deserving group of Americans.

The PRESIDING OFFICER. All time has expired on the amendment. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2787), as modified, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I will just take 30 seconds. I wanted to as a matter of official record thank Senator ROCKEFELLER from West Virginia for his fine work, and tell him I am very pleased to see the extension of benefits to the coal miners.

Mr. President, that is all I wanted to do. So 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. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WALLOP. Mr. President, we are right to the point where with a little understanding and cooperation from Members we could put together an agreement that would limit further amendments, describe those which remain, and there are not many remaining.

It is my hope that those who would once again seek to use this bill for other than energy policy purposes would resist. It is only postponing the time when we might get together a comprehensive energy policy. The Senate's privilege of nongermaneness ought once in a while be viewed with some discretion, and in this instance, it would be my hope Senator JOHNSTON, after working for 18 years on energy policy, and Senator WALLOP, after working 16 years on energy policy, might be indulged and that the Senate, which has already spoken 94 to 4 on its energy policy, might be permitted to work its will on matters relevant to that topic.

So I urge those Senators who are dabbling in the occult, if you will, trying to figure ways to further or impede political careers in a political season might resist that and allow us to go ahead. The remaining amendments that deal with energy can be disposed of with relative dispatch. Those that do not deal with energy will impede our progress more than through the night, probably through tomorrow, and into Friday.

Mr. President, I hope that calm and cool will prevail and we can be permitted to get on with this bill.

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

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

AMENDMENT NO. 2788

Mr. JOHNSTON. Mr. President, I will send shortly an amendment to the desk which broadens a study provided in the bill to provide for a survey of practices and policies under which electric cooperatives prepare least-cost plans, submit such plans to the REA, and the extent to which such least-cost planning is reflected in rates charged to customers.

In other words, it is a slight broadening of the subject matter of the study. It is submitted on behalf of Senator SIMPSON, and I now send that amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. SIMPSON, proposes an amendment numbered 2788.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 274, after line 21, redesignate paragraphs (2) through (4) as paragraphs (3) through (5), respectively and insert a new paragraph (2) as follows:

"(2) a survey of practices and policies under which electric cooperatives prepare least-cost plans, submit such plans to the Rural Electrification Administration, and the extent to which such least cost planning is reflected in rates charged to customers:"

Mr. WALLOP. Mr. President, the amendment has been cleared on both sides.

Mr. SIMPSON. Mr. President, I rise to offer an amendment which would require the Secretary of Energy to conduct a survey in order to examine the practices and policies under which electric cooperatives prepare least-cost energy plans, submit such plans to the Rural Electrification Administration, and the extent to which such least-cost planning is reflected in rates charged to customers. I strongly believe that this important analysis by the Secretary of Energy will be a first step toward ensuring that rural electric cooperative energy goals are in-line with the goals of the entire electric supply and distribution industry.

After a close investigation of demand-side management [DSM] theory, which is supported by the regulated electric industry, and the movement toward integrated resource planning in the Nation's electricity industry, I became curious as to whether or not electric cooperatives are submitting least-cost plans which are comparable to those presently required by Federal and State law to be submitted by privately owned utilities.

Demand side management is a method of improving a utility's financial performance, and philosophically guards against needless capital outlays for construction and operating expenses. It is my strongly held opinion that if the United States is to efficiently meet its energy needs into the 21st century, all providers must be a part of the equation. This amendment moves toward making the rural electric cooperatives part of that strategy and active participants in the process.

I thank the floor managers for accepting this amendment. My fine colleague from Wyoming, Senator MALCOLM WALLOP, has worked doggedly and passionately on this most important bill. His dedication and devotion to formulating legislation that will enhance our domestic energy industry should be commended. I do so deeply thank Senator BENNETT JOHNSTON for his unstinting cooperation in helping to craft this important bipartisan amendment. His assistance is most appreciated.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2788) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

Mr. JOHNSTON. Mr. President, I wonder if my distinguished colleague from Wyoming can tell us what the plans are on his side of the aisle for additional amendments.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, that we know of after the hotline, we have a Grassley ethanol amendment, a Dole ethanol amendment, a Dole solid waste disposal act, Senator MURKOWSKI offers a pair of amendments in the form of studies, Senator D'AMATO has an anti-dumping amendment, Senator STEVENS has a tax credit amendment, which I understand the Finance Committee is working on now and will accept; Senator SIMPSON's we have just adopted; Senator BURNS has a tax credit for oil production tar sands; Senator JEFFORDS for alternative fuels; Senator COCHRAN for windfall profit tax, for school districts in Mississippi. The Senator from Wyoming has one that is called relevant, which is defense mechanism, in case the bill should run out from under us in one way or another.

That is all that we know of.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Texas would be willing to let us get a unanimous consent embodying these amendments along with a Dodd rollup amendment under any formulation.

Mr. GRAMM. If the distinguished chairman will yield, if that amendment were asked for and were put on the list, I would oppose that amendment, and I would request that the Social Security earnings cap repeal, the capital gains tax rate reduction, since this is a tax bill, and the crime bill, also be included on the amendment list.

So I would be willing to enter into a unanimous-consent request embodying these amendments, the rollup amendment, and those three amendments.

Mr. JOHNSTON. Mr. President, I do not know how long Senators want to expect to be protected. But if nothing is happening here, and no one wants to put in an amendment, I will say we will very soon go to third reading. I might say it is time the Senators did say yea or nay as to whether they wish to push an amendment.

Mr. WALLOP. Mr. President, will my colleague yield?

Mr. JOHNSTON. Certainly.

Mr. WALLOP. While we spoke, we disposed of an amendment. Senator COCHRAN will not offer his amendment on windfall profits tax.

Mr. JOHNSTON. Please convey our warmest thanks to Senator COCHRAN. He has risen from the heights to even higher heights in the esteem of the Senator from Louisiana.

Mr. WALLOP. Mr. President, 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. WALLOP. 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. WALLOP. Mr. President, all the people on our side who have amendments have been notified that the bill is open for amendment, that the progress, which has been good all day, is now stalled. I think it is unfair to other Senators. We approach the hour of half past 6, the time is going by, and no amendments are offered.

I would join with my colleague from Louisiana in believing that after a short period of time Senators may not be serious in their intent to offer these amendments, and that we ought to go to third reading.

I share with my colleague from Louisiana a desire to wrap up this bill and would hope that if any Senator is serious about offering an amendment they would show up and do it; otherwise I will join the Senator in the move to third reading.

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

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

AMENDMENT NO. 2789

(Purpose: To amend the Securities Exchange Act of 1934 with respect to limited partnership rollups)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2789.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the Committee amendment, insert the following new title:

TITLE _____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. ____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. ____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC. ____03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or

other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 17 months after the date of enactment of this Act.

AMENDMENT NO. 2790 TO AMENDMENT NO. 2789

Mr. DODD. Mr. President, I send a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 2790 to amendment No. 2789.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. GRAMM. Mr. President, I object.

The PRESIDING OFFICER (Mr. WELLSTONE). Objection is heard. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

The text of the amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE _____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. _____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. _____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination,

except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by

the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC.— 03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a ben-

eficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be temporarily suspended.

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

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Texas has just advised that some conversations with the Senator from Connecticut might prove fruitful on this matter and he advises that maybe we should set the whole amendment and second-degree amendment aside while those conversations proceed in order that we can maybe perhaps dispose of the remainder of the bill, hopefully.

If the Senator from Connecticut is agreeable to that.

Mr. DODD. To ask unanimous consent, temporarily lay it aside, and it would be the pending matter with no other legislative mater in between, I have no objection to that.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Wellstone amendment, with the second-degree amendment by Senator DODD, be temporarily laid aside.

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

Mr. JOHNSTON. Mr. President, we are now ready to do any other business, if any there is.

I suggest the absence of a quorum.

Mr. WALLOP. Will the Senator withhold?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, we are down to the point where this bill could be finished with some dispatch.

The amendment of the Senator from Minnesota, as amended by the Senator from Connecticut, is not energy policy. It is political policy, and I understand that. Everybody here does.

But it is genuinely important, Mr. President, This Senate has spoken on the energy strategy, 94 to 4. We are now down to just one or two amendments which have to do with energy policy. It is my hope that the Senator from Texas and the Senator from Connecticut can come to some resolution of it.

In the meantime, I insist again that our colleagues who have amendments do us the courtesy of coming here to the floor and offering them. It is an abuse of the privileges of the Senate to allow two people to sit here with every intent to managing a bill and disposing of amendments with as much credibility and dispatch as we can.

I would ask my colleagues—it is my understanding that we are the only ones on this side who have amendments remaining, absent that to be settled by the conversations that are temporarily set aside—so I would ask my leader, Senator DOLE, or Senator GRASSLEY, or Senator MURKOWSKI, Senator STEVENS, or Senator JEFFORDS, to come to the floor and offer their amendments and do us the courtesy of dealing with the bill with dispatch. We are here and ready to accept those amendments.

And I would say to my friend from Louisiana, that should it be that we arrive at some resolution that can dispose of the amendment now temporarily laid aside, I will join my colleague in calling for third reading on this bill. There is no reason why the Senate should not dispose of this bill or the amendments that are there to be offered. There is no reason for delay.

It is my hope that the two Senators now conversing can come up with a resolution of that which divides them and will permit us to get on to this bill. In the meantime, it is temporarily laid aside.

And I say again to those Senators, if they wish to appear on the Nightly News or whatever, it is a good time. Not much else is happening in America. Otherwise, we will go to third reading.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would repeat what the Senator says about senatorial courtesy. There are a number of Senators, this one included, who have highly important matters tonight involving, frankly, my wife, in my own case, and wives of others. And I do not mind at all missing my event tonight, as others do not, if there is business to do.

But, Mr. President, it is not right and it is not fair for Senators to keep us here waiting, not knowing whether Senators are going to put in an amendment or not. It is just not fair.

So I appeal to Senators, in the spirit of Senatorial courtesy, for which this body is supposed to be greatly renowned, to summon up all of their Senatorial courtesy and do what they wish to do, either say yea or nay on their amendments, and come to it.

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. JOHNSTON. 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. JOHNSTON. Mr. President, I am advised by the Senator from Texas [Mr. GRAMM] that we believe we are very close to having the so-called rollup amendment by Senator DODD worked out; that their staffs will be working. So that we do not expect that amendment will be a matter to prohibit us from going to third reading.

So again I invite Senators who might have business to come before the Senate on this bill to please come because you are now on the critical path. The Dodd rollup amendment, in all probability, is not an impediment to final passage on this bill, in all probability. So we would again invite Senators to come and do their amendments.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I echo once again the plea of my colleague. We would very much like to complete work on this bill. I believe that is within our reach if we could only reach out and touch that which remains to be done. It is perfectly ridiculous that we sit here with nothing to do, our patience and the tolerance of the Senate being abused by colleagues who have amendments, and presumably they or their staffs can hear this plea.

So I urge, again, our colleagues bring these down because should it be that we arrive at the conclusion of the arrangements between the Senator from Texas and the Senator from Connecticut, it will be my intention not withstanding that my leader has one of the amendments left, and other colleagues too, to go to third reading. I have no patience for staying here all night waiting for them to indulge us.

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

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

The legislative clerk proceded to call the roll.

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

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

AMENDMENT NO. 2791

(Purpose: To require the Council on Economic Advisers to complete and submit a jobs survey report on significant public and/or private sector construction, developmental or manufacturing projects scheduled or to be proposed)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 2791.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) JOBS SURVEY REPORT.—Within available funds, the Secretary of Labor and the Secretary of Commerce in consultation with the Council of Economic Advisers and working with other appropriate Federal officials, shall within ninety (90) days of the date of enactment of this Act, submit a Jobs Survey Report to the Congress on significant public and/or private sector construction, development or manufacturing projects under consideration by Congress, scheduled, or proposed to be undertaken or initiated prior to June 30, 1993. For purposes of this section, the term "significant projects" means any new construction, developmental or manufacturing project which will, at its peak, provide new job and employment opportunities to 2,500 or more people within the United States.

(b) In developing the Jobs Survey Report required by subsection (a), the Secretaries shall provide the Congress with the following information on the significant public and private sector projects defined in subsection (a):

(1) the location of the project;

(2) the private or public sector sponsor of the project;

(3) The total capital cost of the project;

(4) the scheduled period for construction and the projected completion date;

(5) the number of jobs associated with the project (by category):

(A) construction;

(B) fabrication;

(C) manufacturing;

(D) indirect; and,

(E) operation and maintenance.

(6) the physical location of the jobs, by state and region, associated with the project;

(7) the impact of the project, when completed, on improving national economic well-being and other aspects of the national interest;

(8) the extent to which the project, if undertaken on a timely basis, would reduce unemployment on a national, regional and state basis;

(9) the potential impact of the project on promoting the export of U.S. goods and services and in reducing the balance of trade deficit;

(10) any authorization, regulatory, financing or other impediments which threaten or may threaten to delay initiation of the project in accordance with the sponsor's project schedule; and,

(11) any appropriate legislation action recommended to the Congress to expedite initiation of the project schedule and the creation of new jobs for unemployed American working men and women.

(c) In preparing the Jobs Survey Report, the Secretaries shall devote one section of the Report to a review and analysis of trends underway in the nation's domestic petroleum industry which are causing the export of U.S. capital and jobs. The Council shall analyze the causes of these trends and shall identify the contributing role, if any, of the following factors and make appropriate recommendations to the Congress:

(1) world oil prices;

(2) any decline in technological leadership;

(3) lack of leasing opportunities in prospective areas, including the public lands;

(4) shortages of capital for domestic petroleum development;

(5) tax policy, environmental and other regulatory restrictions which make development and operations more attractive in foreign countries;

(6) significant changes in domestic demand for petroleum products; and,

(7) any reduction in the degree of risk associated with reliance on foreign sources of oil for 50 percent or more of domestic demand.

Mr. FORD. Parliamentary inquiry, Mr. President. Do we need to set aside the Wellstone-Dodd amendments in order to accommodate the Senator from Alaska?

The PRESIDING OFFICER. Not at this time. That consent was previously granted.

Mr. FORD. But that is in perpetuity?

The PRESIDING OFFICER. The latter two amendments will recur upon disposition of this amendment.

Mr. FORD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, we have just conferred at some length on the amendment offered by the junior Senator from Alaska which would basically cover a jobs survey report directing the Secretary of Labor and the Secretary of Commerce, in consultation with the Council of Economic Advisers, and working with other appropriate Federal agencies, to submit within 90 days of date of enactment a jobs survey report to the Congress on significant public or private sector construction, development, or manufacturing projects under consideration by Congress scheduled or proposed or initiated prior to June 30, 1993.

Inserted therein is the notation "with available funds."

The purpose of the amendment specifically requires that the Secretaries provide the Congress with information on the significant public- and private-sector projects identified in various subsections, specifically: Construction—fabrication, manufactured, indirect; operation maintenance; location of jobs; impact of projects; the extent to which the projects are undertaken on a timely basis are made known; potential impact for projects in promoting the export of U.S. goods; any authorization, regulatory financing, and so forth.

Covered in the report is detailed information relative to outflow of jobs in the United States as a consequence of investment overseas and increased dependence on imports.

It is my understanding that the amendment has been cleared on this side by the minority, and I believe the majority has accepted the amendment as well.

Mr. FORD. Mr. President, we have no objection on this side to the amendment as it has been corrected: "with available funds."

Mr. MURKOWSKI. I thank my friend from Kentucky. I urge immediate adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2791) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. I thank my friend from Kentucky, and I thank the staff.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. 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. GORTON. Mr. President, I ask unanimous consent to proceed as in morning business.

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

(The remarks of Mr. GORTON and Mr. AKAKA pertaining to the introduction of S. 3097 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.").

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll. The bill clerk proceeded to call the roll.

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

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

NUCLEAR REACTOR LICENSING

Mr. SIMPSON. Mr. President, I wish to speak on the reform of the licensing process for nuclear energy plants which has been approved by both the Senate and the House.

The provisions in the House and the Senate bills are identical and expand upon the Nuclear Regulatory Commission's [NRC] part 52 rule for a combined construction and operating license. A Federal appeals court decided unanimously last week to uphold the NRC's part 52 rule in its entirety.

This provision clarifies that public concerns should be addressed before a spade of soil is turned—not after completion of a plant.

At the Shoreham plant we are witnessing the failure of the existing li-

censing process, where a completed plant—which never generated a single commercial kilowatt of electricity—is being torn down and dismantled. A true tragedy of fiscal and energy folly.

Under the new proposal once the construction of a plant is approved by the Nuclear Regulatory Commission [NRC], a utility may proceed with construction without the specter of indefinite delays.

The NRC may halt construction at any time if new information arises which the Commission decides is significant with respect to safety.

In any event, any NRC licensing decision may be appealed in Federal court.

ADVANCED REACTOR DESIGNS

The Senate bill requires the Secretary of Energy to submit a 5-year program for the commercialization of advanced reactor technologies to Congress, targeting 1995 for the design completion for advanced light water reactors.

These designs take advantage of natural forces of nature such as gravity and natural circulation of the coolant in order to prevent potential accidents. In the event of an emergency, the reactor is designed to shut itself down and cool without the need for operator intervention.

I am truly pleased with this provision which will encourage safer, more reliable nuclear plant designs and will encourage NRC certification of these standardized designs on a timely schedule designed to meet this country's growing need for new electricity generating capacity.

URANIUM ENRICHMENT RESTRUCTURING

This legislation seeks to take a step toward privatizing the Federal Program of Uranium Enrichment by creating a Government Enrichment Corporation. The Senate has passed this provision many times and we are very familiar with it and now the House has also approved it.

This legislation would provide mechanisms for partial reimbursement of the costs of reclamation and remediation at uranium mill tailings sites.

I am also very pleased to see language which allows for cleanup reimbursements at sites which produced uranium for the U.S. defense program.

NUCLEAR DECOMMISSIONING FUND

I would like to thank my former colleague on the Nuclear Regulation Subcommittee, Senator BREAUX, for all of his fine work to include a provision that he had introduced and I have cosponsored, dealing with the repeal of investment restrictions applicable to nuclear decommissioning funds.

The removal of restrictions of investments, which are currently limited to tax-exempt bonds or Government securities, will open up a wider range of investment options for utilities to consider in managing these funds and will thereby greatly benefit utility ratepayers.

DEPLETION ALLOWANCE FOR URANIUM

I would also like to thank the Finance Committee, and particularly Senators BENTSEN, PACKWOOD, and HATCH for rejecting the repeal of the depletion allowance for uranium and other minerals which the House included as an offset for tax credits for electricity generated using renewable resources.

The depletion allowance provision has been in place in the U.S. Tax Code since 1913.

Over the years, Congress has reexamined whether to reduce or repeal the depletion allowance and each and every time has decided not to tinker with it.

And for good reason—it is an incentive to encourage exploration and capital investment in the high-risk mining industry. I believe this provision is still necessary to preserve our domestic mineral industry during cyclical market downturns and to enhance our international competitiveness.

I trust that the Senate language will prevail in conference so that the tax credit for renewable sources of electricity is not offset by the repeal of the depletion allowance.

ENERGY INDEPENDENCE

Mr. JEFFORDS. Mr. President, I rise again to address the issue of energy independence and our continuing failure to reach that goal. Over the years, particularly most recently, my office has received lots of mail about how the domestic energy industry, particularly our oil industry, is heading overseas and firing American workers. Let me cite some recent figures. Amoco announced recently 8,500 job cuts, Unocal another 1,100. Mobil, the industry that fought so hard against my last effort to save the domestic energy jobs, is laying off 2,000 workers.

British Petroleum is cutting 600 to 700 jobs. Exxon cutting 1,000 domestic jobs. Arthur Anderson predicts 40,000 to 50,000 more job losses in our oil industry. We had 4,500 rigs working in the early 1980's, now we have 645 rigs. Phillips Petroleum cuts 1,350 jobs; Chevron slashes 2,500 jobs; Sun Oil projects firing 1,000 workers, and Shell may fire up to 4,650 Americans.

Even API, the American Petroleum Institute, may trim their staff 10 to 15 percent, according to a June 15, 1992, article in the Legal Times. Fewer lobbyists to oppose energy independence.

According to the Oil and Gas Journal, America will end up losing 411,000 jobs, that's almost the entire population of my State or several other States, such as Wyoming. Between 1981 and 1989, 154 refineries closed in this country, 9 of which were in Wyoming. Refineries closed in Lusk, Osage, Glenrock, Cody, La Barge, Cowley, and Casper. Amoco recently announced that it was closing a refinery in Wyoming as well to bring the number to 10. We have got to stop this loss of jobs.

Some may blame this loss on environmentalism, but that is not the reason. Oil companies are going overseas because they make more money, not because anyone is forcing them to leave this country. There is plenty of oil right here in America without ever touching ANWR or the coastal areas. Greater use of enhanced oil recovery techniques could bring billions of American gallons to market and provide American jobs.

Why are these techniques not being used? Because oil recovery using these techniques is more expensive than conventional oil recovery. It's about economics, not environmentalism. Some oil companies say they have to leave because they cannot afford to comply with our environmental regulations. Well, if this is true, what does this mean? It means they are going to places that let them pollute. They say they have a choice to stay here in America and protect the environment, or go overseas and make more money. What do they choose? They choose to make more money and pollute. That, Mr. President, is the wrong choice and we should not reward those who make that choice.

So where does this leave us? Soon, foreign governments will control the supply of oil, the shipping of oil, the refining of oil, and the marketing of oil. They are doing just what the oil executives of yesteryear in this country realized they had to do to prosper. First, oil companies just refined oil and left the production to others considering it too speculative. Then, they realized they needed to control the shipping. Soon afterward, oil companies got into production, and finally, in I believe, in the 1920's they opened up service or filling stations. They controlled oil from below the ground all the way to the customer, and they prospered.

Now, OPEC and our foreign competitors are doing the same, just as the Abdullah Tariki, the Red Sheikh realized they must do some years ago. They already control the bulk of the world's oil. They are building the refineries. In fact, how many of my colleagues realized that 85 percent of the MTBE for reformulated gasoline we required under the Clean Air Act is not going to be made in America. Did you know that the oil companies plan to import the MTBE and not use American workers? When you voted for the Clean Air Act, as I did, were you voting for foreign jobs? I was not and I am sure you were not. More and more of the finished components and product are being made somewhere other than America. We have lost over 150 refineries in this country, who do you think is making up for this lost production. It is not our workers.

So OPEC controls the supply, is taking over the production, we all know the ships are not registered in this country, and the service stations are next. OPEC country's already own a significant interest in some of our con-

venience store chains and service stations.

Little by little we are becoming more dependent on foreign energy sources. I believe this is wrong. I believe many of my colleagues also believe this is wrong. I doubt any member of this body will say that domestic energy production is not important. My colleagues from Wyoming, for example, are trying to help their uranium industry when cheaper nuclear fuel is available from the former Soviet Union. My colleagues also worked to change stripper well royalties so as to help domestic oil production. Are these free market activities?

My colleagues from the oil States have tried various measures to protect domestic production from floor prices to import fees to raising the oil production limit for meeting the definition of a stripper well in order to receive favorable tax treatment. These are not free market options.

Why do my colleagues undertake these actions? Because they believe in domestic jobs, and they realize that there is no fee market for energy. Opposing efforts to increase domestic protection on the basis of maintaining a free market is thus highly questionable.

Energy is the lifeblood of our economy. And I do not wish to be melodramatic, but frankly, our energy policy has AIDS. Little by little our economy is being attacked by increasing dependency on foreign sources. Instead of curing the disease we are working all around the problem.

This bill does make some significant advances in such areas as energy conservation. But, there is one area it does not attack, and that is the dependency of our transportation sector on foreign energy sources. My colleagues will point to the fleet provisions of this bill combined with the Clean Air Act as significant efforts toward diversification of fuels. True, but we have not diversified the source of these fuels. With the exception of natural gas, the overwhelming percentage of these new fuels will come from offshore. Again, 85 percent of the MTBE will not be made in America. We have merely traded one dependency for another.

So how do we cure the energy dependency disease? I realize that there is no silver bullet. There are many conflicting goals that we must balance. Do we encourage further domestic oil production now, thereby depleting our reserves for future contingencies? Suppose we had never had a mandatory oil import quota program that the oil companies wanted and got. We would have more low-cost domestic oil available today. So those interested in husbanding our resources should oppose oil import quotas. The same argument can be made about protectionist import fees.

But, on the other hand, if we do not require some domestic production, we lose thousands of jobs. OPEC can underprice us any day of the week and totally shut down our domestic industry. Little by little, that is what they are doing. Once we lose the capacity to produce our own energy, we will be defenseless as a nation. Two world wars were won because we had greater access to energy and could outproduce our enemies. I note with some irony, Mr. President, that when it comes to making weapons, we insist that the weapons be made here, even though they could be made cheaper elsewhere. But, when it comes to the fuels that actually make the weapons work, we adopt some laissez-faire attitude that it does not matter where the fuels come from. This is absurd, we cannot afford to lose our ability to produce energy. Nor can we afford to drain our oil reserves dry until we have developed alternatives to oil.

So again, what is the answer? Handouts are not the answer, international oil companies do not need tax handouts. Oil companies are going to keep going overseas because OPEC oil is cheaper than our oil. But OPEC is smart; they will not kill us off too fast, 8,000 jobs here, 4,000 jobs there. A little at a time so we, the American people, do not get just mad enough to say enough is enough. But over time, we are talking about 400,000 jobs lost.

We have to accept the fact that we need domestic energy production and we need to protect domestic jobs and capabilities. But how do we do this and still meet the goal of conserving our resources?

There is only one answer to this problem and that is to protect a certain percentage of domestic production, but the key is the domestic production of what type of energy? We do not have $2 a barrel oil, we will never be able to compete with OPEC on pricing or in a truly free market. This free market nonsense is just that—nonsense. OPEC is not a free market organization, it's an organization designed to control prices for their benefit and our detriment. Conventional oil is thus not the answer.

Instead of the status quo of lost American jobs, I believe we should be requiring a certain percentage of domestic production of two types of energy. First, let us make use of those sources of energy that we either use or lose. Like stripper well oil. For the most part, once a stripper well shuts down, it is shut down forever. The oil associated with that well is lost. The pressures and subsurface characteristics needed to continue oil production disappear. Why let this energy source go to waste, to be lost forever. That is wrong. For virtually pennies a gallon, we can keep the thousands of stripper wells going. This would decrease our trade balance and increase the income to thousands of Americans across this country. Nearly three-quarters of the wells in this country are stripper wells. Let us not lose the production from these wells.

What is the second type of energy we should be mandating domestic production of? Those resources which are plentiful, like renewable resources. Our farmers can outproduce anyone in the world. They helped make our country great and they can continue to make America great. Let us put the family farmer back to work.

The Senate has already consider this proposal and voted to table it, so I am not going to offer it again. But, I urge my colleagues on the committee to improve this bill so that it will decrease our energy dependence.

Americans overwhelmingly think we are on the wrong track. In terms of our dependence on imported motor fuels, this bill does not put us on a new track. The only way to guarantee American jobs in the motor fuels industry is to protect them. Mr. President, I believe energy policy, in particular oil policy, is one area that America has consistently failed to adopt an effective long-range strategy. The debate has volleyed back and forth between two diverse views. Some say we should not limit imports at all; that we need a totally free market. Buy the oil wherever it's cheapest and husband our reserves. The other view is that we should become more reliant on our own resources, our own people. I believe American money should go to invest in American workers. I support domestic production.

I will not accept the terms of the big oil companies. They lobby for easing the environmental regulations that have made us one of the cleanest countries in the world. They lobby for opening up sensitive ecosystems to their drilling. And for what long-term again? The oil companies keep missing one of the fundamental reason for opposition to drilling in ANWR. What does any American have to gain in the long-term from drilling in ANWR? The oil companies will drain it dry and then be right back where they are today: firing American workers and begging for more help from Congress. They want Americans to put a fragile ecosystem at risk for no long-term benefit, just a quick fix. If they would only think about a long-term strategy for America they might find a more receptive Congress. What is going to happen to the American worker when they have sucked the oil out of ANWR? They have never answered that question.

I do not intend to reoffer my amendment to this bill. I believe I would be defeated again, so I will make time for more productive uses. We certainly need to start making productive use of our time. I will continue to fight for greater energy independence and for American workers.

In the meantime, I hope the energy workers across this country will join

the fray. Fight for your jobs and for greater use of American resources. Your jobs can be secure for a few pennies per gallon, a few pennies I believe Americans would be more than willing to pay to support their fellow Americans. Someday, I hope my children can fuel their car with American resources. When that day comes, we will once again be a strong America. Thank you, Mr. President.

Mr. EXON. Mr. President, I had prepared an amendment to the energy bill relating to a coal rate study required under this legislation. I will not be offering that amendment because it is not my intention to delay the energy bill further. However, I would like to engage the manager of the bill in a colloquy regarding section 14113 of S. 2166. This provision calls for the establishment of a data base containing transportation rate information for shipments of coal over a 10-year period and a study of the impact of Federal policies on such rates.

On September 4, 1991, Senator KASTEN and I wrote a letter on behalf of the Subcommittee on Surface Transportation indicating our displeasure with this provision. That letter raised both jurisdictional and substantive concerns with the provision. Certain recent studies by the Interstate Commerce Commission [ICC] appear to indicate a downward trend in railroad coal rates have fallen 19.3 percent since 1980.

This data suggest there may well be a need to rethink section 14113. I would like to inquire of the chairman if he would be willing to reexamine this section.

Mr. JOHNSTON. I thank my colleague from Nebraska. As he knows, I have had a longstanding concern regarding the relatively high costs of coal transportation by rail. However, he has raised some points that approximately should be considered as we head into conference on this legislation.

Mr. EXON. I thank the Senator from Louisiana and ask that the letter of September 4, 1991, be printed in the RECORD.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, September 4, 1991.

Hon. BENNETT JOHNSTON,
Chairman, Committee on Energy and National Resources, U.S. Senate, Washington, DC.

DEAR BENNETT: As the Chairman and ranking Republican member of the Senate Surface Transportation Subcommittee, we are writing to express concern over section 14113 of S. 1220, the Senate energy bill, which was reported to the full Senate.

Specifically, Section 14113 would require the Department of Energy (DOE) to review increases in coal transportation rates resulting from last year's Clean Air Act amendments and other Federal policies. It would direct DOE to establish a data base for all rates for domestic coal shipments moving by rail, pipeline, truck, conveyor belt, barge, and other modes of transportation over a 10-year period. Interestingly, it would require DOE to examine revenue to variable cost ratios of railroad coal rates, but not similar ratios for other transportation modes. It also excludes from scrutiny modes transporting noncoal energy sources, as well as rates charged by energy producers.

We urge that Section 14113 be deleted from S. 1220. The Surface Transportation Subcommittee of the Commerce Committee has jurisdiction over coal transportation rates. As recently as the 100th Congress, the Subcommittee held a series of hearings involving railroad coal rates. It also considered legislation on the Interstate Commerce Commission's (ICC) implementation of the Staggers Rail Act, which allows shippers to file complaints on railroad rates deemed unreasonably high and allows the ICC to order a rate reduction and award reparations. The full Senate Commerce Committee specifically voted against reporting legislation on the subject at that time.

A decade of experience under the Staggers Rail Act shows it is accomplishing largely what Congress intended. In fact, a May, 1991, ICC study showed that average, inflation-adjusted transportation rates for coal fell by 14.2 percent between 1980 and 1989. The Subcommittee will continue its oversight role on the implementation of the Staggers Rail Act by the ICC.

In summary, we object to Section 14113 of S. 1330 and urge that it be deleted from the bill.

ROBERT W. KASTEN, Jr.,
Ranking Republican, Surface Transportation Subcommittee.

J. JAMES EXON,
Chairman, Surface Transportation Subcommittee.

BIODIESEL

Mr. BOND. Thank you, Mr. President. Is it the understanding of the Senator from Louisiana that biodiesel would be considered covered under the definitions of alternative fuel and replacement fuel in S. 2166?

Mr. JOHNSTON. Yes, it is my understanding that biodiesel would indeed be considered covered under the alternative fuel and replacement fuel definitions in the bill because biodiesel is derived from nonpetroleum feed stocks such as soybeans, vegetable oils, and animal byproducts.

Mr. BOND. So biodiesel made from soybeans would also be included under these definitions?

Mr. JOHNSTON. That is correct.

Mr. BOND. Is it also the Senator's intention that programs to promote the development and commercialization of alternative fuels could include biodiesel, including biodiesel made from soybeans and animal byproducts, if the Secretary deems appropriate?

Mr. JOHNSTON. Yes, that is my intention.

Mr. BOND. I thank the Senator.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the only first-degree amendments remaining in order to H.R. 776, other than the pending committee substitute, and the pending Wellstone and Dodd amendments, numbers 2789 and 2790, be the following:

Senator GRASSLEY's ethanol amendment; Senator DOLE's amendment regarding ethanol; Senator DOLE's solid waste disposal/phosphorus acid process amendment; Senator MURKOWSKI's amendment regarding a study of the future of oil and gas potential in ANWR, with a possible modification by Senator MURKOWSKI and Senator WELLSTONE of that amendment; Senator STEVENS' tax credit regarding an oil pollution amendment; Senator D'AMATO's amendment regarding anti-dumping; that second-degree amendments be in order, provided they are relevant to the first-degree amendment and under the same time limitation, if one is in effect on the first degree; that no motions to recommit be in order; provided further that if a subsequent unanimous-consent agreement is reached between Senators DODD and GRAMM on the Dodd-Wellstone amendments, then it be in order for Senator DODD to modify or withdraw his amendment in order to conform to the accord; then the terms of the amendment limitations of this agreement remain in effect.

Further, that if unanimous consent is not reached relative to the Dodd-Wellstone amendments, then any agreement regarding limitation on amendments to this bill is vitiated; that upon disposition of these above-listed amendments and the committee substitute, the Senate, without any intervening action or debate, proceed to third reading and final passage of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, the minority has dealt with this and believes it to be a good reflection of the best course to follow.

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

The text of the agreement is as follows:

Ordered, That at 10 a.m. on Thursday, July 30, 1992, the Senate resume consideration of H.R. 776, the Comprehensive National Energy Policy Act, and the only first degree amendments remaining in order, other than the pending committee substitute and the pending Wellstone and Dodd amendments, Nos. 2789 and 2790, be the following:

D'Amato: Anti-dumping.

Dole: Regarding Ethanol.

Dole: Solid waste disposal/phosphorus acid process.

Grassley: Ethanol.

Stevens: Tax credit re: oil pollution.

Ordered further, That second degree amendments be in order provided they are relevant to the first degree amendment, and under the same time limitation if one is in effect on the first degree amendment.

Ordered further, That no motions to recommit be in order.

Ordered further, That if a subsequent unanimous consent agreement is reached between Senators Dodd and Gramm on the Dodd-Wellstone amendments, then it be in order for Senator Dodd to modify or withdraw his amendment in order to conform to the accord; then the terms of the amendment limi-

tations of this agreement remain in effect; and if unanimous consent is not reached relative to the Dodd-Wellstone amendment, then any agreement regarding a limitation on amendments to this bill be vitiated.

Ordered further, That upon disposition of these above listed amendments, and the committee substitute, the Senate, without any intervening action or debate, proceed to third reading and final passage of the bill.

Mr. JOHNSTON. Mr. President, I think Senators who just heard the reading of the unanimous-consent request, which was agreed to, will understand that it is all contingent upon reaching agreement on the Dodd-Wellstone amendments, and if they do not reach any agreement, then the whole matter is vitiated, and we are still in open season on our bill, which we trust will not happen.

Mr. WALLOP. Mr. President, if the Senator will yield, it is my passionate desire that they reach such an agreement; that the long awaited, long struggled over energy policy not be held hostage to this extraneous argument—not that it is not an important argument; it is that it is an extraneous argument. It has nothing to do with energy policy.

So I urge the two Senators to find some resolution to that, and I can only say that it is my hope, along with Senator JOHNSTON's, that they do, and it is my hope that along about 2 o'clock tomorrow afternoon, we are engaged in the vote on final passage of this legislation.

It is beyond time, Mr. President, for it to go to conference. I think both of us would agree that the remaining amendments are well within the reach of resolution, either through vote or through negotiation. They are not that difficult, and the subjects which they contain are not that mysterious to Senators that we should not be able to arrange some kind of agreement, and the vote on them will be clear to all Senators.

So, really, the only thing that confounds final passage is the confrontation between the Senator from Connecticut and the Senator from Texas.

Mr. JOHNSTON. Mr. President, if the Senator will yield, we protected these four Senators on their amendments for about 3 hours now, while we have sat around waiting. I hope we do not plan to have another 3 or 4 hours' protection tomorrow while we wait around. It would be easier just to come in at 1 or 2 o'clock and get started.

Mr. WALLOP. I would say to my friend, Mr. President, that the agreement does not guarantee that they be brought up, only that they be in order. So should it be that all other matters are settled I would join my friend in calling for third reading and moving to final passage.

Mr. JOHNSTON. I thank my friend.

Mr. President, 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. WALLOP. 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. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Chair informs the distinguished Senator from Wyoming we need a request to set aside the pending amendment.

Mr. WALLOP. Mr. President, I ask unanimous consent that the pending business be set aside in order to consider an amendment that was part of the unanimous-consent agreement.

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

AMENDMENT NO. 2792

(Purpose: To require the Secretary of Energy to conduct a study of the status and future of the domestic oil and gas industry and the potential impacts of development of the coastal plain of the Arctic National Wildlife Refuge on the oil and gas industry, the economy, and national security)

Mr. WALLOP. Mr. President, on behalf of Senator MURKOWSKI, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for Mr. MURKOWSKI, proposes an amendment numbered 2792.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill insert the following new title:

TITLE—STUDY OF THE FUTURE OIL AND GAS POTENTIAL AND ECONOMIC IMPACT

SEC. . The Secretary of Energy, in consultation with the Secretaries of Labor, Commerce, State, the Interior, and Defense, shall prepare and complete within 6 months from the date of enactment of this Act and submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of the following:

(1) the current and projected status of the domestic oil and gas industry, including:

(A) the quantity and types of jobs lost in the industry during the 10 year period ending on the date of enactment of this Act; and

(B) the potential for job creation and loss during the 10 year period beginning on the date of enactment of this Act together with the basis for any alternative projection;

(2) the historic and projected future trends in oil and gas industry investment in foreign countries and the related reductions in investment in the United States;

(3) the current and projected status of the rate of imports of foreign oil in absolute terms and as a percentage of consumption;

(4) the current and projected impacts of increasing reliance on imported oil on:

(A) the economy of the United States;

(B) the balance of trade deficit of the United States; and

(C) national security interests of the United States, including related military and other costs;

(5) the current and projected status of decline in production of oil from Alaska's North Slope transported through the Trans-Alaska Pipeline System (TAPS) and effects of this decline on:

(A) regional and national employment in the United States;

(B) the national security of the United States; and

(C) energy prices in the United States;

(6)(A) the estimated date for the required removal of the TAPS in the event there is no oil production from the coastal plain of the Arctic National Wildlife Refuge (ANWR); and

(B) the effect of the shutdown and removal of the TAPS on the production of Alaska North Slope heavy oil reserves and otherwise economically marginal fields for which production technologies are in the process of development;

(7) the impact of potential ANWR coastal plain oil production on:

(A) the longevity of the TAPS and on oil production and consumption in the United States; and

(B) the potential loss of otherwise producible domestic available reserves;

(7) the potential quantity and types of jobs that would be created, both directly and indirectly, by the exploration and development of the coastal plain of ANWR and the loss of such jobs if exploration and development does not occur;

(8) the domestic industrial production capabilities which would be created by the exploration and development of the coastal plain of ANWR and the potential loss of such capability of exploration and development does not occur, including the ability to explore and develop other domestic oil and gas prospects;

(9) the potential impact of exploration and development of the coastal plain of ANWR on:

(A) the economy of the United States;

(B) the economies of the regions of the United States; and

(C) the balance of trade deficit of the United States;

(10) the projected potential revenues, both direct and indirect, to the United States Treasury and the State of Alaska that would be generated by exploration and development of oil reserves within the coastal plain of ANWR;

(11) the technologies available for reducing the environmental impact of exploration and production of oil from the coastal plain of ANWR; and

(12) the development and application of Arctic oil production technologies on Alaska's North Slope including:

(A) a comparison of the technology used at the Prudhoe Bay and Endicott oil fields; and

(B) a comparison of technologies used and the environmental impact of Alaska North Slope development to conventional oil field exploration and development in the contiguous United States.

AMENDMENT NO. 2792, AS MODIFIED

Mr. WALLOP. I now send a modification by Senator MURKOWSKI on behalf of himself and Mr. WELLSTONE to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the word "TITLE" and insert the following:

—STUDY OF THE FUTURE OIL AND GAS POTENTIAL AND ECONOMIC IMPACT

SEC. . The Secretary of Energy, in consultation with the Secretaries of Labor, Commerce, State, the Interior, and Defense, shall prepare and complete within 6 months from the date of enactment of this Act and submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of the following:

(1) the current and projected status of the domestic oil and gas industry and other energy industries, including:

(A) the quantity and types of jobs created and lost in the industry during the 10 year period ending on the date of enactment of this Act; and

(B) the potential for job creation and loss during the 10 year period beginning on the date of enactment of this Act together with the basis for any alternative projection;

(2) the historic and projected future trends in oil and gas industry and other energy industry investment in the United States and foreign countries and the related change in investment in the United States;

(3) the current and projected status of the rate of imports of foreign oil in absolute terms and as a percentage of consumption;

(4) the current and projected impacts of increasing reliance on imported oil on:

(A) the economy of the United States;

(B) the balance of trade deficit of the United States; and

(C) national security interests of the United States, including related military and other costs;

(5) the current and projected status of decline in production of oil from Alaska's North Slope transported through the Trans-Alaska Pipeline System (TAPS) and effects of this decline on:

(A) regional and national employment in the United States;

(B) the national security of the United States; and

(C) energy prices in the United States;

(6) (A) the estimated date for the required removal of the TAPS in the event there is no oil production from the coastal plain of the Arctic National Wildlife Refuge (ANWR); and

(B) the effect of the shutdown and removal of the TAPS on the production of Alaska North Slope heavy oil reserves and otherwise economically marginal fields for which production technologies are in the process of development;

(7) the impact of potential ANWR coastal plain oil production on:

(A) the longevity of the TAPS and on oil production and consumption in the United States; and

(B) the potential loss of otherwise producible domestic available reserves;

(7) the potential quantity and types of jobs that would be created, both directly and indirectly, by the exploration and development of the coastal plain of ANWR and the loss of such jobs if exploration and development does not occur;

(8) the domestic industrial production capabilities which would be created by the exploration and development of the coastal plain of ANWR and the potential loss of such capability if exploration and development does not occur, including the ability to explore and develop other domestic oil and gas prospects;

(9) the potential impact of exploration and development of the coastal plain of ANWR on:

(A) the economy of the United States;

(B) the economies of the regions of the United State; and

(C) the balance of trade deficit of the United States;

(D) production from wells producing 15 barrels of oil per day or less.

(10) the projected potential revenues and costs, both direct and indirect, to the United States Treasury and the State of Alaska that would be generated or incurred by exploration and development of oil reserves within the coastal plain of ANWR;

(11) the technologies available for reducing the environmental impact of exploration and production of oil from the coastal plain of ANWR; and

(12) the development and application of Arctic oil production technologies on Alaska's North Slope including:

(A) a comparison of the technology used at the Prudhoe Bay and Endicott oil fields; and

(B) a comparison of technologies available for Alaska North Slope development with conventional oil field exploration and development in the contiguous United States.

(13) all possible alternative energy supplies (including energy conservation) currently available in the United States, and which might be available in the foreseeable future, that would provide the same amount or greater amounts of energy than are estimated by the Department of the Interior to be available from the coastal plain.

(14) the known and estimated reserves of oil and gas on the North Slope of Alaska (including State and federal offshore lands) outside of the Arctic National Wildlife Refuge.

Mr. WALLOP. Mr. President, on behalf of the minority and my understanding of the majority, I say the differences between the Senator from Minnesota and the Senator from Alaska have been worked out, and it is acceptable to both sides. I call for the question on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment, as modified? If not, question is on agreeing to the amendment, as modified.

The amendment (No. 2792), as modified, was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

HONORING THE LATE LOUISE BRUNSDALE

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to a Minnesota woman who lived a life in service to her family, her community and her country. Louise Margaret Brunsdale, I regret to note, passed away suddenly on Friday, July 24, in Washington, DC.

Weeze was born and educated in Minneapolis, MN. She served as a World War II nurse tending German prisoners-of-war at Fort Snelling in the Twin Cities. She married Rieder Grunseth in 1942 and raised four children: Jon, Edward, Anne, and Karen. Weeze was a Red Cross volunteer. And, she generously shared her home and her love for family and country with several foreign exchange students. Shortly after the end of her marriage in the 1970's, Weeze came to Washington, DC, to live with her sister, Anne Brunsdale, and begin a new career in public service.

Louise Brunsdale's family heritage is public service. Her uncle was a Governor and a Senator for the State of North Dakota. Her sister, Anne, was the chairwoman of the U.S. International Trade Commission. Her son, Jon, was a candidate for Governor in Minnesota. Weeze, herself, was the director of national volunteers for the 1980 and 1984 campaigns of President Ronald Reagan, an assistant to Dr. Jeane Kirkpatrick and the protocol officer at the United State Embassy in Vienna, Austria. She worked with former Supreme Court Chief Justice Warren Burger as marketing director for the Commission on the Bicentennial of the U.S. Constitution. At the time of her death, she was a program director for the Department of Agriculture. Weeze never talked of retirement.

Mr. President, the friends and family of Louise Brunsdale will remember her with memorial serves in Washington, DC, and Minneapolis. They have my best wishes and sympathies. And, Weeze has my thanks for a service-filled life that was more than well lived.

VETERANS' HEALTH CARE AMENDMENTS ACT

Mr. JOHNSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2344.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2344) entitled "An Act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Health Programs Amendments of 1992".

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code, and to Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

Sec. 101. Increase in limit on certain grants for home structural alterations for disabled veterans.
Sec. 102. Extension of annual report on furnishing health care.
Sec. 103. Submission of Reports of Geriatrics and Gerontology Advisory Committee.
Sec. 104. Research corporations.
Sec. 105. Authority for joint ownership of medical equipment with nonfederal health-care facilities.
Sec. 106. Quality assurance activities.
Sec. 107. Advisory Committee on Prosthetics and Special-Disabilities Programs.
Sec. 108. Contract hospital care for veterans with permanent and total service-connected disabilities.
Sec. 109. Post-traumatic stress disorder research programs.
Sec. 110. Post-traumatic stress disorder program planning.

TITLE II—HEALTH-CARE PERSONNEL

Sec. 201. Cap on certain rates of pay.
Sec. 202. Minimum period of service for scholarship recipients.
Sec. 203. Authority to purchase items of nominal value for recruitment purposes.
Sec. 204. Authority to appoint nonphysician directors to the office of the Under Secretary for Health.
Sec. 205. Expansion of director grade of the physician and dentist pay schedule.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Authorization requirement for construction of new medical facilities.
Sec. 302. Redesignation of certain positions within the Department of Veterans Affairs.
Sec. 303. Child care services.
Sec. 304. Grants to establish research centers at medical schools.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act 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 title 38, United States Code.

(b) REFERENCES TO SECRETARY.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

SEC. 101. INCREASE IN LIMIT ON CERTAIN GRANTS FOR HOME STRUCTURAL ALTERATIONS FOR DISABLED VETERANS.

Section 1717(a)(2) is amended by striking out "$2,500" and "$600" and inserting in lieu thereof "$3,300" and "$1,200", respectively.

SEC. 102. EXTENSION OF ANNUAL REPORT ON FURNISHING HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health-Care Amendments of 1986 (38 U.S.C. 1710 note) is amended by striking out "fiscal year 1991" and inserting in lieu thereof "fiscal years 1992 and 1993".

SEC. 103. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Paragraph (2) of section 7315(c) is amended to read as follows:

"(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

SEC. 104. RESEARCH CORPORATIONS.

(a) PERIOD FOR OBTAINING RECOGNITION AS TAX-EXEMPT ENTITY.—Section 7361(b) is amended by striking out "three-year period" and inserting in lieu thereof "four-year period".

(b) EXTENSION OF AUTHORITY FOR ESTABLISHMENT OF CORPORATIONS.—Section 7368 is amended by striking out "September 30, 1991" and inserting in lieu thereof "December 31, 1993".

SEC. 105. AUTHORITY FOR JOINT OWNERSHIP OF MEDICAL EQUIPMENT WITH NON-FEDERAL HEALTH-CARE FACILITIES.

(a) IN GENERAL.—(1) Chapter 81 is amended by adding at the end of subchapter IV the following new sections:

"§8157. Joint ownership of medical equipment with non-Federal health-care facilities

"(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 8153(a) of this title for the joint ownership of medical equipment with those institutions.

"(b)(1) Any equipment to be jointly owned under such an agreement shall be procured by the Secretary, and ownership of such equipment shall be held jointly by the United States and the institution that is the other party to the agreement.

"(2) In acquiring equipment under such an agreement, the Secretary may not pay (from funds of the United States) more than one-half of the purchase price of the equipment to be jointly owned under the agreement.

"(3) Before jointly owned equipment acquired under such an agreement may be used by the Secretary or the other party to the agreement, the parties to the agreement shall arrange by contract or other form of agreement under section 8153 of this title for the mutual use, or exchange of use, of the equipment.

"(4) The Secretary may not enter into a contract for the acquisition of medical equipment to be jointly owned under an agreement under subsection (a) until the institution that is the other party to the agreement provides to the Secretary its share of the purchase price of the equipment.

"(5) The Secretary may enter into agreements for the joint ownership of medical equipment under subsection (a) and for the exchange of equipment under paragraph (3) without the use of competitive procedures.

"(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the United States in equipment jointly owned under an agreement entered into under subsection (a) to the institution that holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

"(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment jointly owned by the United States under an agreement under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department. The Secretary may not pay more than one-half the depreciated purchase price of that equipment for the acquisition of such institution's interest in the equipment.

"§8158. Deposit in escrow

"(a) To facilitate the procurement of medical equipment described in section 8157 of this title, the Secretary may enter into escrow agreements with institutions described in section 8153(a) of this title. Any such agreement shall provide that—

"(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 8157(b)(4) of this title;

"(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

"(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

"(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

"(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(2) retain in the escrow account interest or other earnings on such investments;

"(3) disburse the funds pursuant to the escrow agreement; and

"(4) return undisbursed funds to the institution.

"(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

"(2) Funds held in an escrow account under this section shall not be considered to be public funds.".

(2) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8156 the following new items:

"8157. Joint ownership of medical equipment with non-Federal health-care facilities.
"8158. Deposit in escrow.".

(b) REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plans for implementation of this section. The report shall include an identification and discussion of—

(1) the instructions the Secretary proposes to issue to medical facilities to guide the development of proposals for procurement of medical equipment under this section, including instructions for ensuring equitable arrangements for use of the equipment by the Department and the copurchasers of the equipment;

(2) the criteria by which the Secretary plans to evaluate proposals to procure medical equipment under this section;

(3) the means by which the Secretary will integrate the process of procuring equipment under this section with the policies and procedures governing health care planning by the Veterans Health Administration; and

(4) the criteria by which determinations to transfer title to equipment under section 8157(c) of title 38, United States Code, as added by subsection (a), would be made.

SEC. 106. QUALITY ASSURANCE ACTIVITIES.

Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in section 201(a)(1) and 201(a)(3) of Public Law 100-322 shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities.

SEC. 107. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) STATUS AND NAME OF COMMITTEE.—The Federal advisory committee established by the Secretary and known as the Prosthetics Service Advisory Committee shall after the date of the enactment of this Act be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs and shall operate as though such committee had been established by law. Notwithstanding any other provision of law, the Committee may, upon the enactment of this Act, meet and act on any matter covered by subsection (b) of section 543 of title 38, United States Code, as added by subsection (b) of this section.

(b) STATUTORY ESTABLISHMENT.—(1) Chapter 5 is amended by adding at the end of subchapter III the following new section :

"§543. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a)(1) There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(b) The objectives and scope of activities of the Committee shall relate to—

"(1) prosthetics and special-disabilities programs administered by the Secretary;

"(2) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

"(3) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(4) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(c) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in subsection (b).

"(d) Not later than May 1, 1993, and January 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 60 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(e) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for—

"(1) spinal-cord-injured veterans;

"(2) blind veterans;

"(3) veterans who have lost or lost the use of extremities;

"(4) hearing-impaired veterans; and

"(5) other veterans with serious incapacities in terms of daily life functions.".

(2) The table of sections at the beginning of chapter 5 is amended by adding at the end the following new item:

"543. Advisory Committee on Prosthetics and Special-Disabilities Programs.".

SEC. 108. CONTRACT HOSPITAL CARE FOR VETERANS WITH PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITIES.

Section 1703(a)(1) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) any disability of a veteran who has a total disability permanent in nature from a service-connected disability.".

SEC. 109. POST-TRAUMATIC STRESS DISORDER RESEARCH PROGRAMS.

In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding (1) Post-Traumatic Stress Disorder, (2) Post-Traumatic Stress Disorder in association with substance abuse, and (3) the treatment of those disorders.

SEC. 110. POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING.

(a) ASSESSMENT.—The Secretary shall assess the needs for treatment and rehabilitative services of veterans believed to be suffering from Post-Traumatic Stress Disorder.

(b) PLAN.—The Secretary shall develop a plan for providing treatment and rehabilitative services for such veterans and for expanding and refining the services available for the treatment of Post-Traumatic Stress Disorder. The plan shall be based on—

(1) the Secretary's estimate of the numbers of veterans who suffer from Post-Traumatic Stress Disorder, are likely to seek care from Veterans Administration, and are entitled by law to be furnished such care;

(2) current and projected capacity to provide services to those veterans; and

(3) the Secretary's evaluation of existing programs.

(c) CONSULTATION.—The Secretary shall carry out subsections (a) and (b) in consultation with the Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder.

(d) REPORT.—Not later than August 30, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan developed pursuant to subsection (b).

(e) DEFINITION.—For the purposes of this section, the term "Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder" means the committee established pursuant to section 110 of Public Law 98-528.

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. CAP ON CERTAIN RATES OF PAY.

Section 7455(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by adding at the end the following:

"(2) Whenever the amount of an increase under subsection (a) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.".

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) MINIMUM SERVICE REQUIREMENT.—Section 7612(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", but for not less than two years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 7423 is amended by adding at the end the following new subsection:

"(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.".

SEC. 204. AUTHORITY TO APPOINT NONPHYSICIAN DIRECTORS TO THE OFFICE OF THE UNDER SECRETARY FOR HEALTH.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.".

SEC. 205. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting ", or comparable position" before the period.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION REQUIREMENT FOR CONSTRUCTION OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 8104(a) is amended to read as follows:

"(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.".

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting "new" before "medical facility" the second place it appears; and

(B) by striking out "$500,000" and inserting in lieu thereof "$300,000".

(3) Subsection (c) of section 8104 is amended by striking out "resolution" both places it appears and inserting in lieu thereof "law".

(b) APPLICABILITY.—The amendments made by subsection (a) shall not apply with respect to any project for which any funds were appropriated before the date of the enactment of this Act.

SEC. 302. REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) REDESIGNATION OF POSITION OF CHIEF MEDICAL DIRECTOR.—The position of Chief Medical Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Health of the Department of Veterans Affairs.

(b) REDESIGNATION OF POSITION OF CHIEF BENEFITS DIRECTOR.—The position of Chief Benefits Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Benefits of the Department of Veterans Affairs.

(c) TITLE 38 CONFORMING AMENDMENTS.—Title 38, United States Code, is amended by striking out "Chief Medical Director" and "Chief Benefits Director" each place they appear (including in headings and tables) and inserting in lieu thereof "Under Secretary for Health" and "Under Secretary for Benefits", respectively.

(d) EXECUTIVE SCHEDULE CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking out the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.";

and inserting in lieu thereof the following:

"Under Secretary for Health, Department of Veterans Affairs.

"Under Secretary for Benefits, Department of Veterans Affairs.".

(e) REFERENCES IN OTHER LAWS.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Department of Veterans Affairs—

(1) to the Chief Medical Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Health of the Department of Veterans Affairs; and

(2) to the Chief Benefits Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Benefits of the Department of Veterans Affairs.

SEC. 303. CHILD CARE SERVICES.

(a) REVISED CHILD CARE AUTHORITY.—Chapter 81 is amended by inserting after section 8116 the following new section:

"§8117. Child care centers

"(a) The Secretary may provide for the operation of child care centers at Department facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Secretary determines, based on the demand by employees of the Department for the care involved, that such operation is in the best interest of the Department and that it is practicable to do so. In offering child care services under this section, the Secretary shall give priority, in the following order, to employees of (1) the Department of Veterans Affairs, (2) other departments and agencies of the Federal Government, and (3) affiliated schools and corporations created under section 7361 of this title. To the extent space is available, the Secretary may provide child care services to members of the public if the Secretary determines that to do so is necessary to assure the financial success of such center.

"(b)(1) The Secretary shall establish reasonable charges for child care services provided at each child care center operated under this section.

"(2) In establishing charges at a center, the Secretary shall ensure that the sum of all charges for child care services is sufficient to meet the staffing expenses of the child care center and may consider the expenses of constructing or acquiring space for the center, the expenses of converting existing space into the center, and the expenses of equipment and services furnished to the center under subsection (c)(2).

"(3) Proceeds from charges for child care services shall be credited to the applicable Department of Veterans Affairs account and shall be allotted to the facility served by the child care center and shall remain available until expended.

"(c) In connection with the establishment and operation of a child care center under this section, the Secretary—

"(1) may construct or alter space in any Department facility, and may lease space in a non-Department facility for a term not to exceed 20 years, for use as a child care center;

"(2) may provide, out of operating funds, other items and services necessary for the operation of the center, including furniture, office machines and equipment, utility and custodial services, and other necessary services and amenities;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child care centers.

"(d) The Secretary shall prescribe guidelines to carry out this section.

"(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

(b) CONFORMING REPEAL.—Section 7809 is repealed.

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8116 the following new item:

"8117. Child care centers.".

(2) The table of sections at the beginning of chapter 78 is amended by striking out the item relating to section 7809.

SEC. 304. GRANTS TO ESTABLISH RESEARCH CENTERS AT MEDICAL SCHOOLS.

(a) IN GENERAL.—Chapter 73 is amended by adding at the end the following:

"SUBCHAPTER V—RESEARCH GRANTS

"§7371. Purpose of subchapter

"The purpose of this subchapter is to authorize the Secretary of Veterans Affairs and the Secretary of Defense to carry out a joint program to assist medical schools in the establishment of new research centers to carry out medical research in particular fields or specialties.

"§7372. Grant program

"(a) The Secretary of Veterans Affairs and the Secretary of Defense may jointly make grants under this subchapter to qualifying medical schools to assist such medical schools in the establishment of new medical research centers. Any such grant may only be made if the two Secretaries and the medical school enter into an agreement under section 7373 of this title.

"(b) A qualifying medical school for purposes of this subchapter is a medical school of a university that is located in a State and that—

"(1) does not have an established research center in the particular field or specialty with respect to which an application under section 7375 is submitted;

"(2) is located in proximity to, and is affiliated with, a medical facility of the Department of Veterans Affairs which itself has an affiliation with a medical facility of the Department of Defense; and

"(3) has demonstrable potential for successful development of such a new research center with the assistance of a grant under this subchapter.

"(c) Funds provided to a medical school by a grant under this subchapter may be used for—

"(1) the acquisition, construction, alteration, and renovation of facilities for the research center;

"(2) the acquisition of equipment of the research center; and

"(3) the operation of the research center during its first three years of operation.

"(d) In awarding grants under this subchapter, the two Secretaries shall ensure that the centers for which the grants are made are located in geographically dispersed areas of the United States.

"§7373. Activities of research centers for which grants made

"(a) Whenever a grant is made under this subchapter, the Secretary of Veterans Affairs and the Secretary of Defense shall establish an advisory committee to advise the medical school concerned with respect to the activities of the research center for which the grant is made. The advisory committee shall include representatives of the Department of Veterans Affairs, the Department of Defense, and the medical school and shall remain in existence until terminated by the two Secretaries.

"(b) A medical school to which a grant is made under this subchapter shall administer the research center for which the grant is made as a separate administrative entity with its own director (or other appropriate chief official).

"(c)(1) The Secretaries may not enter into an agreement to make a grant under this subchapter unless the Secretaries find, and the agreement includes satisfactory assurances, that the school to which the grant is made will maintain such arrangements with the Department of Veterans Affairs medical facility with which it is affiliated (including such arrangements as may be made under subchapter IV of chapter 81 of this title) as will be mutually beneficial in carrying out the mission of the respective medical facilities and the school. Such arrangements shall include provisions ensuring that research personnel of the Department of Veterans Affairs medical facility, and of the Department of Defense medical facility with which it is associated, may carry out research activities at the research center on an ongoing basis.

"(2) The agreement shall require that, to the extent not inconsistent with paragraph (1), facilities of the research center shall be made available for research activities on a competitive basis.

"(d) The Secretaries shall ensure that an agreement under this section includes appropriate provisions to ensure that the Federal funding for the research center, and any Federal research activities carried out at the research center, are acknowledged in the activities and publications of the center.

"(e) An agreement under this section shall contain such additional terms and conditions (in addition to those imposed pursuant to section 8201(e) of this title and this section) as the Secretaries consider appropriate to protect the interests of the United States.

"§7374. Funding

"(a) The amount of a grant under this subchapter, when added to any other Federal funds to be used for the project for which the grant is made, may not exceed one-half of the cost of the project.

"(b)(1) One half of the amount of a grant under this subchapter shall be provided by the Secretary of Veterans Affairs and one-half shall be provided by the Secretary of Defense.

"(2) Funds for a grant under this subchapter to be provided by the Secretary of Veterans Affairs may only be provided from funds appropriated for grants under this subchapter. Funds for a grant under this subchapter to be provided by the Secretary of Defense shall be provided from funds appropriated for research, development, test, and evaluation.

"(c) The two Secretaries may not enter into an agreement for a grant under this subchapter unless the Secretaries find, and the agreement includes satisfactory assurances, that—

"(1) the amount of support for the proposed medical research center from non-Federal sources will be at least as great as the amount of such support from Federal sources;

"(2) the amount of such support from non-Federal sources, when combined with the amount of the proposed grant, is sufficient for the project to proceed upon award of the grant; and

"(3) upon approval of the grant, no further action by non-Federal entities is required to make the necessary funds available for the project.

"(d)(1) Subject to paragraph (2), the Secretaries may increase the amount of any grant awarded to any applicant for a project under this section by an amount by which the Secretaries determine that the estimated cost of the

construction, acquisition, or renovations has increased from the estimated cost on which the Secretaries based the determination to award the grant, if the Secretaries determine that the grant was awarded before the applicant entered into a contract for the construction or renovations provided for in such project.

"(2) A grant may not be increased under paragraph (1) by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant (as increased) may not exceed 50 percent of the revised cost of the project.

"§7375. Grants: applications and priority

"(a) A medical school desiring to receive a grant under this subchapter shall submit to the Secretary of Veterans Affairs an application that sets forth the following:

"(1) The amount of the grant requested with respect to the project.

"(2) A description of the proposed research center, including a description of the proposed site for the center, a description of the proposed field of research in which the center will specialize, and a statement showing the capability of the medical school to successfully develop such research center.

"(3) Reasonable assurance that, upon completion of the project, the new center will be used to conduct research referred to in section 7303 of this title.

"(4) Reasonable assurance that the title to such site will be vested solely in the applicant.

"(5) Reasonable assurance that adequate financial support will be available (A) for the construction of the project (or for facility acquisition or renovation) upon award of the grant, and (B) for maintenance and operation of the facility when complete.

"(6) In the case of a project for the renovation of an existing facility, reasonable assurance that the estimated total cost of any expansion, remodeling, and alteration of the facility will not be greater than the estimated cost of construction of an equivalent new facility.

"(7) A statement of the relationship of activities to be carried out at the research center to programs and activities of the Department of Veterans Affairs, including programs for the care and treatment of veterans and programs for the recruitment and retention of health-care professionals for employment by the Department, and programs and activities of the Department of Defense.

"(b) In considering applications for a grant under subsection (a) of this section, the Secretaries shall give priority to applications for grants for proposed research centers which will emphasize research in one or more of the following areas (over applications for grants for proposed centers which will not emphasize research in such areas):

"Diabetes and metabolic diseases.

"Prosthetics and rehabilitation medicine.

"Mental health, behavioral medicine, and neurological disease.

"Acquired Immune Deficiency Syndrome (AIDS) and immunodeficiency diseases.

"Alzheimer and dementia.

"Degenerative cardiopulmonary disease.

"Cancer.

"Technology assessment.

"Toxicology.

"(c) The Secretaries shall use a merit review process in considering applications and in awarding grants under this subchapter.

"(d) The amount of a grant under this subchapter shall be paid to the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of the project, as the Secretary may determine and certify for payment to the Secretary of the Treasury. Funds paid under this section for an approved project shall be used solely for carrying out such project as approved.

"(e) An amendment of an application (whether or not approved) shall be subject to approval in the same manner as the original application.

"§7376. Authorization of appropriations

"(a) There is authorized to be appropriated to the Secretary of Veterans Affairs the sum of $50,000,000 for each of fiscal years 1993 through 1996 for purposes of grants under this subchapter. Amounts appropriated pursuant to such authorization may not be used for any other purpose.

"(b) Amounts appropriated pursuant to subsection (a) shall remain available for obligation until the end of the sixth fiscal year following the fiscal year for which they are appropriated, if so provided in appropriation Acts.

"§7377. Recovery of amounts if grant conditions not met

"(a) If the Secretaries determine that a medical school to which a grant is made under this subchapter—

"(1) fails substantially to carry out the terms of the agreement entered into under this subchapter as a condition of the grant; or

"(2) no longer operates the medical research center for which the grant was made in accordance with the purposes of the grant,

the Secretaries shall be entitled to recover from the recipient of the grant the amount of the grant.

"(b) The Secretaries shall prescribe regulations for purposes of subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VII—RESEARCH GRANTS

"7371. Purpose of subchapter.
"7372. Grant program.
"7373. Activities of research centers for which grants made.
"7374. Funding.
"7375. Grants: applications and priority.
"7376. Authorization of appropriations.
"7377. Recovery of amounts if grant conditions not met.".

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House, agree to its request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

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

The Chair appoints Mr. CRANSTON, Mr. ROCKEFELLER, and Mr. SPECTER conferees on the part of the Senate.

THE CALENDAR

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 561, 564, and 566, that the committee amendments, where appropriate, be agreed to; that the bills be deemed read three times, and passed, en bloc; and the motion to reconsider laid upon the table, en bloc; further that any statements relating to these calendar items appear at the appropriate place in the RECORD, and the consideration of these items appear individually in the RECORD.

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

FREDERICKSBURG AND SPOTSYLVANIA COUNTY BATTLEFIELDS MEMORIAL NATIONAL MILITARY PARK

The Senate proceeded to consider the bill (S. 225) to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, VA, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike page 2, line 8, through and including page 2, line 18, and inserting in lieu thereof the following:

SEC. 2. ADDITION TO WILDERNESS BATTLEFIELD.

(a) Section (2) of Public Law 101-214 (16 U.S.C. 425k(a)) is amended—

(1) by striking "326-40072E/89,"; and

(2) by striking "1989." and inserting in lieu thereof "1989, and the map entitled 'Fredericksburg and Spotsylvania National Military Park,' numbered 326-40072E/89/A and dated September 1990.": Provided, That this subsection shall not be effective until the lands included within the proposed new boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this section may be acquired only by donation.

SEC. 3. ADDITION TO APPOMATTOX COURT HOUSE NATIONAL HISTORICAL PARK.

(a) Section 308(a) of Public Law 94-578 (16 U.S.C. 450e-1(a)) is amended by striking "numbered 340-20,000A, and dated September 1976," and inserting in lieu thereof, "numbered 340/80,015 and dated June 1992,": Provided, That this subsection shall not be effective until the lands included within the proposed new boundaries of the Appomattox Court House National Historical Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Appomattox Court House National Historical Park pursuant to this section may be acquired only by donation.

So as to make the bill read:

S. 225

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

SECTION 1. FINDING.

Congress finds that the land area near Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, located south and west of the intersection of the Orange Plank Road and Brock Road in Spotsylvania County was strategically significant ground associated with the battle of the Civil War known as the Battle of the Wilderness, and that the tract of land adjacent to such area known as "Longstreet's Flank Attack" was also strategically significant to that battle.

SEC. 2. ADDITION TO WILDERNESS BATTLEFIELD.

(a) Section (2) of Public Law 101-214 (16 U.S.C. 425k(a)) is amended—

(1) by striking "326-40072E/89,"; and

(2) by striking "1989." and inserting in lieu thereof "1989, and the map entitled 'Fredericksburg and Spotsylvania National Military Park,' numbered 326-40072E/89/A and dated September 1990.": *Provided*, That this subsection shall not be effective until the lands included within the proposed new

boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this section may be acquired only by donation.

SEC. 3. ADDITION TO APPOMATTOX COURT HOUSE NATIONAL HISTORICAL PARK.

(a) Section 308(a) of Public Law 94-578 (16 U.S.C. 450e-1(a)) is amended by striking "numbered 340-20,000A, and dated September 1976," and inserting in lieu thereof, "numbered 340/80,015 and dated June 1992,": *Provided*, That this subsection shall not be effective until the lands included within the proposed new boundaries of the Appomattox Court House National Historical Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Appomattox Court House National Historical Park pursuant to this section may be acquired only by donation.

The amendment was agreed to.

So the bill (S. 225), as amended, was deemed read the third time and passed.

HISTORIC STRUCTURES REHABILITATION IN GATEWAY NATIONAL RECREATION AREA

The bill (S. 2563) to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes was considered, ordered to be engrossed for a third reading, deemed read the third time, and passed; as follows:

S. 2563

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

SECTION 1. MARINE ACADEMY AGREEMENT.

(a) IN GENERAL.—In order to further the revitalization, rehabilitation, and utilization of Fort Hancock within the Sandy Hook Unit of Gateway National Recreation Area, the Secretary of the Interior may enter into an agreement with the Monmouth County Vocational School District or a successor (referred to in this Act as the "District"), to permit the use by the District of properties situated along Gunnison Road and Magruder Road for the purpose of developing and operating, without cost to the National Park Service, a secondary school program to be known as the Marine Academy of Science and Technology.

(b) DESIGN OF FACILITIES.—The design of new facilities and landscape improvements, and the rehabilitation of existing facilities for school and administrative use, shall be subject to the approval of the Director of the National Park Service. In determining whether to approve the design and rehabilitation, the Director shall use standards for rehabilitation and National Park Service guidelines and policies that are approved by the Secretary of the Interior.

SEC. 2. REVERSION.

If the properties, facilities, and improvements referred to in section 1 are not used by the District for a secondary school program, the agreement authorized by section 1 shall be terminated and all use of the properties, facilities, and improvements shall revert, without consideration, to the National Park Service.

SEC. 3. REIMBURSEMENT.

(a) REHABILITATION.—As a condition of entering into the agreement authorized by section 1, the Secretary of the Interior may—

(1) accept reimbursement expenses, of not more than $500,000, to cover the cost of rehabilitating other property within the Sandy Hook Unit of Gateway National Recreation Area for park uses that are displaced from facilities used by the District under the agreement authorized by section 1; or

(2) require the District to rehabilitate other property for the park uses—

(A) under the direction of the National Park Service; and

(B) at a cost of not more than $500,000.

(b) FEES FOR SERVICES.—The Director of the National Park Service may collect and retain reasonable fees for services provided to the District by the National Park Service, including alarm monitoring, permit compliance, fire and police protection, and snow removal.

INDIANA DUNES NATIONAL LAKESHORE ACCESS AND ENHANCEMENT ACT

The Senate proceeded to consider the bill (H.R. 1216) to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indiana Dunes National Lakeshore Access and Enhancement Act".

SEC. 2. DEFINITION.

For the purposes of this Act, the term "the Act" means the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966, as amended, (16 U.S.C. 560u et seq.).

SEC. 3. BOUNDARIES.

(a) IN GENERAL.—The first section of the Act (16 U.S.C. 460u) is amended by striking "October 1986, and numbered 62680033-B" and inserting "September 1991, and numbered 62680039-A".

(b) CRESCENT DUNE.—Section 12 of the Act (16 U.S.C. 460u-12) is repealed.

SEC. 4. IMPROVED PROPERTY; RETENTION OF RIGHTS

(a) ADDITIONAL AREAS.—The table in section 4 of the Act (16 U.S.C. 460u-3) is amended to read as follows:

"Property within boundaries of map	Construction began before
Dated September 1991, No. 626-80,039-A.	October 1, 1991
Dated October 1986, No. 626-80,033-B.	February 1, 1986
Dated December 1980, No. 626-91014.	January 1, 1981
Dated September 1976, No. 626-91007.	February 1, 1973
Dated September 1966, No. LNPNE-1008-ID.	January 4, 1965".

(b) RETENTION OF RIGHTS.—Section 5(a) of the Act (16 U.S.C. 460u-(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) In the case of improved property included within the boundaries of the lakeshore after October 1, 1991, that was not included within such boundaries on or before that date, an individual who is an owner of record of such property as of that date may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond October 1, 2020, or such lesser fixed term as the owner may elect at the time of acquisition.

"(ii) A term ending at the death of the owner or the owner's spouse, whichever occurs later. The owner or owners shall elect the term to be reserved.

"(B) Subparagraph (A) shall apply only to improved property owned by an individual who—

"(i) was an owner of record of the property as of October 1, 1991;

"(ii) had attained the age of majority as of that date; and

"(iii) made a bona fide written offer not later than October 1, 1997, to sell the property to the Secretary.".

(c) TECHNICAL AMENDMENT.—Section 5(a)(1) of the Act (16 U.S.C. 460u-4(a)(1)) is amended by striking the period after "626-91014" the first place it appears and inserting a comma.

SEC. 5. GREENBELT.

Section 18 of the Act (16 U.S.C. 460-18) is amended—

(1) by inserting "(a)" after "SEC. 18."; and

(2) by adding at the end the following new subsection:

"(b)(1) The Secretary shall enter into a memorandum of agreement with the Northern Indiana Public Service Company (referred to as 'NIPSCO') that shall provide for the following with respect to the area referred to as Unit II-A on the map described in the first section of this Act (referred to as the "Greenbelt"):

"(A) NIPSCO shall provide the National Park Service with access for resource management and interpretation through the Greenbelt and across the dike for purposes of a public hiking trail.

"(B) the National Park Service shall have rights of access for resource management and interpretation of the Greenbelt area.

"(C) NIPSCO shall preserve the Greenbelt in its natural state. If NIPSCO utilizes the Greenbelt temporarily for a project involving pollution mitigation or construction on its adjacent facilities, it shall restore the project area to its natural state.

"(D) If NIPSCO proposes a different use for the Greenbelt, NIPSCO shall notify the National Park Service, the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and make no change in the use of the property until three years after the date notice is given.

"(2) If a memorandum of agreement is entered into pursuant to paragraph (1), so long as the memorandum of agreement is in effect and is being performed, the Secretary may not acquire lands or interests in land in the Greenbelt belonging to NIPSCO.".

SEC. 6. COOPERATIVE AGREEMENT.

The Act is amended by adding at the end the following new section:

"SEC. 25. In furtherance of the purposes of this Act, the Secretary may enter into a cooperative agreement with the city of Gary, Indiana, pursuant to which the Secretary may provide technical assistance in interpretation, planning, and resource management for programs and developments in the city of Gary's Marquette Park and Lake Street Beach.".

SEC. 7. UNIT VII-D.

The Act, as amended by section 5, is further amended by adding at the end the following new section:

"SEC. 26. Before acquiring lands or interests in lands in Unit VII-D (as designated on the map described in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to 15th Avenue (including the extension known as Old Hobart Road) and reconstruction and relocation of the intersection of 15th Avenue and State Road 51 so that the acquisition by the Secretary of lands or interests in lands in Unit VII-D will not interfere with planned improvements to the interchange and 15th Avenue in the area.".

SEC. 8. VISITOR CENTER.

In order to commemorate the vision, dedication, and work of Dorothy Buell in saving the Indiana Dunes, the National Park Service visitor center at the Indiana Dunes National Lakeshore is designated as the "Dorothy Buell Memorial Visitor Center".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Act (16 U.S.C. 460u-9) is amended—

(1) in the first sentence by striking the words "The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than $20,000,000 for development:" and inserting in lieu thereof: "The Secretary may expend such sums as may be necessary from the Land and Water Conservation Fund for acquisition of lands and interests in lands, and not to exceed $27,500,000 for development:";

(2) by striking the second paragraph in its entirety; and

(3) by striking the first sentence of the third paragraph.

The amendment was agreed to.

So the bill (H.R. 1216), as amended, was deemed read the third time and passed.

Mr. LUGAR. Mr. President, I appreciate the expeditious action of the Senate Committee on Energy and Natural Resources on the Indiana Dunes National Lakeshore bill.

H.R. 1216 has been amended to reflect the provisions of S. 1919, except for the extension of existing leasebacks. It adds 1,088 key acres to the 14,000-acre Indiana Dunes National Lakeshore and also lifts the cap on the acquisition of the Crescent Dune.

The Indiana Dunes National Lakeshore is one of the crown jewels of the National Park System. High in botanic diversity, it is also one of the most frequently visited of our national parks.

The nine parcels which this amended version of H.R. 1216 adds to the Lakeshore are Inland Woods, the Cohen Property, Fadell Dune, the Old University of Chicago property, the NIPSCO Greenbelt, Gaylord Butterfly Prairie, Calumet Prairie, Hobart Prairie Grove, and by lifting the cap on acquisition costs, Crescent Dune.

This bill reflects a 3-year effort to identify key parcels of land to be added to the Indiana Dunes National Lakeshore. There was considerable controversy over the acquisition of these parcels. I am very satisfied with this bill. I hope that the House will act on it expeditiously so that we can focus our future attention on issues pertaining to the operation and maintenance of this outstanding natural resource.

MEASURE PLACED ON THE CALENDAR

Mr. JOHNSTON. Mr. President, I ask unanimous consent that H.R. 4004, the Indian Tribal Justice Act, just received from the House, be placed on the calendar.

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

ZUNI RIVER WATERSHED ACT OF 1992

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4026, the Zuni River Watershed Act of 1992, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and that any statements on this item appear at the appropriate place in the RECORD.

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

So the bill (H.R. 4026) was deemed read three times and passed.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

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

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

MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

ENROLLED BILLS SIGNED

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini;

H.R. 3836. An act to provide for the management of Federal lands containing the Pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the Pacific yew;

H.R. 5059. An act to extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden;

S.J. Res. 92. A joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day"; and

S.J. Res. 310. A joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 1:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution:

H.R. 4438. An act to designate the Federal building located at 501 West Ocean Boulevard in Long Beach, California, as the "Glenn M. Anderson Federal Building";

H.R. 5222. An act to designate the Federal building and the United States courthouse located at 204 South Main Street in South Bend, Indiana, as the "Robert A. Grant Federal Building and United States Courthouse";

H.R. 5431. An act to designate the Federal building located at 200 Federal Plaza in Paterson, New Jersey, as the "Robert A. Roe Federal Building";

H.R. 5432. An act to designate the Federal Building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, as the "John Paul Hammerschmidt Federal Building and United States Courthouse";

H.R. 5645. An act to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes;

H.J. Res. 271. A joint resolution authorizing the Go for Broke National Veterans Association to establish a memorial to Japanese American Veterans in the District of Columbia or its environs;

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1992; and

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 302. A concurrent resolution expressing the sense of the Congress regarding communities making the transition to "Hunger-Free" status.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2759. An act to amend the National School Lunch Act to improve the nutritional well-being to children under the age of 6 living in homeless shelters, and for other purposes.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times, and referred as indicated:

H.R. 4438. An act to designate the Federal building located at 501 West Ocean Boulevard

in Long Beach, California, as the "Glenn M. Anderson Federal Building"; to the Committee on Environment and Public Works;

H.R. 5222. An act to designate the Federal building and the United States courthouse located at 204 South Main Street in South Bend, Indiana, as the "Robert A. Grant Federal Building and United States Courthouse"; to the Committee on Environment and Public Works;

H.R. 5431. An act to designate the Federal building located at 200 Federal Plaza in Paterson, New Jersey, as the "Robert A. Roe Federal Building"; to the Committee on Environment and Public Works;

H.R. 5432. An act to designate the Federal Building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, as the "John Paul Hammerschmidt Federal Building and United States Courthouse"; to the Committee on Environment and Public Works; and

H.R. 5645. An act to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes; to the Committee on Finance.

H.J. Res. 271. A joint resolution authorizing the Go for Broke National Veterans Association to establish a memorial to Japanese American Veterans in the District of Columbia or its environs; to the Committee on Energy and Natural Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 29, 1992, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 92. A joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day."; and

S.J. Res. 310. A joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day."

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Philip Brunelle, of Minnesota, to be a Member of the National Council on the Arts for the remainder of the term expiring September 3, 1994.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 5503. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-345).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2702. A bill to authorize appropriations for fiscal year 1993 for the Coast Guard, and for other purposes (Rept. No. 102-346).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1607. A bill to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes (Rept. No. 102-347).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1958. A bill to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, to amend laws relating to Federal procurement, and for other purposes (Rept. No. 102-348).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN:

S. 3092. A bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia; to the Committee on Governmental Affairs.

By Mr. PELL (by request):

S. 3093. A bill to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for FY 1993; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 3094. A bill to amend the Nuclear Waste Policy Act of 1982 to place certain responsibilities on the Nuclear Waste Negotiator before any Phase II-B grant may be awarded to assess the feasibility of siting a monitored retrievable storage facility, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 3095. A bill to restore and clarify the Federal relationship with the Jena Band of Choctaws of Louisiana; to the Select Committee on Indian Affairs.

By Mr. DANFORTH:

S. 3096. A bill to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16; to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON (for himself, Mr. AKAKA, Mr. SHELBY, Mr. SEYMOUR, Mr. HATFIELD, Mr. BINGAMAN, Mr. D'AMATO, Mr. DECONCINI, Mr. MCCAIN, and Mrs. KASSEBAUM):

S. 3097. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN:

S. 3092. A bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia; to the Committee on Governmental Affairs.

GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC. CHARTER AMENDMENTS

Mr. NUNN. Mr. President, I rise to offer a bill which will amend chapter 698 of Public Law 395, as amended, which is the congressional charter for Group Hospitalization and Medical Services, Inc., the Blue Cross and Blue Shield plan located in the District of Columbia.

The Permanent Subcommittee on Investigations, of which I am chairman, of the Committee on Governmental Affairs, has been conducting an investigation of fraud, abuse, and mismanagement in the insurance industry and evaluating the ability of the individual State governments to deal with this problem. During the course of this investigation, which has been ongoing for over 2 years now, the subcommittee has heard from several insurance commissioners who have been working diligently with their State legislatures to enact tough, meaningful laws which give them the ability to ferret out and deal with the types of problems the subcommittee has been uncovering. All of the insurance commissioners who have testified at the subcommittee hearings have called for Federal law enforcement assistance in dealing with the problems, and I, along with other members of the subcommittee, have cosponsored legislation to do just that. As the subcommittee continues to analyze its investigative record, I anticipate the introduction of additional legislation which will call for even more Federal assistance to the States.

But today I introduce legislation whose scope is beyond the capability of any State, because the venue rests in the District of Columbia. Congress must act to correct its own oversight, an oversight that was not foreseen in 1939, when the Congress chartered Group Hospitalization, Inc., the predecessor of the District of Columbia's Blue Cross and Blue Shield plan, now known as Group Hospitalization and Medical Services, Inc. On August 22, 1939, Group Hospitalization was incorporated in the District of Columbia. The 76th Congress, in Group Hospitalization's enabling legislation, exempted the corporation from the vast majority of the District's insurance regulation. Since then, and especially in the mid to late 1980's, the corporation has grown, surely beyond anything that could have been envisioned in 1939.

On July 2, 1992, the subcommittee held its first hearing on its ongoing investigation of the Blue Cross and Blue Shield system, during which Mr. Robert M. Willis, the superintendent of insurance for the District of Columbia, testified. Our investigation of the Blue

Cross and Blue Shield system will focus on a number of issues that are of concern to the subcommittee as well as pertinent to the ongoing debate over health care costs: solvency problems; the effectiveness of State regulation; the use of for-profit subsidiaries by nonprofit Blue Cross plans; and allegations of mismanagement. As our investigation is still in its early stages, I cannot, at this point, draw any final conclusions as to those broad, national issues.

Mr. Willis' testimony before the subcommittee, however, focused on a narrow issue of critical importance to those seeking dependable health care insurance in the District of Columbia. Mr. Willis testified that the corporation, known today as Group Hospitalization and Medical Services, Inc., which is the Blue Cross & Blue Shield plan for the District, is beyond the scope of most of his authority:

Mr. WILLIS. If we can imagine that a raft is floating down a river and on the shoreline stands the commissioner * * * from the State or Maryland, who has a gaff hook and has the ability to snag the raft before it goes over Niagara Falls. That is the nexus that he has through licensing the Blues relative to the Maryland situation.

The District of Columbia is situated beyond the edge of the fall, in fact, at the bottom of the fall, and can only report the result of the raft having gone over the fall. That is the restriction of the charter. By law, I have the statutory duty to tell the Corporation Counsel that I believe that GHMSI—and I am not saying that is the case, but were that the case—has reached the point where the financial condition of the company is impaired. So I am simply in a role of having to report what has happened, that an insolvency has, in fact, occurred, and now we need to take some legal action to remedy what is left, to put the pieces together, perhaps.

Superintendent Willis went on to cite the clear limitations imposed on his office by the charter, particularly section 7, which reads:

This corporation shall not be subject to the provisions of statutes regulating the business of insurance in the District of Columbia, but shall be exempt therefrom unless specifically designated therein.

As a result, Superintendent Willis is unable to apply the solvency regulations of the District of Columbia upon Group Hospitalization and Medical Services, Inc. What we have today is a corporation that receives approximately $1.5 billion per year in insurance premium that is beyond the jurisdiction of the insurance regulator.

Superintendent Willis testified that he cannot examine the books and records of Group Hospitalization and Medical Services, Inc.; he cannot require this Blue Cross & Blue Shield Plan to submit to an independent outside auditing firm; he cannot require the plan to submit to his own examiners' review, and even if he could, he would be unable to apply the District of Columbia's insurance solvency standards on the plan.

Group Hospitalization and Medical Services is licensed by the State of Maryland and the Commonwealth of Virginia, because they write business in portions of each State. The plan must submit to the examination by either jurisdiction, which are conducted on a triennial basis by either State, but not both. Accordingly, the Maryland and Virginia insurance departments may conduct reviews of the plan's operations as they pertain to the plan's business written in either State. Neither one of these regulators can take action on the entire plan. The most they could do, if they had cause, would be to revoke the corporation's license to do business in their State. This is not even patchwork regulation, and is not the proper way to oversee an operation of this size.

John Donaho, the insurance commissioner for the State of Maryland, also testified at the subcommittee's hearing. Commissioner Donaho stated that because of the limits placed on the superintendent of insurance for the District of Columbia, the current regulatory supervision of Group Hospitalization and Medical Services is woefully inadequate. Both Commissioner Donaho and Superintendent Willis support this legislation.

Because of further congressional action in 1984, Group Hospitalization and Medical Services' charter was amended. Section 2 of chapter 698 was changed to allow the corporation to "engage in any lawful business that is incidental to or supportive of the business and affairs of" the corporation. What was once a simple intermediary between policyholders and their doctors and hospitals, is now a large corporation with dozens of subsidiaries, including some overseas—all beyond the reach of the insurance regulator. This not-for-profit corporation and its for-profit subsidiaries and affiliated companies, which engage in business transactions with the public, clearly need, as any other insurer, some oversight and need to be measured against some standard. Our investigation has already shown that the name Blue Cross/Blue Shield does not in and of itself guarantee solvency. One Blue Cross and Blue Shield plan has failed already, in West Virginia, leaving over 51,000 unpaid claims. Those claims now rest on the shoulders of West Virginians, many of whom have faced medical tragedies, only to be further burdened by the collection efforts being made against them by doctors and hospitals who expect to be paid for their services.

We cannot afford to risk another such tragedy—we must give regulators the capability to examine these entities. Should something terrible happen, and the District of Columbia Blue Cross and Blue Shield plan fail, then Congress could look only to itself when attempting to determine why there was no guard at the gate.

Mr. President, this piece of legislation is very simple and straightforward. It establishes the District of Columbia as the legal domicile for Group Hospitalization and Medical Services, Inc. It requires that the corporation be licensed in, and regulated by the laws and regulations of the District of Columbia. It strikes article 7 of the charter, which exempted the corporation from regulation by the District of Columbia Insurance Commissioner, and it requires that the corporation reimburse the District of Columbia for the costs of examination and audit of the corporation, a standard requirement of the States in the regulation of this industry.

Mr. President, I might note that I am not in the habit of introducing legislation in the midst of an ongoing investigation, prior to receiving all the evidence. This bill, however, addresses such a narrow, undisputed, and critically dangerous regulatory loophole that I do not believe that we can afford to delay its consideration until the conclusion of our broader investigation of the Blue Cross/Blue Shield system. This is a bill that should be enacted at the soonest possible date to enable the Insurance Commissioner of the District of Columbia to fully protect the interests of the thousands of policyholders and the Federal Government who do business with this Blue Cross and Blue Shield organization.

By Mr. PELL (by request):

S. 3093. A bill to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for fiscal year 1993; to the Committee on Foreign Relations.

ARMS CONTROL AND DISARMAMENT ACT—FISCAL YEAR 1993

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for fiscal year 1993.

This proposed legislation has been requested by the U.S. Arms Control and Disarmament Agency, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD, together with the letter from the Director of the U.S. Arms Control and Disarmament Agency, which was received on July 23, 1992.

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

S. 3093

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

Congress assembled, That Section 49(a) (22 U.S.C. 2589(a)) is amended to read as follows:

"SEC. 49. (a) To carry out the purpose of this Act, there are authorized to be appropriated $47,585,000 for the fiscal year 1993."

U.S. ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, DC, July 20, 1992.

Hon. DAN QUAYLE,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill to increase the authority to spend appropriated funds for the U.S. Arms Control and Disarmament Agency (ACDA) in Fiscal Year 1993 to the sum of $47,585,000. This sum is approximately $1.7 million more than the amount authorized by Congress for Fiscal Year 1993.

The Administration proposes this increase after careful consideration of the opportunities to achieve important new arms control agreements in the current international environment. This increase also reflects the increased responsibilities of ACDA for implementing newly ratified treaties and verifying those that are already in place.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

RONALD F. LEHMAN II.•

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 3094. A bill to amend the Nuclear Waste Policy Act of 1982 to place certain responsibilities on the Nuclear Waste Negotiator before any phase II–B grant may be awarded to assess the feasibility of siting a monitored retrievable storage facility, and for other purposes; to the Committee on Energy and Natural Resources.

MONITORED RETRIEVABLE STORAGE FACILITY ACCOUNTABILITY ACT

• Mr. BINGAMAN. Mr. President, I rise today to introduce legislation which will hold the Nuclear Waste Negotiator accountable for demonstrating the value of all expenditures in connection with the site selection process for a monitored retrievable storage facility [MRS]. Congress established the Office of the Nuclear Waste Negotiator in 1990, authorizing the Negotiator to solicit applications for study grants to determine the feasibility of siting an MRS.

The grant process is divided into two phases. The first phase, which authorizes grants up to $100,000 to eligible units of Government, is to be used for understanding the waste management system and an MRS facility, and for determining whether the applicant has real interest in pursuing the MRS feasibility assessment process.

The second phase of the grant process has two parts. The first part, part A, authorizes up to $200,000 to a unit of Government that has completed phase I for public information activities and participation in MRS meetings. The second part, part B, allows up to $3 million to be provided for a variety of activities, including continued feasibility studies, and formal discussions and negotiations with the Office of the Nuclear Waste Negotiator.

To date, 21 units of Government have made application, with 16 applications currently in process. Of those 16 applications, several are well on their way through phase I of the grant process, and applications for phase II moneys may be made within the next few months.

Mr. President, $3 million is a lot of money when the prospect of achieving the final goal, siting of a monitored retrievable storage facility, may be quite uncertain. The purpose of my amendment is to ensure that disbursement of phase IIB moneys is a worthwhile investment, by tying that money to the demonstration of three things:

An agreement can be negotiated with the State, Indian tribe, or affected unit of local government;

Second, that the proposed MRS will be able to comply with State environmental laws.

And third, that there is a reasonable likelihood that the Federal Government can acquire whatever water rights may be necessary.

This amendment stipulates that it is the responsibility of the Nuclear Waste Negotiator, within 90 days after a unit of Government have applied for funding for phase II B activities, to document these three things. After a certain point, and I believe phase II A activities are that point, it does not make sense to spend significant sums of money unless there is a reasonable likelihood that a given site will be chosen.

Mr. President, Congress has directed DOE to take possession of high level commercial nuclear waste, to be emplaced in a temporary storage facility for about 40 years and ultimately in a permanent facility. It is Congress' responsibility to ensure that efforts to evaluate a given site for a temporary storage facility take into account the likelihood of achieving the ultimate goal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my statement.

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

S. 3094

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 "Monitored Retrievable Storage Facility Accountability Act".

SEC. 2. MONITORED RETRIEVABLE STORAGE FACILITY ACCOUNTABILITY.

Section 406(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10246(b)) is amended—

(1) by striking "The" and inserting "(1) Subject to paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2)(A) If a State, Indian tribe, or affected unit of local government has received a Phase II–A grant under this subsection, the Secretary may not award a Phase II–B grant to the State, Indian tribe, or affected unit of local government unless the Nuclear Waste Negotiator makes a determination (at the option of the Negotiator), and reports to Congress and to the Secretary in accordance with subparagraph (B), that there is a reasonable likelihood that—

"(i) an agreement can be negotiated under section 403(a) with the State, Indian tribe, or affected unit of local government; and

"(ii) the monitored retrievable storage facility that is the subject of the agreement will be able to comply with all applicable environmental laws of the State in which the facility will be located; and

"(iii) the Federal Government will be able to acquire all water rights that will be needed to construct and operate the monitored retrievable storage facility.

"(B) The report referred to in subparagraph (A)—

"(i) shall include relevant documentation; and

"(ii) shall be submitted to Congress and to the Secretary not later than 90 days after the date of submission by the State, Indian tribe, or affected unit of local government of an application for a Phase II–B grant under this subsection.

"(C) As used in this paragraph:

"(i) The term 'Phase II–A grant' means an initial allotment of funds to demonstrate successful preliminary intergovernmental coordination and siting possibilities and has the same meaning as is described in the 1991 Annual Report to Congress, prepared by the Office of the United States Nuclear Waste Negotiator, dated March 1992.

"(ii) The term 'Phase II–B grant' has the same meaning as is described in the 1991 Annual Report to Congress, prepared by the Office of the United States Nuclear Waste Negotiator, dated March 1992.".•

By Mr. JOHNSTON:

S. 3095. A bill to restore and clarify the Federal relationship with the Jena Band of Choctaws in Louisiana; to the Select Committee on Indian Affairs.

JENA BAND OF CHOCTAWS OF LOUISIANA RESTORATION ACT

• Mr. JOHNSTON. Mr. President, I rise today to introduce legislation that would restore and clarify the Federal relationship with the Jena Band of Choctaw Indians. Specifically, this bill would restore to the Jena Band the Federal recognition that was long ago extended by our Government, and has since then, unaccountably, been ignored. This bill is virtually identical to the House bill, H.R. 3607, which was the subject of an excellent hearing on July 8. At that hearing, the head of Louisiana's Office of Indian Affairs announced the support of the Governor, other State officials, and the three other federally recognized tribes in Louisiana for the Jena Band's restoration. The former head of the BIA's Branch of Acknowledgement and Recognition also testified in support of the Jena's restoration as a federally recognized tribe.

As one who believes that an Indian tribe's recognition is the rightful prov-

ince of the Bureau of Indian Affairs, I had hoped that BIA would find a way to appropriately handle this unusual situation. However, the BIA has failed to respond to the Jena Band's case, which requires a restoration of previous recognition, rather than initial recognition. In fact, as the BIA's Federal acknowledgement procedures apply only to initial recognition of a tribe, it is necessary for the Congress to act in this unique case to restore the Jena Band's Federal recognition.

I have had earlier occasion to relate the sad story of the Jena Band, and of their 18-year-long effort to have their recognition restored, so I will only mention a few aspects of it now. Numerous Federal actions taken in the past have made clear the Federal recognition of the band as a separate and distinct Indian tribe, including the offer of allotment of tribal lands in Oklahoma in the early 1900's, the provision of services specifically to the tribe during the 1930's, and the Department of Interior acknowledgement of the band's eligibility under the Indian Reorganization Act for provision of tribal lands in Mississippi.

Unfortunately, Mr. President, the BIA never followed through on any of the promises or commitments it made to the Jena Band. Since no members of the Jena Band were able to read or write English—Choctaw is their native language—they were unable to push the BIA to act. Had the BIA fulfilled its written commitments to the Jena Band, the tribe would today be living on trust land and receiving a full range of services to which federally recognized Indian tribes are entitled. Instead, the BIA has ignored the Jena Band's pleas since the early 1970's. This has been true even though the BIA restored recognition to another Louisiana tribe, the Coushatta, which—like the Jena Band—had previously received services from the BIA.

Despite this disparate and unjust treatment, the Jena Tribe has persevered and continues to exist. It is composed of approximately 152 members of whom nearly 60 percent possess one-half or more Choctaw blood quantum, and who deserve the same treatment and benefits that other federally recognized tribes' members receive.

Mr. President, the most important point to keep in mind is that enactment of Jena Band restoration legislation will not create a new Indian tribe. Rather, it will restore the Jena's status as an Indian tribe that has previously been recognized by the BIA on several occasions. Not only will it restore just treatment to a group of Native Americans who have for too long been languishing in a bureaucratic catch 22, but it will not jeopardize efforts by some of my colleagues and the BIA to address separately proposed reforms to the Federal process for initial acknowledgement and recognition of Indian groups as tribes.

59-059 O—97 Vol. 138 (Pt. 14) 37

I urge prompt Senate action on this important legislation.●

By Mr. DANFORTH:

S. 3096. A bill to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16; to the Committee on Commerce, Science, and Transportation.

BICYCLE HELMET PROMOTION ACT

Mr. DANFORTH. Mr. President, bicycle riding is increasing steadily as a means of recreation and transportation. Ninety million Americans are cyclists, and 20 million ride a bicycle at least once a week. It is an inexpensive method of transportation which does not harm the environment. For those not old enough to drive a car, bicycling may be the only way to get around.

As ridership increases, safety concerns become even more important. A study conducted for the Centers for Disease Control [CDC], which was published last December in the Journal of the American Medical Association, provides revealing data about the magnitude and severity of head injuries suffered by cyclists. The study found that, between 1984 and 1988, nearly 3,000 people died from head injuries while cycling, and over 900,000 suffered head injuries. This represents 62 percent of all bicycling deaths and 32 percent of bicycling injuries that required treatment in hospital emergency rooms. The Consumer Product Safety Commission estimates that bicycle-related deaths and injuries cost society $7.6 billion annually.

The statistics regarding children are even more compelling. The study found that 41 percent of head injury deaths and 76 percent of total head injuries occurred among children under age 15. According to the National Head Injury Foundation, the cost of supporting a child who has suffered a severe head injury, on average, is $4.5 million over that individual's lifetime. For the family of a child killed or injured in a bicycle accident, the tragedy is immeasurable.

These losses are exacerbated by the fact that so many of them could be prevented by taking one simple step: the use of a protective bicycle helmet. A 1989 study published in the New England Journal of Medicine found that use of a bicycle helmet reduces the risk of all head injuries by 85 percent and brain injury by 90 percent. According to the CDC study, universal use of bicycle helmets would have prevented 2,600 deaths and 757,000 injuries between 1984 and 1988. Unfortunately, few riders wear helmets. In the case of children cyclists, it is a tragic fact that only 5 percent of these vulnerable riders wear helmets, according to the American Academy of Pediatrics.

Several local governments have taken steps to increase helmet use. For example, Howard and Montgomery Counties in suburban Maryland have enacted laws requiring children to wear bicycle helmets. I applaud their actions, but more needs to be done. The legislation I am introducing today provides incentives for State and local governments to address this problem. The bill establishes a grant program within the National Highway Traffic Safety Administration to promote helmet use. State or local governments could qualify for these grants in any of three ways. First, the grant could be used to assist those unable to afford a helmet, which costs about $40, to purchase one. In addition, it could be used for the creation of a helmet "bank" which would allow parents of limited means to obtain helmets for their children and to trade old helmets in for a larger size as their children grow. Second, the funds could be used to educate children about the need to wear a bicycle helmet. Finally, the grant could be used to assist in the enforcement of a mandatory bicycle helmet law for children. The bill specifically states that States or local governments are to be given broad discretion in establishing programs that effectively promote increased helmet use.

Mr. President, it is essential that bicyclists wear helmets. It is a simple matter, but the failure to wear a helmet can have tragic results. A Federal role in promoting helmet use is appropriate, and this measure takes the reasonable approach of allowing State and local officials to decide how their communities can best address this problem. This proposal will bring together State and local governments, parents, teachers, and others responsible for children, to protect against injury and to save lives. The total funding of $9 million over 3 years would be offset if we could prevent only a few serious head injuries a year, but this bill should prevent hundreds. According to the National Safe Kids Campaign, an organization consisting of health, consumer, educational, and law enforcement groups dedicated to improving child safety, this legislation will reduce the leading cause of death for children 15 and under—accidental injury. I urge my colleagues to support this bill.

By Mr. GORTON (for himself, Mr. AKAKA, Mr. SHELBY, Mr. SEYMOUR, Mr. HATFIELD, Mr. BINGAMAN, Mr. D'AMATO, Mr. DECONCINI, Mr. MCCAIN, and Mrs. KASSEBAUM):

S. 3097. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those

chemicals, and for other purposes; to the Committee on the Judiciary.

CHEMICAL CONTROL AMENDMENTS ACT OF 1992

Mr. GORTON. Mr. President, I am pleased to introduce today with Senators AKAKA, SHELBY, SEYMOUR, HATFIELD, BINGAMAN, D'AMATO, DECONCINI, MCCAIN, and KASSEBAUM, the Chemical Control Amendments Act of 1992, a bill to: First, control the diversion of certain chemicals used in the illicit production of controlled substances, and second, provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals. In short, this bill will provide law enforcement with the tools they need to combat the deadly spread of methamphetamine or ice. After years of effort, we have arrived at a noncontroversial proposal that is supported by Republicans and Democrats, chemical manufacturers, nonprescription drug manufacturers, the Drug Enforcement Administration, and local law enforcement agencies. With that kind of support, I urge my colleagues to join me and quickly enact this important measure into law.

We are familiar with the devastating effect of crack cocaine on our society. Less known is the widespread use and destructive capability of ice—which is to methamphetamine what crack is to cocaine. By many accounts, ice is far more devastating than crack and users are more violent. Users stay high for a longer period of time, usually from 16–18 hours, and sometimes for several days. Furthermore, ice can be produced almost anywhere, but most commonly in clandestine laboratories, known to many law enforcement officials as "kitchens of death."

THE CLANDESTINE LABORATORY PROBLEM

Over 80 percent of all clandestine laboratories seized involved the production of methamphetamine. The clandestine laboratory problem is one involving the production of synthetic drugs, that is, methamphetamine, amphetamine, LSD, PCP, et cetera, which are produced from precursor chemicals. A precursor chemical is one which is actually incorporated into the molecule of the final drug product. Ephedrine is a precursor for methamphetamine since it becomes part of the methamphetamine molecule and ephedrine is the most commonly used precursor used to produce methamphetamine.

From 1981 to 1988, the Drug Enforcement Administration reported a 400-percent increase in the number of seizures of clandestine labs. In late August 1989, the Chemical Diversion and Trafficking Act [CDTA] went into effect and this trend was immediately reversed. The Chemical Diversion and Trafficking Act of 1988 was the first comprehensive legislative effort by a major nation to control the diversion of chemicals as an element of its effort to deal with the illicit drug problem.

The CDTA demonstrated that this is an effective approach to drug control which can be implemented with modest administrative burdens to Government and industry. Laboratory seizures declined to 521 in 1990 and to 375 in 1991. This decline has validated the effectiveness of chemical control as a law enforcement tool.

Two major weaknesses of CDTA need to be remedied, however, if this success is to continue. The first is the legal drug exemption, set out at 21 U.S.C. 802(39)(A)(iv), which exempts a drug product which contains a listed chemical from the provisions of the act. The listed chemicals most affected by this provision are ephedrine, pseudoephedrine and phenylpropanolamine, each of which is used in various over-the-counter [OTC] and prescription drug products.

Meanwhile, cooks, the operators of clandestine labs, continue to evade law enforcement and the spread of ice continues, particularly in the Western United States. In their wake, these chemical druglords leave destroyed lives, terrorized communities, and toxic remains. In fact, the health risks posed by the hazardous wastes of abandoned clandestine laboratories present nearly as serious a problem as the production of the drugs.

Many of these chemicals are highly toxic, explosive, and even radioactive. They are recklessly dumped into our streams, sewers, and on the ground—poisoning the land and ground water. As Paul Pierce, president of the Clandestine Laboratory Investigators Association and police officer with the city of Camas in Washington State, stated in testimony last year before the Judiciary Committee, "It should be understood from the beginning that every lab is an environmental nightmare."

In 1 of over 50 seizures of meth labs in the Northwest, Officer Pierce testified that his investigative unit discovered a lab in Skamania County in Washington State that had produced more than 80 pounds of methamphetamine. Behind the residence on a hillside, detectives found hundreds of buckets of waste buried in the ground. The hillside, which contained individual wells that served as the water source in the area, was spongy to walk on due to the amount of chemical waste.

At another lab site, a suspect was using a mobile home to manufacture drugs using mercuric chloride, containing mercury, and lead acetate, containing high concentrations of lead. For over a year the operator simply poured his waste out of the trailer and into a creek that fed a nearby park swimming hole.

In yet another case, a suspect in eastern Clark County who had a lab in his five-bedroom home dumped his waste into his septic tank which overflowed and sent toxic chemicals into a nearby creek. The creek fed a local dairy farm and popular recreational lake.

If the devastation of drug abuse, the health risks of hazardous waste, and damage to the environment are not enough, I was appalled to discover recently that many local and State governments across the Nation discourage pursuit of meth lab operators because, by law, the local government is responsible for the extraordinary cleanup costs. Since, under Federal law, the seizing agency is considered the generator of the waste, it is liable for cleaning it up. This absurdity in the law penalizes the taxpayer rather than the clandestine lab operator, delays needed environmental cleanup, and exposes innocents to unknown health risks.

Even States like my State of Washington, which have enacted toxic control laws to address the damage done by meth labs, still pay an enormous price in cleanup costs. A member of the spill response unit of the Washington State Department of Ecology recently informed my office that of the approximately 200 lab cleanups he has been involved with over 4 years, the costs were recovered in only one case. At an average cost of $3,000 per cleanup, it is no wonder State and local governments have little incentive to pursue clandestine lab operators.

THE CHALLENGE

The plague of meth labs is due to the availability of legal chemicals that operators divert to produce illegal drugs. One option would be to treat these legal chemicals as controlled substances and forbid their production for any purpose. That would, however, preclude the availability of the thousands of products that we take for granted every day. The first challenge is to find a method to control the diversion of legal chemicals without affecting the commerce of valuable and legal over-the-counter products. Second, we must make producers of illicit drugs liable for the cleanup costs of the waste they leave behind.

HISTORY OF LEGISLATIVE EFFORT

As you can imagine, meeting these challenges has been difficult to say the least. Since 1989 I and other Senators have made shutting down meth labs a top priority in the war on drugs. In 1989, after meeting with law enforcement officials in Washington State, I introduced S. 2651, the precursor Chemical Regulation Act, which would: First, regulate precursor chemicals used to make methamphetamines such as ice, second, require licenses for transactions in regulated chemicals and third, impose environmental penalties for mismanagement of hazardous precursor chemicals. Senators ADAMS, BOSCHWITZ, BURNS, COATS, DANFORTH, HATCH, HATFIELD, and WILSON joined as cosponsors. These provisions were added to S. 1970, the 1990 crime bill, but were dropped in conference.

In 1991 I introduced with Senator AKAKA from Hawaii virtually the identical provisions of the earlier legislation as S. 1142, and I had intended to attach them to the 1991 crime bill. Instead, after consulting with the Drug Enforcement Administration, I introduced a more comprehensive package of precursor chemical amendments intended to build on, and strengthen the principles underlying our Federal drug laws. In addition, the bill would have implemented several of the recommendations of the multinational Chemical Action Task Force convened in connection with the 1990 Houston Economic Summit. This new package was offered by the Senator and Senators AKAKA, BRYAN, D'AMATO, DECONCINI, BURNS, PACKWOOD, and BIDEN, the chairman of the Senate Judiciary Committee, as an amendment to S. 1241, the 1991 violent crime bill. This strong bipartisan support, along with the backing of the Drug Enforcement Administration and the Chemical Manufacturers Association, led to the adoption of the measure by voice vote.

Shortly thereafter, I was contacted by the Nonprescription Drug Manufacturing Association, which had raised concerns about the legal drug exemption set forth in section 3102(c)(5). Under then-current law, the "legal drug exemption" generally exempted from Federal drug enforcement laws pharmaceutical products which may be marketed or sold lawfully under the Federal Food, Drug, and Cosmetic Act. The NDMA raised concerns that the original language of section 3102(c)(5) would unduly regulate legitimate pharmaceutical manufacturers whose products were not being diverted to the production of illicit drugs.

Finding its concerns valid and crucial to the best possible solution, I asked the NDMA to sit down with the DEA and CMA to find acceptable language. After months of often very difficult negotiations, an agreement was reached and I informed conferees to the crime bill of that success. Although I understood that the changes would be adopted in conference last November, the final report did not include the new agreement.

The bill I am introducing today, therefore, represents that extraordinary agreement and some minor technical improvements. The legitimate concerns of the Nonprescription Drug Manufacturers Association have been met. In fact, NDMA recently raised an issue which applied to both section 3—Registration—and section 4—Reporting of Listed Chemical Manufacturing—of the new bill. The issue was that the distribution and manufacture of drug products containing listed chemicals which were exempt under certain provisions were not specifically exempted from the other sections. It had not been the intention of the DEA that exempt drug products be subject to these requirements and it was agreed that a specific statement to this effect would be added to both sections. This process which has taken several years finally has produced a result that only clandestine lab operators will regret.

BILL HIGHLIGHTS

Specifically, the bill would provide for the following:

Section 2 eliminates the terms "precursor chemical" and "essential chemical" and replaces them with "list I chemical" and "list II chemical." This allows the DEA to focus degree of control on the nature of the diversion and use of the chemical rather than its status as a precursor or essential chemical. It also allows the DEA to transfer chemicals between lists if circumstances warrant greater or lesser control. In addition, this section makes U.S. chemical control law consistent with international nomenclature, expands the definitions of "regulated person" and "regulated transaction" to include brokers and traders, and modifies exemption for chemical mixtures to be consistent with the 1988 United Nations Convention.

This section also modifies the legal drug exemption. Specifically, it removes the exemption for products in which ephedrine is the only active medicinal ingredient in therapeutic amounts. The DEA may remove by regulation the exemption for other drugs containing listed chemicals if it is determined that they are being diverted. In addition, this section contains specific criteria for determining that a drug containing a listed chemical is being diverted. Finally, manufacturers may apply to retain exemption for specific drug products if they can demonstrate that the drug product is manufactured and distributed in a way which prevents diversion.

Section 3 provides for registration requirements for List I Chemicals and applies to all distributors, importers, and exporters of List I Chemicals. The requirements parallel those for registration to handle controlled substances. Those include the authority to revoke or deny based on public interest grounds as well as traditional grounds, immediate suspension in cases of imminent danger to the public health or safety, and criminal penalties for distribution, importation, or exportation without required registration. Registration is not required for distribution, importation, or exportation of drug products containing List I Chemicals covered by the legal drug exemption.

Section 4 provides for the reporting of listed chemical manufacturing. All manufacturers will be required to submit annual reports on the total quantity of listed chemicals produced during the year. This reporting requirement does not apply to the manufacture of drug products containing List I Chemicals covered by the legal drug exemption.

Section 5 requires brokers and traders to have the same recordkeeping and reporting requirements for international transactions as exporters and subjects them to the same criminal sanctions.

Section 6 provides for exemption authority and additional penalties. This will allow DEA to apply a target approach to export controls. Exports of some chemicals to certain countries—such as cocaine processing chemicals to the Andean countries—may be subject to 15-day advance notice even if the shipment is destined for a regular customer. Exports of some chemicals to certain countries—such as solvents to Canada—would not require 15-day advance notice even if the customer is not a regular customer.

This section also authorized the DEA to reduce controls on the importation of specified chemicals by modifying or eliminating the advance notice requirement. A specific criminal penalty is added for individuals who attempt to evade reporting requirements by falsely claiming that a shipment is destined for a country for which a waiver of this requirement has been established. A specific criminal penalty for smuggling of listed chemicals is added.

Section 7 provides for amendments to list I. Three chemicals which were added by the Crime Control Act of 1990 are deleted. Two of them are precursors for substances not controlled under Federal law and the third is already listed as a controlled substance. Two chemicals which are used to illicitly manufacture the immediate precursor to methamphetamine are added to list I.

Section 8 provides for the elimination of regular supplier status and the creation of regular importer status. This will place the focus of control on the U.S. firm which imports a listed chemical. The present focus is on the foreign firm which supplied the chemical.

Section 9 provides for administrative inspections and authority. DEA's inspection authority is presently limited to places where records required under the CDTA are maintained. This amendment will expand this authority so that DEA will have the same inspection authority for listed chemicals as it presently has for controlled substances.

Section 10 clarifies the Attorney General's authority to eliminate thresholds for specific chemicals.

Perhaps most importantly, section 11 creates an additional felony if an individual violates the Solid Waste Disposal Act in the handling of chemicals used to illegally manufacture a controlled substance. In addition, the individual shall be responsible for the costs of cleanup and restoration.

Section 12 subjects listed chemicals to the same forfeiture provisions which apply to controlled substances.

Last, section 13 grants the DEA full access to all information in the national practitioners data bank such as adverse State licensing actions and other reportable data. The DEA will utilize this information in determining whether to initiate administrative action against the practitioner's registration to handle controlled substances.

CONCLUSION

Obviously, this legislation when enacted into law will have a dramatic effect on the pursuit of meth lab operators and the destruction of clandestine laboratories. Indeed, perhaps it should be referred to as the "Ice Breaker Act of 1992." It is the culmination of years of effort, patience, dedication, and hard work by the Drug Enforcement Administration, the Chemical Manufacturers Association, and the Nonprescription Drug Manufacturers, and I commend them for their commitment to good public policy.

Mr. President, I ask unanimous consent to print in the RECORD the full text of the Chemical Control Act of 1992, as well as letters of endorsement from the Drug Manufacturers Association, the Nonprescription Drug Manufacturers, and the Chemical Manufacturers Association. In addition, I would like to print a letter from Officer Paul Pierce, president of the Clandestine Laboratories Investigators Association who states:

On behalf of them [CLIA] I wish to extend our enthusiastic support and endorsement for this legislation. It will result in a major weapon against the clandestine laboratory operator and more especially against the procurer and supplier of those chemicals without which an entire sector of domestically manufactured illegal drugs might just be eradicated.

With that powerful endorsement from the men and women who seize the labs, I wish to thank my colleagues who have joined as original cosponsors. After years of work, I can say confidently that I expect this noncontroversial bill to pass easily and urge my colleagues to support it.

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

DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, July 22, 1992.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The purpose of this letter is to confirm the complete support of this agency for your bill entitled the Chemical Control Amendments Act of 1992. Representatives of this agency have worked diligently with your staff in the development of this legislation which will greatly enhance our ability to deal with the problems of chemical diversion. The results of our activities in this area under our current limited authority have demonstrated that chemical control is an extremely effective mechanism with which to deal with the illicit production of drugs. The provisions contained in your bill address specific weaknesses in our law which are being exploited by individuals who require precursor and essential chemicals to produce drugs which plague our society. I thank you for your sponsorship of this legislation which we feel is critical to the mission of this agency.

Very truly yours,

ROBERT C. BONNER,
Administrator of Drug Enforcement.

NONPRESCRIPTION DRUG MANUFACTURERS ASSOCIATION,
Washington, DC, July 22, 1992.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The Drug Enforcement Administration (DEA), the Chemical Manufacturers Association (CMA) and the Nonprescription Drug Manufacturers Association (NDMA) have worked closely with Senator Slade Gorton and his staff and other members of the Senate and House of Representatives in drafting the Chemical Control Amendments Act of 1992. This legislation will provide federal enforcement agencies with needed tools to more effectively identify and deal with individuals and companies that are using precursor and other chemicals for the illicit manufacture and distribution of controlled substances such as methamphetamines. The bill recognizes that these same chemicals are essential in producing many useful commodities and are contained in literally hundreds of prescription and over-the-counter medications. The legislation therefore limits the regulatory burdens placed on legitimate chemical manufacturers and distributors and exempts from the controls of the act drug products that many be lawfully marketed in the United States.

The NDMA strongly supports prompt enactment of the Chemical Control Amendments Act of 1992.

Sincerely,

J. ROBERT BROUSE,
Vice President, Government Relations.

CHEMICAL MANUFACTURERS ASSOCIATION,
Washington, DC, July 22, 1992.

Hon. Slade Gorton,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The Chemical Manufacturers Association (CMA) wishes to convey its strong support for legislation you intend to introduce, the Chemical Control Amendments Act of 1992. CMA has actively worked with your staff and the Drug Enforcement Administration (DEA) to prevent the diversion of certain precursor and essential chemicals critical to the manufacture of illicit drugs. Your proposal will provide the Federal Government the authority necessary to effectively control diversions of legitimate chemical shipments which we wholeheartedly support.

CMA is a non-profit trade association whose member companies represent 90 percent of the productive capacity for basic industrial chemicals in the United States. CMA and its member companies are committed to doing their part in helping eliminate illicit drugs at their source. The cooperative effort first made by the chemical industry and the Government in enacting the Chemical Diversion and Trafficking Act of 1988 has served as a model for preventing the diversion of chemical shipments to illegal drug production.

CMA and its member companies look forward to continuing their work with Congress and the Administration to stem the diversion of chemicals to the manufacture of illicit drugs. If you have any questions concerning CMA's position, please have a member of your staff contact Claude P. Boudrias, Legislative Representative, Tax and Trade, at (202) 887-1138 or Michael P. Walls, CMA Assistant General Counsel, at (202) 887-1170.

Sincerely,

ROBERT A. ROLAND,
President.

CLANDESTINE LABORATORY INVESTIGATORS ASSOCIATION,
Washington, DC, July 22, 1992.

DEAR SENATOR GORTON: I have spent the past two days reviewing the Chemical Control Amendments Act of 1992 with the members of our organization from across the nation. These members are the Criminal Justice Enforcement men and women who are on the front lines of the war against drugs.

On behalf of them I wish to extend our enthusiastic support and endorsement for this legislation. It will result in a major weapon against the clandestine laboratory operator and more especially against the procurer and supplier of those chemicals without which an entire sector of domestically manufactured illegal drugs might just be eradicated.

It is our considered opinion, based on the vast experience of our members, that once these laws are in effect the illegally procured chemicals purchased through semi-legitimate companies will finally begin to dry up. It gives us the tools to shut down these sources which have operated with impunity on the fringes of the law for so long.

And perhaps more importantly the shackles of cleanup costs which have hampered so many local and state agencies in their efforts to battle these illegal laboratories will finally be placed on the individuals responsible for the chemical devastation. These people are responsible not only for the pollution of entire sectors of our society with their drugs, but they are equally responsible for mini love canals across our nation, in our rivers, forests, parks, and air. It will be many years before we know the true cost of this indiscriminate dumping of chemical wastes.

We not only fully endorse this legislation and its intent but wish further to commend you personally for your years of unselfish commitment to the war against these chemical terrorists and their kitchens of death.

Sincerely,

PAUL J. PEARCE,
President.

S. 3097

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 "Chemical Control Amendments Act of 1992".

SEC. 2. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacturer";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters" before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified";

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38) by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title II based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40) by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(43) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(44) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, buyer, and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv)(II) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) TECHNICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of the section relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B) by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

SEC. 3. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2) by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2) by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) if the person is a regulated person, to distribute, import, or export a list I chemical without the registration required by this Act.".

SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).".

SEC. 5. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) NOTIFICATION REQUIREMENT.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 5(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 5(b), is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 7. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B) by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C) by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 10. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 11. MANAGEMENT OF LISTED CHEMICALS.

(a) IN GENERAL.—Part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) ENHANCED PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1) a defendant shall be assessed the following costs to the United States, a State, or another authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a class D felony, or in the case of a willful violation, as a class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) A court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) USE OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) EXCEPTION TO DISCHARGE IN BANKRUPTCY.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 12. FORFEITURE EXPANSION.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraph (6) by inserting "or listed chemical" after "controlled substance"; and

(2) in paragraph (9) by striking "a felony provision of".

SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 14. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the date of enactment of this Act, issue regulations necessary to carry out this Act.

(b) EFFECTIVE DATE.—This Act and the amendments made by this Act shall become effective on the date that is 120 days after the date of enactment of this Act.

Mr. GORTON. I note, Mr. President, the presence on the floor of the distinguished Senator from Hawaii [Mr. AKAKA], who almost from the beginning has worked with me on this legislation, and whose encouragement and advice and support have been greatly appreciated. I am sure he wishes to make remarks on the same subject.

The PRESIDING OFFICER. The Senator from Hawaii, Mr. AKAKA, is recognized.

Mr. AKAKA. Mr. President, I am delighted to join with my colleague from Washington, Senator GORTON, as an original cosponsor of his bill which directly attacks the increased use in crystal methamphetamine by controlling the diversion of chemicals to the illegal drug trade.

In addition to reducing the diversion of chemicals to the production of illicit drugs, Senator GORTON's bill would also add additional chemicals to the list of registered precursor chemicals; provide greater flexibility to law enforcement agencies in the application of regulatory controls on the legitimate international commerce in these chemicals; and impose penalties for environmental damage associated with illegal drug production.

This measure is nearly identical to that which was adopted in the omnibus crime bill. Although there continues to be steadfast opposition to that bill from the White House, it is imperative that we move ahead with this measure so that we may stem the flow of legalized chemicals to the illegal drug trade.

This action is consistent with my own legislative efforts to control the diversion of chemicals to the illegal drug trade, particularly as they relate to the production of crystal methamphetamine. I was successful in adding tougher sentencing guidelines for offenses involving crystal meth during the debate over the Crime Control Act of 1990.

My colleagues are well aware of the problems facing Hawaii and the rest of the United States from the threat of crystal methamphetamine—or ice as it is known on the street. The 50th State remains an important port of call for shipments of the drug produced in Asia. If we are able to control the flow of chemicals used to make ice, as this bill hopes to do, we stand a good chance of stopping the ice epidemic in its tracks.

I wish to commend Senator GORTON for his leadership in this matter. A comprehensive, Federal approach to precursor chemicals is badly needed to supplement local and State laws and regulations against the illegal diversion of such chemicals to the drug trade.

I especially want to praise him for identifying the environmental consequences of illegal drug production and trade as an important issue in the drug war. By making drug pushers and producers financially as well as criminally liable for the environmental damage they may cause, this bill serves as a deterrent to such activity. At the very least, we may get drug pushers and manufacturers to pay for the cost of cleaning up the damage they do to our environment.

Mr. President, the impact of illegal drugs on the environment is an issue that we have only begun to explore. We can document the physical and psychological harm caused by drugs, but we are far less knowledgeable as to how our environment is polluted by the manufacturing of these drugs.

In closing, Mr. President, I wish to commend Senator GORTON for his continued diligence in raising the issue of precursor drugs. I urge my colleagues to join in the fight against drugs and cosponsor this legislation.

ADDITIONAL COSPONSORS

S. 434

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 434, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States, and for other purposes.

S. 781

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 2103

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2387

At the request of Mr. LEAHY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children (WIC) and of Head Start programs, to expand the Job Corps program, and for other purposes.

S. 2696

At the request of Mr. DOMENICI, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2696, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

S. 2698

At the request of Mr. PRYOR, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2698, a bill to amend title XVIII of the Social Security Act to provide for enhanced enforcement of the billing limits established under part B of such title, and for other purposes.

S. 2714

At the request of Mr. SANFORD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2714, a bill to amend the Internal Revenue Code of 1986 to assist in the recruitment and retention of mathematics and science teachers, to provide matching funds for the promotion of mathematics or science secondary schools, and for other purposes.

S. 2846

At the request of Ms. MIKULSKI, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2846, a bill to amend the Office of Federal Procurement Policy Act to provide for the participation of historically black colleges and universities in federally funded research and development activities.

S. 2889

At the request of Mr. BOREN, the name of the Senator from Arkansas [Mr. BUMPERS] was withdrawn as a cosponsor of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2949

At the request of Mr. KENNEDY, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the names of the Senator from California [Mr. SEYMOUR], the Senator from Maine [Mr. COHEN], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3020

At the request of Mr. MCCONNELL, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. CRAIG], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 3020, a bill to repeal the prohibition in the District of Columbia on individuals carrying self defense items such as MACE.

S. 3065

At the request of Mr. HARKIN, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 3065, a bill to revise and extend the Rehabilitation Act of 1973, and for other purposes.

S. 3091

At the request of Mr. GORTON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 3091, a bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for the collection and disclosure of adoption information, and for other purposes.

SENATE JOINT RESOLUTION 306

At the request of Mr. D'AMATO, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month."

AMENDMENTS SUBMITTED

NATIONAL ENERGY EFFICIENCY ACT OF 1991

BRADLEY AMENDMENT NO. 2782

Mr. BRADLEY proposed an amendment to the bill (H.R. 776) to provide for improved energy efficiency, as follows:

Strike Section 20115.

SPECTER AMENDMENT NO. 2783

Mr. SPECTER proposed an amendment to the bill H.R. 776, supra, as follows:

At the end of the Amendment, add the following:

TITLE I—TAX INCENTIVE FOR HEALTH CARE ACCESS

SEC. 101. DEDUCTIBILITY FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent of".

(b) DEDUCTION MADE PERMANENT.—Section 162(l) of the Internal Revenue Code of 1986 is amended by striking paragraph (6).

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 162(l)(3) of the Internal Revenue Code of 1986 (relating to coordination with medical deduction, etc.) is amended—

(1) by striking "health insurance credit" and inserting "health expenses credit and employer health insurance credit",

(2) by striking "section 32" and inserting "section 34A with respect to such insurance and section 38, respectively", and

(3) by striking "CREDIT" in the heading thereof and inserting "CREDITS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE II—HEALTH CARE REFORM PROVISIONS

Subtitle A—Model Health Care Insurance Benefits Plan

SEC. 201. MODEL HEALTH CARE INSURANCE BENEFITS PLAN.

(a) IN GENERAL.—The Secretary shall request that the NAIC—

(1) develop a model health care insurance benefits plan that shall contain standards that entities offering health care insurance policies should meet with respect to the benefits and coverage provided under such policies, and

(2) report to the Secretary on such standards, not later than 1 year after the date of enactment of this Act.

If the NAIC develops such a plan by such date and the Secretary finds that such plan implements the requirements of subsection (c), such plan shall be the model health care insurance benefits plan under this Act.

(b) ROLE OF THE SECRETARY IN ABSENCE OF NAIC PLAN.—If the NAIC fails to develop and report a model health care insurance benefits plan by the date specified in subsection (a) or the Secretary finds that such plan does not implement the requirements of subsection (c), the Secretary shall develop and publish such a plan, by not later than eighteen months after the date of enactment of this Act. Such plan shall then be the plan under this Act.

(c) CONTENTS.—The standards under the model benefits plan should require—

(1) that coverage be provided under health care insurance policies for basic hospital, medical and surgical services, including preventative care services determined appropriate by the Secretary;

(2) reasonable cost sharing by the beneficiaries under such policies; and

(3) appropriate copayments and deductibles.

SEC. 202. DEFINITIONS.

As used in this title:

(1) HEALTH CARE INSURANCE.—The term "health care insurance" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, multiple employer welfare arrangement, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1974), or any other health insurance arrangement, and includes an employment-related reinsurance plan, but does not include—

(A) a self-insured health care insurance plan; or

(B) any of the following offered by an insurer—

(i) accident only, dental only, or disability income only insurance,

(ii) coverage issued as a supplement to liability insurance,

(iii) worker's compensation or similar insurance, or

(iv) automobile medical-payment insurance.

(2) MANAGED CARE PLAN.—The term "managed care plan" means a health care insurance plan in which the insurer offering such plan utilizes the standards recommended under section 211 concerning the benefits and coverage under such plan.

(3) MODEL BENEFITS PLAN.—The term "model benefits plan" means the model health care insurance benefits plan developed under section 201(a).

(4) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(6) SMALL EMPLOYER.—

(A) IN GENERAL.—The term "small employer" means any employer which, on an average business day during the preceding taxable year, had more than 2 but less than 100 employees.

(B) EMPLOYEE.—The term "employee" shall not include—

(i) a self-employed individual as defined in section 401(c)(1) of the Internal Revenue Code of 1986, or

(ii) an employee who works less than 20 hours per week.

Subtitle B—Managed Care

SEC. 211. DEVELOPMENT OF STANDARDS FOR MANAGED CARE PLANS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, taking into account recommendations of the Managed Care Advisory Committee, shall develop recommended standards that insurers offering managed care plans should meet with respect to the benefits, coverage, and delivery systems provided under such plans. Such standards shall encompass the standards by which managed care entities operate.

(b) MANAGED CARE ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There shall be established a Managed Care Advisory Committee (hereinafter referred to as the "Committee").

(2) MEMBERSHIP.—The Committee shall be composed of 5 members appointed by the Secretary, each member representing 1 of the following areas:

(A) Health care professionals.

(B) Managed care industry.

(C) Academia (with specific expertise in managed care plans).

(D) Business management.

(E) Organized labor.

(3) COMPENSATION.—

(A) IN GENERAL.—Members of the Committee shall serve without compensation.

(B) EXPENSES, ETC., REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(C) APPLICATION OF ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

SEC. 212. PREEMPTION OF PROVISIONS RELATING TO MANAGED CARE.

In the case of a managed care plan meeting the recommended standards under section 211 that is offered by an insurer, the following provisions of State law are preempted and may not be enforced against the managed care plan with respect to an insurer offering such plan:

(1) RESTRICTIONS ON REIMBURSEMENT RATES OR SELECTIVE CONTRACTING.—Any law that restricts the ability of the insurer to negotiate reimbursement rates with health care providers or to contract selectively with one provider or a limited number of providers.

(2) RESTRICTIONS ON DIFFERENTIAL FINANCIAL INCENTIVES.—Any law that limits the financial incentives that the managed care plan may require a beneficiary to pay when a non-plan provider is used on a non-emergency basis.

(3) RESTRICTIONS ON UTILIZATION REVIEW METHODS.—

(A) IN GENERAL.—Any law that—

(i) prohibits utilization review of any or all treatments and conditions;

(ii) requires that such review be made by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered;

(iii) requires the use of specified standards of health care practice in such review or requires the disclosure of the specific criteria used in such review;

(iv) requires payments to providers for the expenses of responding to utilization review requests; or

(v) imposes liability for delays in performing such review.

(B) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as prohibiting a State from requiring that utilization review be conducted by a licensed health care professional, or requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical spe-

cialty as the provider whose services are being rendered.

(4) RESTRICTIONS ON BENEFITS.—Any law that mandates benefits under the managed care plan that are greater that the benefits recommended under the standards developed under section 211.

Subtitle C—Small Employer Purchasing Groups

SEC. 221. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) DEFINED.—For purposes of this title, an entity is a qualified small employer purchasing group if—

(1) the entity submits an application to the Secretary at such time, in such form and containing such information as the Secretary may require; and

(2) on the basis of information contained in the application and any other information the Secretary may require, the Secretary determines that—

(A) the entity is administered solely under the authority and control of its member employers;

(B) the membership of the entity consists solely of small employers (except that an employer member of the group may retain its membership in the group if, after the Secretary determines that the entity meets the requirements of this subsection, the number of employees of the employer member increases to more than 100);

(C) with respect to each State in which its members are located, the entity consists of not fewer than 100 employers;

(D) at the time the entity submits its application, the health care insurance plans with respect to the employer members of the entity are in compliance with applicable State laws and the model benefits plan relating to such plans;

(E) the health care insurance plans of the entity and the employer members of the entity are not self-insured plans;

(F) each enrollee in the program of the entity may enroll with any participating carrier that offers health care insurance coverage in the geographic area in which the enrollee resides; and

(G) such entity will be a nonprofit entity; and

(3) such entity has a board of directors as described in subsection (b) with authority to act as described in subsection (c).

(b) OPERATIONS.—A small employer purchasing group shall be administered by a board of directors. The members of such board shall be elected by the employers that are members of the group, and such board members shall serve at the pleasure of the majority of such employers.

(c) DUTIES OF BOARD.—

(1) IN GENERAL.—The board shall have the authority to—

(A) enter into contracts with carriers to provide health care insurance coverage to eligible employees and their dependents;

(B) enter into other contracts as are necessary or proper to carry out the provisions of this subtitle;

(C) employ necessary staff;

(D) appoint committees as necessary to provide technical assistance in the operation of the entity's program;

(E) assess participating employers a reasonable fee for necessary costs in connection with the program;

(F) undertake activities necessary to administer the program including marketing and publicizing the program and assuring carrier, employer, and enrollee compliance with program requirements;

(G) issue rules and regulations necessary to carry out the purpose of this subtitle; and

(H) accept and expend funds received through fees, grants, appropriations, or other appropriate and lawful means.

(2) PROGRAM MANAGEMENT.—

(A) GEOGRAPHIC AREAS OF COVERAGE.—The board shall establish geographic areas within which participating carriers may offer health care insurance coverage to eligible employees and dependents. The board shall contract with sufficient numbers and types of carriers in an area to assure that employees have a choice from among a reasonable number and type of competing health care insurance carriers.

(B) CONTRACT REQUIREMENTS.—

(i) IN GENERAL.—The board shall enter into contracts with qualified carriers for the purpose of providing health care insurance coverage to eligible employees and dependents, and shall pay qualified carriers on at least a monthly basis at the contracted rates.

(ii) GENERAL QUALIFICATIONS OF CARRIERS.—Participating carriers shall be qualified if such carriers have—

(I) adequate administrative management,

(II) financial solvency, and

(III) the ability to assume the risk of providing and paying for covered services.

A participating carrier may utilize reinsurance, provider risk sharing, and other appropriate mechanisms to share a portion of the risk described in subclause (III). The board may establish risk adjustment mechanisms that can be utilized to address circumstances where a participating carrier has a significantly disproportionate share of high risk or low risk enrollees based upon valid data provided by carrier. Any such risk adjustment mechanism may be developed and applied only after consultation with the participating carriers.

(C) PROGRAM STANDARDS.—The board shall require that participating carriers that contract with or employ health care providers shall have mechanisms to accomplish at least the following, satisfactory to the program:

(i) Review the quality of care covered.

(ii) Review the appropriateness of care covered.

(iii) Provide accessible health services.

(D) UNIFORMITY OF BENEFITS.—The board shall assure that participating carriers—

(i) shall offer substantially similar benefits to enrollees in the program, except that enrollees cost sharing required by participating carriers may vary according to the basic method of operation of the carrier, and

(ii) shall not vary rates to small employers or enrollees in the program on account of claim experience, health status or duration from issue.

(E) PAYMENT MECHANISM.—The board shall establish a mechanism to collect premiums from small employers, including remittance of the enrollee's share of the premium.

(3) NOTIFICATION OF PROGRAM BENEFITS.—The board shall use appropriate and efficient means to notify employers of the availability of sponsored health care insurance coverage from the program. The board shall make available marketing materials which accurately summarize the carriers' insurance plans and rates which are offered through the program. A participating carrier may contract with an agent or broker to provide marketing, advertising, or presentation proposals or otherwise disseminate information regarding coverage or services or rates offered in connection with the program.

(4) CONDITIONS OF PARTICIPATION.—

(A) IN GENERAL.—The board shall establish conditions of participation for small employers and enrollees that—

(i) assure that the entity is a valid small employer purchasing group and is not formed for the purpose of securing health care insurance coverage;

(ii) assure that individuals in the group are not added for the purpose of securing such coverage;

(iii) require that a specified percentage of employees and dependents obtain health care insurance coverage;

(iv) require minimum employer contributions; and

(v) require prepayment of premiums or other mechanisms to assure that payment will be made for coverage.

(B) MINIMUM PARTICIPATION.—The board may require participating employers to agree to participate in the program for a specified minimum period of time and may include in any participation agreements with employers a requirement for a financial deposit or provision for a financial penalty, which would be invoked in the event the employer violates the participation agreement.

(d) GRANTS.—

(1) AUTHORITY.—The Secretary may award grants to qualified small employer purchasing groups to assist such groups in paying the expenditures associated with the formation and initial operations of such groups.

(2) APPLICATION.—To be eligible to receive a grant under this subsection, a qualified small employer purchasing group shall request such a grant as part of the application submitted by such group under subsection (a)(1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to award grants under this subsection, such sums as may be necessary.

(e) FREEDOM OF CONTRACT.—Nothing in this subtitle shall be construed to prohibit a participating carrier from offering health care insurance coverage to small employers that are not participating in the program of a small employer purchasing group.

SEC. 222. PREEMPTION FROM INSURANCE MANDATES FOR SMALL EMPLOYER PURCHASING GROUPS.

(a) FINDING.—Congress finds that qualified small employer purchasing groups organized for the purpose of obtaining health insurance for the employer members of such groups affect interstate commerce.

(b) PREEMPTION OF STATE MANDATES.—In the case of a qualified small employer purchasing group, no provision of State law shall apply that requires the offering, as part of the health care insurance plan with respect to an employer member of such a group, of any services, category of care, or services of any class or type of provider that is in excess of that recommended under the model benefit plan.

Subtitle D—Insurance Market Reform

SEC. 231. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH CARE INSURANCE PROVIDED TO SMALL EMPLOYERS.

(a) IN GENERAL.—Subchapter L of chapter 1 of the Internal Revenue Code of 1986 (relating to insurance companies) is amended by adding at the end thereof the following new part:

"PART IV—HEALTH CARE INSURANCE PROVIDED TO SMALL EMPLOYERS

"Sec. 850. Failure to satisfy standards for health care insurance of small employers.

"Sec. 850A. General issuance requirements.

"Sec. 850B. Specific contractual requirements.

"Sec. 850C. State compliance agreements.

"Sec. 850D. Definitions and other rules.

"SEC. 850. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH CARE INSURANCE OF SMALL EMPLOYERS.

"(a) GENERAL RULE.—No health insurance contract issued to an eligible small employer shall be treated as a contract for purposes of section 807 or 832 if the issuer of such a contract fails to meet at any time during any taxable year—

"(1) the general issuance requirements of section 850A, or

"(2) the specific contractual requirements of section 850B.

"(b) LIMITATION.—

"(1) SECTION NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—Subsection (a) shall not apply with respect to any failure for which it is established to the satisfaction of the Secretary that the person described in such subsection did not know, or exercising reasonable diligence would not have known, that such failure existed.

"(2) SECTION NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—Subsection (a) shall not apply with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons described in such subsection knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive the application of subsection (a).

"SEC. 850A. GENERAL ISSUANCE REQUIREMENTS.

"(a) GENERAL RULE.—The requirements of this section are met if a person meets—

"(1) the mandatory policy requirements of subsection (b),

"(2) the guaranteed issue requirements of subsection (c), and

"(3) the mandatory registration and disclosure requirements of subsection (d).

"(b) MANDATORY POLICY REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if any person issuing a health care insurance contract to any eligible small employer makes available to such employer a health care insurance contract which—

"(A) provides benefits and coverage consistent with the model health care insurance benefits plan developed under section 201 of the Health Equity and Access Improvement Act of 1991, and

"(B) is for a term of not less than 12 months.

"(2) PRICING AND MARKETING REQUIREMENTS.—The requirements of paragraph (1) are not met unless—

"(A) the price at which the contract described in paragraph (1) is made available is not greater than the price for such contract determined on the same basis as prices for other health care insurance contracts within the same class of business made available by the person to eligible small employers, and

"(B) such contract is made available to eligible small employers using at least the marketing methods and other sales practices which are used in selling such other contracts.

"(c) GUARANTEED ISSUE.—

"(1) IN GENERAL.—The requirements of this subsection are met if the person offering health care insurance contracts to eligible small employers issues such a contract to any eligible small employer seeking to enter into such a contract.

"(2) FINANCIAL CAPACITY EXCEPTION.—Paragraph (1) shall not require any person to issue a health care insurance contract to the extent that the issuance of such contract would result in such person violating the financial solvency standards (if any) established by the State in which such contract is to be issued.

"(3) DELIVERY CAPACITY EXCEPTION.—Paragraph (1) shall not require any person to issue a health care insurance contract to the extent that the issuance of such contract would result, upon demonstration to the Secretary, in such person exceeding its administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups)

"(4) EXCEPTION FOR CERTAIN EMPLOYERS.—Paragraph (1) shall not apply to a failure to issue a health care insurance contract to an eligible small employer if—

"(A) such employer is unable to pay the premium for such contract, or

"(B) in the case of an eligible small employer with fewer than 15 employees, such employer fails to enroll a minimum percentage of the employer's eligible employees for coverage under such contract, so long as such percentage is enforced uniformly for all eligible small employers of comparable size.

"(5) EXCEPTION FOR ALTERNATIVE STATE PROGRAMS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply if the State in which the health care insurance contract is issued—

"(i) has a program which—

"(I) assures the availability of health care insurance contracts to eligible small employers through the equitable distribution of high risk groups among all persons offering such contracts to such employers, and

"(II) is consistent with a model program developed by the NAIC;

"(ii) has a qualified State-run reinsurance program, or

"(iii) has a program which the Secretary of Health and Human Services has determined assures all eligible small employers in the State an opportunity to purchase a health care insurance contract without regard to any risk characteristic.

"(B) REINSURANCE PROGRAM.—

"(i) PROGRAM REQUIREMENTS.—For purposes of subparagraph (A)(ii), a State-run reinsurance program is qualified if such program is one of the NAIC reinsurance program models developed under clause (ii) or is a variation of one of such models, as approved by the Secretary of Health and Human Services.

"(ii) MODELS.—Not later than the 120 days after the date of the enactment of the Health Equity and Access Improvement Act of 1991, the NAIC shall develop several models for a reinsurance program, including options for program funding.

"(d) MANDATORY REGISTRATION AND DISCLOSURE REQUIREMENTS.—The requirements of this subsection are met if the person offering health care insurance contracts to eligible small employers in any State—

"(1) registers with the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance,

"(2) fully discloses the rating practices for small employer health care insurance contracts at the time such person offers a health care insurance contract to an eligible small employer, and

"(3) fully discloses the terms for renewal of the contract at the time of the offering of such contract and at least 90 days before the expiration of such contract.

"SEC. 850B. SPECIFIC CONTRACTUAL REQUIREMENTS.

"(a) GENERAL RULE.—The requirements of this section are met if the following requirements are met:

"(1) The coverage requirements of subsection (b).

"(2) The rating requirements of subsection (c).

"(b) COVERAGE REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any health care insurance contract if, under the terms and operation of the contract, the following requirements are met:

"(A) GUARANTEED ELIGIBILITY.—No eligible employee (and the spouse or any dependent child of the employee eligible for coverage) may be excluded from coverage under the contract.

"(B) LIMITATIONS ON COVERAGE OF PREEXISTING CONDITIONS.—Any limitation under the contract on any preexisting condition—

"(i) may not extend beyond the 6-month period beginning with the date an insured is first covered by the contract, and

"(ii) may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the contract.

"(C) GUARANTEED RENEWABILITY.—

"(i) IN GENERAL.—The contract must be renewed at the election of the eligible small employer unless the contract is terminated for cause.

"(ii) CAUSE.—For purposes of this subparagraph, the term 'cause' means—

"(I) nonpayment of the required premiums;

"(II) fraud or misrepresentation of the employer or, with respect to coverage of individual insureds, the insureds or their representatives;

"(III) noncompliance with the contract's minimum participation requirements;

"(IV) noncompliance with the contract's employer contribution requirements; or

"(V) repeated misuse of a provider network provision in the contract.

"(2) WAITING PERIODS.—Paragraph (1)(A) shall not apply to any period an employee is excluded from coverage under the contract solely by reason of a requirement applicable to all employees that a minimum period of service with the employer is required before the employee is eligible for such coverage.

"(3) DETERMINATION OF PERIODS FOR RULES RELATING TO PREEXISTING CONDITIONS.—For purposes of paragraph (1)(B), the date on which an insured is first covered by a contract shall be the earlier of—

"(A) the date on which coverage under such contract begins, or

"(B) the first day of any continuous period—

"(i) during which the insured was covered under 1 or more other health insurance arrangements, and

"(ii) which does not end more than 120 days before the date employment with the employer begins.

"(4) CESSATION OF SMALL EMPLOYER HEALTH INSURANCE BUSINESS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a person shall not be treated as failing to meet the requirements of paragraph (1)(C) if such person terminates the class of business which includes the health care insurance contract.

"(B) NOTICE REQUIREMENT.—Subparagraph (A) shall apply only if the person gives no-

tice of the decision to terminate at least 90 days before the expiration of the contract.

"(C) 5-YEAR MORATORIUM.—If, within 5 years of the year in which a person terminates a class of business under subparagraph (A), such person establishes a new class of business, the issuance of such contracts in that year shall be treated as a failure to which this section applies.

"(D) TRANSFERS.—If, upon a failure to renew a contract to which subparagraph (A) applies, a person offers to transfer such contract to another class of business, such transfer must be made without regard to risk characteristics.

"(c) RATING REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if—

"(A) the requirements of paragraphs (2) and (3) are met, and

"(B) any increase in any premium rate under the renewal contract over the corresponding rate under the health care insurance contract being renewed does not exceed the applicable annual adjusted increase.

"(2) LIMIT ON VARIATION OF PREMIUMS BETWEEN CLASSES OF BUSINESS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the index rate for a rating period for any class of business of the insurer does not exceed the index rate for any other class of business by more than 20 percent.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a class of business if—

"(i) the class is one for which the insurer does not reject, and never has rejected, eligible small employers included within the class of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon risk characteristics,

"(ii) the insurer does not transfer, and never has transferred, a health care insurance contract involuntarily into or out of the class of business, and

"(iii) the class of business is currently available for purchase.

"(3) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A CLASS OF BUSINESS.—The requirements of this paragraph are met if the premium rates charged during a rating period to eligible small employers with similar case characteristics (other than risk characteristics) for the same or similar coverage, or the rates which could be charged to such employers under the rating system for that class of business, do not vary from the index rate by more than 20 percent of the index rate.

"(4) APPLICABLE ANNUAL ADJUSTED INCREASE.—For purposes of paragraph (1)(B)—

"(A) IN GENERAL.—The applicable annual adjusted increase is an amount equal to the sum of—

"(i) the applicable percentage of the premium rate under the health care insurance contract being renewed, plus

"(ii) any increase in the rate under the renewal contract due to any change in coverage or to any change of case characteristics (other than risk characteristics), plus

"(iii) 5 percentage points.

"(B) APPLICABLE PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the applicable percentage is the percentage (if any) by which—

"(I) the premium rate for newly issued contracts for substantially similar coverage for an employer with similar case characteristics (other than risk characteristics) as the employer under the health care insurance contract (determined on the 1st day of the rating period applicable to such contracts), exceeds

"(II) such rate on the 1st day of the rating period applicable to the contract being renewed.

"(ii) CASES WHERE NO NEW BUSINESS.—If no new contracts are being issued for a class of business during any rating period, the applicable percentage shall be the percentage (if any) by which the base premium rate determined under paragraph (5)(B) with respect to the renewal contract exceeds such rate for the contract to be renewed.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) INDEX RATE.—The term 'index rate' means, with respect to a class of business, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate for that class.

"(B) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business for each rating period, the lowest premium rate which could have been charged under a rating system for that class of business by the insurer to eligible small employers with similar case characteristics (other than risk characteristics) for health care insurance contracts with the same or similar coverage.

"SEC. 850C. STATE COMPLIANCE AGREEMENTS.

"(a) AGREEMENTS.—The Secretary of Health and Human Services may enter into an agreement with any State—

"(1) to apply the standards set by the NAIC for health care insurance contracts in lieu of the requirements of this subchapter, and

"(2) to provide for the State to make the initial determination as to whether a person is in compliance with such standards for purposes of applying the sanctions under section 850.

"(b) STANDARDS.—An agreement may be entered into under subsection (a)(1) only if—

"(1) the chief executive officer of the State requests such agreement be entered into,

"(2) the Secretary of Health and Human Services determines that the NAIC standards to be applied under the agreement will carry out the purposes of this subchapter, and

"(3) the Secretary determines that the NAIC standards to be applied under the agreement will apply to substantially all health care insurance contracts issued in such State to eligible small employers.

"(c) TERMINATION.—The Secretary of Health and Human Services shall terminate any agreement if the Secretary determines that the application of NAIC standards by the State ceases to carry out the purposes of this subchapter.

"(d) NAIC STANDARDS.—Not later than the 270 days after the date of the enactment of the Health Equity and Access Improvement Act of 1991, the NAIC shall develop standards which provide for requirements substantially similar to the requirements of this subchapter.

"SEC. 850D. DEFINITIONS AND OTHER RULES.

For purposes of this part—

"(1) HEALTH CARE INSURANCE.—The term 'health care insurance' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, multiple employer welfare arrangement, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1974), or any other health insurance arrangement, and includes an employment-related reinsurance plan, but does not include—

"(A) a self-insured health care insurance plan; or

"(B) any of the following offered by an insurer—

"(i) accident only, dental only, or disability income only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) worker's compensation or similar insurance, or

"(iv) automobile medical-payment insurance.

"(2) CLASS OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'class of business' means, with respect to health care insurance provided to eligible small employers, all health care insurance provided to such employers.

"(B) ESTABLISHMENT OF GROUPINGS.—

"(i) IN GENERAL.—An issuer may establish separate classes of business with respect to health care insurance provided to eligible small employers but only if such classes are based on 1 or more of the following:

"(I) Business marketed and sold through persons not participating in the marketing and sale of such insurance to other eligible small employers.

"(II) Business acquired from other insurers as a distinct grouping.

"(III) Business provided through an association of not less than 20 eligible small employers which was established for purposes other than obtaining insurance.

"(IV) Business related to managed care plans (as defined in section 202(2) of the Health Equity and Access Improvement Act of 1991.

"(V) Any other business which the Secretary of Health and Human Services determines needs to be separately grouped to prevent a substantial threat to the solvency of the insurer.

"(ii) EXCEPTION ALLOWED.—Except as provided in subparagraph (C), an insurer may not establish more than one distinct group of eligible small employers for each category specified in clause (i).

"(C) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in characteristics (other than differences in plan benefits) of health insurance plans that are expected to produce substantial variation in health care costs.

"(2) CHARACTERISTICS.—

"(A) IN GENERAL.—The term 'characteristics' means, with respect to any insurance rating system, the factors used in determining rates.

"(B) RISK CHARACTERISTICS.—The term 'risk characteristics' means factors related to the health risks of individuals, including health status, prior claims experience, the duration since the date of issue of a health insurance plan or arrangement, industry, and occupation.

"(C) GEOGRAPHIC FACTORS.—

"(i) IN GENERAL.—In applying geographic location as a characteristic, an insurer may not use for purposes of this subchapter areas smaller than 3-digit postal zip code areas.

"(ii) STUDY AND REPORT.—Not later than 120 days after the date of the enactment of the Health Equity and Access Improvement Act of 1991, the Comptroller General of the United States shall study and report to the Congress concerning—

"(I) insurance industry practices in determining the geographic boundaries of communities used for setting rates,

"(II) the feasibility and desirability of establishing standardized geographic communities for setting rates, and

"(III) the effect such standardized geographic communities would have on rates charged small employers.

"(3) ELIGIBLE SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'eligible small employer' means any person which, on an average business day during the preceding taxable year, had more than 2 but less than 50 employees.

"(B) AGGREGATION RULES.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person.

"(C) EMPLOYEE.—The term 'employee' shall not include—

"(i) a self-employed individual as defined in section 401(c)(1), or

"(ii) an employee who works less than 20 hours per week.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners."

(b) CONFORMING AMENDMENT.—Subchapter L of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Part IV. Health care insurance provided to small employers."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued, or renewed, after the date of the enactment of this Act.

(2) GUARANTEED ISSUE.—The provisions of section 850A(c) of the Internal Revenue Code of 1986, as added by this section, shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this Act.

(3) PREMIUM RANGE.—In the case of any contract in effect on the date of the enactment of this Act, the provisions of section 850B(c)(1)(A) of such Code, as added by this section, shall not apply to the premiums under such contract or any renewal contract for benefits provided during the period beginning on such date and ending on the last day of the 2nd plan year beginning after such date.

TITLE III—ACCESS TO PRIMARY AND PREVENTIVE CARE

SEC. 301. REAUTHORIZATION OF CERTAIN PROGRAMS PROVIDING PRIMARY AND PREVENTIVE CARE.

(a) IMMUNIZATION PROGRAMS.—Section 317(j)(1)(A) of the Public Health Service Act (42 U.S.C. 247b(j)(1)(A)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "each of the fiscal years 1992 through 1995" and inserting in lieu thereof "fiscal year 1992, $380,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(b) TUBERCULOSIS PREVENTION GRANTS.—Section 317(j)(2) of the Public Health Service Act (42 U.S.C. 247b(j)(2)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "each of the fiscal years 1992 through 1995" and inserting in lieu thereof "fiscal year 1992, $30,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(c) LEAD POISONING PREVENTION.—Section 317A(j) of the Public Health Service Act (42 U.S.C. 247b-1(j)) is amended by striking out "and $24,000,000 for fiscal year 1991" and inserting in lieu thereof "$24,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

(d) SEXUALLY TRANSMITTED DISEASES.—Section 318(d)(1) of the Public Health Service Act (42 U.S.C. 247c(d)(1)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by inserting before the first period the following: "$125,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(e) MIGRANT HEALTH CENTERS.—Section 329(h)(1)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(1)(A)) is amended by striking out "and 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994" and inserting in lieu thereof "through 1992, $80,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(f) COMMUNITY HEALTH CENTERS.—Section 330(g)(1)(A) of the Public Health Service Act (42 U.S.C. 254c(g)(1)(A)) is amended by striking out "and 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994" and inserting in lieu thereof "through 1992, $700,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(g) HEALTH CARE SERVICES FOR THE HOMELESS.—Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended by striking out "and such sums" and all that follows through the period and inserting in lieu thereof "$90,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

(h) SUBSTANCE ABUSE PREVENTION PROGRAMS.—Section 508(d)(1) of the Public Health Service Act (42 U.S.C. 290aa-6(d)(1)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by inserting before the period the following: "$350,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(i) FAMILY PLANNING PROJECT GRANTS.—Section 1001(d) of the Public Health Service Act (42 U.S.C. 300(d)) is amended—

(1) by striking out "and $158,400,000" and inserting in lieu thereof "$158,400,000"; and

(2) by inserting before the period the following: ", $200,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(j) BREAST AND CERVICAL CANCER PREVENTION.—Section 1509(a) of the Public Health Service Act (42 U.S.C. 300n-5(a)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "for each of the fiscal years 1992 and 1993" and inserting in lieu thereof "for fiscal year 1992, $100,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(k) PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking out "and such sums" and all that follows through the end thereof and inserting the following: "$235,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

(l) HIV EARLY INTERVENTION.—Section 2655 of the Public Health Service Act (42 U.S.C. 300ff-55) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "each of the fiscal years 1992 through 1995" and inserting in lieu thereof "fiscal year 1992, $310,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(m) MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking out "$686,000,000 for fiscal year 1990 and each fiscal year thereafter" and inserting in lieu thereof "$800,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 through 1997".

TITLE IV—COST CONTAINMENT

SEC. 401. NEW DRUG CLINICAL TRIALS PROGRAM.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 409. NEW DRUG CLINICAL TRIALS PROGRAM.

"(a) IN GENERAL.—The Director of the National Institutes of Health is authorized to establish and implement a program for the conduct of clinical trials with respect to new drugs and disease treatments determined to be promising by the Director. In determining which drugs and disease treatments that are to be the subject of such clinical trials, the Director shall give priority to those drugs and disease treatments targeted towards the diseases determined—

"(1) to be the most costly to treat;

"(2) to have the highest mortality; or

"(3) to affect the greatest number of individuals.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $120,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 through 1997.".

SEC. 402. MEDICAL TREATMENT EFFECTIVENESS.

(a) DRUG ABUSE DEMONSTRATION PROJECTS.—Section 509G(c)(1) of the Public Health Service Act (42 U.S.C. 290aa-14(c)(1)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "each of the fiscal years 1990 through 1991" and inserting in lieu thereof "fiscal year 1991, $200,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(b) AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—Section 926 of the Public Health Service Act (42 U.S.C. 299c-5) is amended—

(1) in subsection (a), by striking out "and $70,000,000 for fiscal year 1992" and inserting in lieu thereof "$70,000,000 for fiscal year 1992, $100,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996"; and

(2) by adding at the end thereof the following new subsection:

"(c) USE OF ADDITIONAL APPROPRIATIONS.—Within amounts appropriated under subsection (a) for each of the fiscal years 1993 through 1996 that are in excess of the amounts appropriated under such subsection for fiscal year 1992, the Secretary shall give priority to expanding research conducted to determine the most cost effective methods of health care and for developing and disseminating new practice guidelines related to such methods. In utilizing such amounts, the Secretary shall give priority to diseases and disorders that the Secretary determines are the most costly to the United States and evidence a wide variation in current medical practice.".

SEC. 403. HEALTH CARE COST CONTROL—EXPENDITURE TARGETS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services,

after considering the recommendations of the Health Care Cost Control Advisory Committee established under subsection (b), shall prepare and submit to the appropriate committees of the Congress a report concerning the establishment of national spending targets for health care and health care services. Such report shall contain the recommendations of the Secretary concerning the feasibility—

(1) for controlling the cost of health care, reducing cost shifting and maintaining the quality of care;

(2) of establishing national targets for health expenditures;

(3) of establishing national reimbursement targets for hospital services;

(4) establishing national reimbursement targets for physicians services; and

(5) of establishing national reimbursement targets for prescription drug services.

(b) HEALTH CARE COST CONTROL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There shall be established a Health Care Cost Control Advisory Committee (hereinafter referred to in this subsection as the "Committee").

(2) MEMBERSHIP.—The Committee shall be composed of 8 individuals appointed by the Secretary, representing—

(A) physicians;

(B) hospitals;

(C) pharmacies;

(D) private insurers;

(E) State and local governments;

(F) employers;

(G) organized labor; and

(H) academia with expertise as a health economist.

(3) COMPENSATION.—

(A) IN GENERAL.—Members of the Committee shall serve without compensation.

(B) EXPENSES, REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(C) APPLICATION OF THE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) SUPPORT.—The Secretary of Health and Human Services shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

TITLE V—REVENUE OFFSETS

Subtitle A—General Provisions

SEC. 501. ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.

Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102-26) is amended by striking out "that are brought before November 15, 1992".

SEC. 502. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS AND EXPANSION OF LIST OF TAXED CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year:	Base tax amount:
1992	$1.85
1993	$2.75
1994	$3.65
1995	$4.55."

(b) CONFORMING AMENDMENTS.—

(1) Rates retained for chemical used in rigid foam insulation.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "1993, and 1994" and inserting "1993, 1994, and 1995, and July 1, 1992".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or July 1" after "January 1", and

(ii) by inserting "or December 31, respectively," after "June 30".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

SEC. 503. MARK TO MARKET INVENTORY METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position or a liability which is not a security in the hands of the taxpayer.

Subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—Any security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), this section shall apply to such security as of the time such cessation occurs.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) any interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) HEDGE.—The term 'hedge' includes any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CERTAIN RULES NOT TO APPLY.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security or position under subsection (b)(2) as being described in such subsection and such security or position is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify a security or position which is described in such subsection at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security shall be recognized only to the extent of gain previously recognized

under this section with respect to such security.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to hedges which do not hedge a specific security, position, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market inventory method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

SEC. 504. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any payment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992 regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

Subtitle B—Electromagnetic Spectrum Function

SEC 511. SHORT TITLE.

This subtitle may be cited as the "Emerging Telecommunications Technologies Act of 1992".

SEC. 512. FINDINGS.

The Congress finds that—

(1) spectrum is a valuable natural resource;

(2) it is in the national interest that this resource be used more efficiently;

(3) the spectrum below 6 gigahertz (GHz) is becoming increasingly congested, and, as a result entities that develop innovative new spectrum-based services are finding it difficult to bring these services to the marketplace;

(4) scarcity of assignable frequencies can and will—

(A) impede the development and commercialization of new spectrum-based products and services;

(B) reduce the capacity and efficiency of the United States telecommunications system; and

(C) adversely affect the productive capacity and international competitiveness of the United States economy;

(5) the United States Government presently lacks explicit authority to use excess radiocommunications capacity to satisfy non-United States Government requirements;

(6) more efficient use of the spectrum can provide the resources for increased economic returns;

(7) many commercial users derive significant economic benefits from their spectrum licenses, both through the income they earn from their use of the spectrum and the returns they realize upon transfer of their licenses to third parties; but under current procedures, the United States public does not sufficiently share in their benefits;

(8) many United States Government functions and responsibilities depend heavily on the use of the radio spectrum, involve unique applications, and are performed in the broad national and public interest;

(9) competitive bidding for spectrum can yield significant benefits for the United States economy by increasing the efficiency of spectrum allocations, assignment, and use; and for United States taxpayers by producing substantial revenues for the United States Treasury; and

(10) the Secretary, the President, and the Commission should be directed to take appropriate steps to foster the more efficient use of this valuable national resource, including the reallocation of a target amount of 200 megahertz (MHz) of spectrum from United States Government use under section 305 of the Communications Act to non-United States Government use pursuant to other provisions of the Communications Act and the implementation of competitive bidding procedures by the Commission for some new assignments of the spectrum.

SEC. 513. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Secretary and the Chairman of the Commission shall, at least twice each year, conduct joint spectrum planning meetings with respect to the following issues—

(1) future spectrum needs;

(2) the spectrum allocation actions necessary to accommodate those needs, including consideration of innovation and marketplace developments that may affect the relative efficiencies of different portions of the spectrum; and

(3) actions necessary to promote the efficient use of the spectrum, including proven spectrum management techniques to promote increased shared use of the spectrum as a means of increasing non-United States Government access; and innovation in spectrum utilization including means of providing incentives for spectrum users to develop innovative services and technologies.

(b) REPORTS.—The Secretary and the Chairman of the Commission shall submit a joint annual report to the President on the joint spectrum planning meetings conducted under subsection (a) and any recommendations for action developed in such meetings.

(c) OPEN PROCESS.—The Secretary and the Commission will conduct an open process under this section to ensure the full consideration and exchange of views among any interested entities, including all private, public, commercial, and governmental interests.

SEC. 514. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall prepare and submit to the President the reports required by subsection (d) to identify bands of frequencies that—

(1) are allocated on a primary basis for United States Government use and eligible for licensing pursuant to section 305(a) of the Communications Act;

(2) are not required for the present or identifiable future needs of the United States Government;

(3) can feasibly be made available during the next 15 years after enactment of this title for use under the provisions of the Communications Act for non-United States Government users;

(4) will not result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from the potential non-United States Government uses; and

(5) are likely to have significant value for non-United States Government uses under the Communications Act.

(b) AMOUNT OF SPECTRUM RECOMMENDED.—

(1) IN GENERAL.—The Secretary shall recommend as a goal for reallocation, for use by non-United States Government stations, bands of frequencies constituting a target amount of 200 MHz, that are located below 6 GHz, and that meet the criteria specified in paragraphs (1) through (5) of subsection (a). If the Secretary identifies (as meeting such criteria) bands of frequencies totalling more than 200 MHz, the Secretary shall identify and recommend for reallocation those bands (totalling not less than 200 MHz) that are likely to have the greatest potential for non-United States Government uses under the Communications Act.

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary recommends be partially retained for use by United States Government stations, but which are also recommended to be reallocated and made available under the Communications Act for use by non-United States Government stations, may be counted to-

ward the target 200 MHz of spectrum required by paragraph (1) of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the amount targeted by paragraph (1) of this subsection;

(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to United States Government stations under section 305 of the Communications Act are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by which United States Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential United States Government use to be made; and

(C) the operational sharing permitted under this paragraph shall be subject to procedures which the Commission and the Department of Commerce shall establish and implement to ensure against harmful interference.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE UNITED STATES GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial provider;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable;

(C) seek to avoid—

(i) serious degradation of United States Government services and operations;

(ii) excessive costs to the United States Government and civilian users of such Government services; and

(iii) identification of any bands for reallocation that are likely to be subject to substitution for the reasons specified in section 405(b)(2)(A) through (C); and

(D) exempt power marketing administrations and the Tennessee Valley Authority from any reallocation procedures.

(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Communications Act over the course of fifteen years after the enactment of this title;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for non-United States Government use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the cost to reestablish United States Government services displaced by the reallocation of spectrum during the fifteen year period.

(3) COSTS TO THE UNITED STATES GOVERNMENT.—In determining whether a frequency band meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the costs to the United States Government of reaccommodating its services in order to make spectrum available for non-United States Government use, including the incremental costs directly attributable to the loss of the use of the frequency band; and

(B) the benefits that could be obtained from reallocating such spectrum to non-United States Government users, including the value of such spectrum in promoting—

(i) the delivery of improved service to the public;

(ii) the introduction of new services; and

(iii) the development of new communications technologies.

(4) NON-UNITED STATES GOVERNMENT USE.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(5), the Secretary shall consider—

(A) the extent to which equipment is commercially available that is capable of utilizing the band; and

(B) the proximity of frequencies that are already assigned for non-United States Government use.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) SUBMISSION OF REPORTS TO THE PRESIDENT TO IDENTIFY AN INITIAL 50 MHZ TO BE MADE AVAILABLE IMMEDIATELY FOR REALLOCATION, AND TO PROVIDE PRELIMINARY AND FINAL REPORTS ON ADDITIONAL FREQUENCIES TO BE REALLOCATED.—

(A) Within 3 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a report which specifically identifies an initial 50 MHz of spectrum that are located below 3 GHz, to be made available for reallocation to the Federal Communications Commission upon issuance of this report, and to be distributed by the Commission pursuant to competitive bidding procedures.

(B) The Department of Commerce shall make available to the Federal Communications Commission 50 MHz as identified in subparagraph (A) of electromagnetic spectrum for allocation of land-mobile or land-mobile-satellite services. Notwithstanding section 553 of the Administrative Procedure Act and title III of the Communications Act, the Federal Communications Commission shall allocate such spectrum and conduct competitive bidding procedures to complete the assignment of such spectrum in a manner which ensures that the proceeds from such bidding are received by the Federal Government no later than September 30, 1992. From such proceeds, Federal agencies displaced by this transfer of the electromagnetic spectrum to the Federal Communications Commission shall be reimbursed for reasonable costs directly attributable to such displacement. The Department of Commerce shall determine the amount of, and arrange for, such reimbursement. Amounts to agencies shall be available subject to appropriation Acts.

(C) Within 12 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a preliminary report to identify reallocable bands of frequencies meeting the criteria established by this section.

(D) Within 24 months after the date of enactment of this title, the Secretary shall prepare and submit to the President a final report which identifies the target 200 MHz for reallocation (which shall encompass the initial 50 MHz previously designated under subparagraph (A)).

(E) The President shall publish the reports required by this section in the Federal Register.

(2) CONVENING OF PRIVATE SECTOR ADVISORY COMMITTEE.—Not later than 12 months after the enactment of this title, the Secretary shall convene a private sector advisory committee to—

(A) review the bands of frequencies identified in the preliminary report required by paragraph (1)(C);

(B) advise the Secretary with respect to—

(i) the bands of frequencies which should be included in the final report required by paragraph (1)(D); and

(ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receives public comment on the Secretary's preliminary and final reports under this subsection; and

(D) prepare and submit the report required by paragraph (4).

The private sector advisory committee shall meet at least quarterly until each of the actions required by section 405(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The private sector adviser committee shall include—

(A) the Chairman of the Commission, and the Secretary, or their designated representatives, and two other representatives from two different United States Government agencies that are spectrum users, other than the Department of Commerce, as such agencies may be designated by the Secretary; and

(B) Persons who are representative of—

(i) manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial users;

(iii) other users of the electromagnetic spectrum; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum to be chosen by the Secretary.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The private sector advisory committee shall, not later than 12 months after its formation, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, such recommendations as the committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between United States Government users and non-United States Government users, and any dissenting views thereon.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The Secretary shall, as part of the final report required by subsection (d)(1)(D), include a timetable for the effective dates by which the President shall, within 15 years after enactment of this title, withdraw or limit assignments on frequencies specified in the report. The recommended effective dates shall—

(1) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 406(a);

(2) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(3) be based on the need to coordinate frequency use with other nations; and

(4) avoid the imposition of incremental costs on the United States Government directly attributable to the loss of the use of

frequencies or the changing to different frequencies that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequencies.

SEC. 515. WITHDRAWAL OF ASSIGNMENT TO UNITED STATES GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 3 months after receipt of the Secretary's report under section 404(d)(1)(A), withdraw or limit the assignment to a United States Government station of any frequency on the initial 50 MHz which that report recommends for immediate reallocation;

(2) with respect to other frequencies recommended for reallocation by the Secretary's report in section 404(d)(1)(D), by the effective dates recommended pursuant to section 404(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a United States Government station of any frequency which that report recommends be reallocated or available for mixed use on such effective dates;

(3) assign or reassign other frequencies to United States Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) publish in the Federal Register a notice and description of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in section 405(b)(2) exists, the President—

(A) may, within 1 month after receipt of the Secretary's report under section 404(d)(1)(A), and within 6 months after receipt of the Secretary's report under section 404(d)(1)(D), substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall publish in the Federal Register a statement of the reasons for taking the action described in subparagraph (A).

(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national security interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important United States Governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in incremental costs to the United States Government that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequency.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the final report of the Secretary under section 404(d)(1)(D) unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the effective dates recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 406, the President may—

(A) withdraw or limit the assignment to United States Government stations on a later date that is consistent with such plan, by providing notice to that effect in the Federal Register, including the reason that withdrawal at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE UNITED STATES GOVERNMENT; APPROPRIATIONS AUTHORIZED.—Any United States Government licensee, or non-United States Government entity operating on behalf of a United States Government licensee, that is displaced from a frequency pursuant to this section may be reimbursed not more than the incremental costs it incurs, in such amounts as provided in advance in appropriation Acts, that are directly attributable to the loss of the use of the frequency pursuant to this section. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(d) There are authorized to be appropriated to the affected licensee agencies such sums as may be necessary to carry out the purposes of this section.

SEC. 516. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

(a) PLANS SUBMITTED.—

(1) With respect to the initial 50 MHz to be reallocated from United States Government to non-United States Government use under section 404(d)(1)(A), not later than 6 months after enactment of this title, the Commission shall complete a public notice and comment proceeding regarding the allocation of this spectrum and shall form a plan to assign such spectrum pursuant to competitive bidding procedures, pursuant to section 408, during fiscal years 1994 through 1996.

(2) With respect to the remaining spectrum to be reallocated from United States Government to non-United States Government use under section 404(e), not later than 2 years after issuance of the report required by section 404(d)(1)(D), the Commission shall complete a public notice and comment proceeding; and the Commission shall, after consultation with the Secretary, prepare and submit to the President a plan for the distribution under the Communications Act of the frequency bands reallocated pursuant to the requirements of this title. Such plan shall—

(A) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 404(e), shall propose—

(i) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (ii), over the course of a 10-year period beginning on the date of submission of such plan; and

(ii) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(B) contain appropriate provisions to ensure—

(i) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Communications Act (47 U.S.C. 157); and

(ii) the availability of frequencies to stimulate the development of such technologies; and

(C) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

(b) AMENDMENT TO THE COMMUNICATIONS ACT.—Section 303 of the Communications Act is amended by adding at the end thereof the following new subsection:

"(u) Have authority to assign the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, except that any such assignment shall expressly be made subject to the right of the President to reclaim such frequencies under the provisions of section 407 of the Emerging Telecommunications Technologies Act of 1991.".

SEC. 517. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—The President may reclaim reallocated frequencies for reassignment to United States Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNASSIGNED FREQUENCIES.—If the frequencies to be reclaimed have not been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2).

(2) ASSIGNED FREQUENCIES.—If the frequencies to be reclaimed have been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2), except that the notification required by section 405(b)(1) shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for their utilization; and

(B) an estimate of the cost of displacing the licensees.

(c) COSTS OF RECLAIMING FREQUENCIES.—Any non-United States Government licensee that is displaced from a frequency pursuant to this section shall be reimbursed the incremental costs it incurs that are directly attributable to the loss of the use of the frequency pursuant to this section.

(d) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Communications Act (47 U.S.C. 606).

SEC. 518. COMPETITIVE BIDDING.

(a) COMPETITIVE BIDDING AUTHORIZED.—Section 309 of the Communications Act is amended by adding the following new subsection:

"(j)(1)(A) The Commission shall use competitive bidding for awarding all initial licenses or new construction permits, including licenses and permits for spectrum reallocated for non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, subject to the exclusions listed in paragraph (2).

"(B) The Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to submit a second-stage application. Upon determining that such application is acceptable for filing and that the applicant is qualified pursuant to subparagraph (C), the Commission shall grant a permit or license.

"(C) No construction permit or license shall be granted to an applicant selected pursuant to subparagraph (B) unless the Commission determines that such applicant is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first- and second-stage applications submitted under subparagraph (B).

"(D) Each participant in the competitive bidding process is subject to the schedule of changes contained in section 8 of this Act.

"(E) The Commission shall have the authority in awarding construction permits or licenses under competitive bidding procedures to (i) define the geographic and frequency limitations and technical requirements, if any, of such permits or licenses; (ii) establish minimum acceptable competitive bids; and (iii) establish other appropriate conditions on such permits and licenses that will serve the public interest.

"(F) The Commission, in designing the competitive bidding procedures under this subsection, shall study and include procedures—

"(i) to ensure bidding access for small and rural companies,

"(ii) if appropriate, to extend the holding period for winning bidders awarded permits or licenses, and

"(iii) to expand review and enforcement requirements to ensure that winning bidders continue to meet their obligations under this Act.

"(G) The Commission shall, within 6 months after enactment of the Emerging Telecommunications Technologies Act of 1991, following public notice and comment proceedings, adopt rules establishing competitive bidding procedures under this subsection, including the method of bidding and the basis for payment (such as flat fees, fixed or variable royalties, combinations of flat fees and royalties, or other reasonable forms of payment); and a plan for applying such competitive bidding procedures to the initial 50 MHz reallocated from United States Government to non-United States Government use under section 404(d)(1)(A) of the Emerging Telecommunications Technologies Act of 1991, to be distributed during the fiscal years 1994 through 1996.

"(2) Competitive bidding shall not apply to—

"(A) license renewals;

"(B) the United States Government and State or local government entities;

"(C) amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(D) private radio end-user licenses, such as Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(E) any license grant to a non-United States Government licensee being moved from its current frequency assignment to a different one by the Commission in order to implement the goals and objectives underlying the Emerging Telecommunications Technologies Act of 1991;

"(F) any other service, class of services, or assignments that the Commission determines, after conducting public comment and notice proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption; and

"(G) small businesses, as defined in section 3(a)(1) of the Small Business Act.

"(3) In implementing this subsection, the Commission shall ensure that current and future rural telecommunications needs are met and that existing rural licensees and their subscribers are not adversely affected.

"(4) Monies received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the United States Treasury.".

(b) RANDOM SELECTION NOT TO APPLY WHEN COMPETITIVE BIDDING REQUIRED.—Section 309(i)(1) of the Communications Act is amended by striking the period after the word "selection" and inserting ", except in instances where competitive bidding procedures are required under subsection (j).".

(c) SPECTRUM ALLOCATION DECISIONS.—Section 303 of the Communications Act is amended by adding the following new subsection:

"(v) In making spectrum allocation decisions among services that are subject to competitive bidding, the Commission is authorized to consider as one factor among others taken into account in making its determination, the relative economic values and other public interest benefits of the proposed uses as reflected in the potential revenues that would be collected under its competitive bidding procedures.".

SEC. 519. DEFINITIONS.

As used in this subtitle:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunications services.

(2) The term "assignment" means an authorization given by the Commission or the United States Government for a radio station to use a radio frequency or radio frequency channel.

(3) The term "Commission" means the Federal Communications Commission.

(4) The term "Communications Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(5) The term "Secretary" means the Secretary of Commerce.

Subtitle C—Other Provisions

SEC. 521. EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8343a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8420a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 6, 1996".

SEC. 522. EXTENSION OF THE PATENT AND TRADEMARK OFFICE USER FEE SURCHARGE THROUGH 1996.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1996";

(2) in subsection (b)(2) by striking "1995" and inserting "1996"; and

(3) in subsection (c)—

(A) by striking "1995" the first place it appears and inserting "1996"; and

(B) by adding at the end the following new paragraph:

"(6) $107,000,000 in fiscal year 1996."

SEC. 523. ONE-YEAR EXTENSION OF CUSTOMS USER FEES.

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

SEC. 524. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to programs to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1998".

(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1998".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

SEC. 525. REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.

(a) REVISION.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 526. APPLICATION OF MEDICARE PART B LIMITS TO FEHBP ENROLLEE AGE 65 OR OLDER.

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—Subsection 8904(b) of title 5, United States Code, is amended:

(1) by amending paragraph (1) to read as follows:

"(b)(1)(A) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits under this chapter, in the case of any individual enrolled in the plan who is not an employee and who is age 65 or older, to the extent that—

"(i) a benefit claim involves a charge by a health care provider for a type of service or medical item which is covered for purposes of benefit payments under both this chapter and title XVIII of the Social Security Act (42 U.S.C. 1395–1395ccc) relating to medicare hospital and supplementary medical insurance, and

"(ii) benefits otherwise payable under such provisions of law in the case of such individual would exceed applicable limitations on hospital and physician charges established for medicare purposes under sections 1886 and 1848 of the Social Security Act (42 U.S.C. 1395ww and 1395w–4), respectively.

"(B)(i) For purposes of this subsection, hospitals, physicians, and other suppliers of medical and health services who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1842(h) and 1866 of the Social Security Act (42 U.S.C. 1395u(h) and 1395cc), whereby the participating provider accepts medicare benefits in full payment of charges for covered items and services after applicable patient copayments under sections 1813, 1833 and 1866(a)(2) of the Social Security Act (42 U.S.C. 1395e, 1395*l*, and 1395cc(a)(2)) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for any item or service described under subparagraph (A) which is furnished to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to such item or service under provisions of title XVIII of the Social Security Act.

"(ii) Physicians and other health care suppliers who are nonparticipating physicians, as defined by section 1842(i)(2) of the Social Security Act (42 U.S.C. 1395u(i)(2)) for purposes of services furnished to medicare beneficiaries, may not bill in excess of the limiting charge prescribed under section 1848(g) of the Social Security Act (42 U.S.C. 1395w–4(g)) when providing services described under subparagraph (A) to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to those services under provisions of title XVIII of the Social Security Act.

"(iii) The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital, physician, or other supplier of medical services is found to knowingly and willfully violate this sub-

section and the Secretary shall invoke appropriate sanctions in accordance with subsections 1128A(a)(2), 1848(g)(8), and 1866(b)(2) of the Social Security Act (42 U.S.C. 1320a-7a(a)(2), 1395w-4(g)(8), and 1395cc(b)(2)) and applicable regulations."; and

(2) by amending paragraph (3)(B) to read as follows:

"(B) For purposes of this paragraph, the term 'medicare program information' includes—

"(i) the limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and the identity of hospitals which have in force agreements with the Secretary of Health and Human Services consistent with section 1866 of the Social Security Act (42 U.S.C. 1395cc); and

"(ii) the annual fee schedule amounts for services of participating physicians and 'limiting charge' information for nonparticipating physicians established for medicare purposes under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) and the identity of physicians and suppliers who have in force participation agreements with the Secretary consistent with subsection 1842(h) of the Social Security Act (42 U.S.C. 1395u(h).".

(b) MEDICARE AGREEMENTS WITH INSTITUTIONAL PROVIDERS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (P);

(2) by striking out the period at the end of subparagraph (Q) and inserting ", and", and

(3) by inserting after subparagraph (Q) the following new paragraph:

"(R) to accept as payment in full the amounts that would be payable under this part (including the amounts of any coinsurance and deductibles required of individuals entitled to have payment made on their behalf) for an item or service which the provider normally furnishes to patients (or others furnish under arrangement with the provider) and which is furnished to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this title and chapter 89 of title 5, United States Code.".

(c) MEDICARE PARTICIPATING PHYSICIANS AND SUPPLIERS.—Section 1842(h)(1) of the Social Security Act (42 U.S.C. 1395u(h)(1)) is amended, after the second sentence, by inserting the following new sentence: "Such agreement shall provide, for any year beginning with 1993, that the physician or supplier will accept as payment in full the amounts that would be payable under this part (plus the amounts of any coinsurance or deductibles required of individuals on whose behalf payments are made under this title) for an item or service furnished during such year to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this part and chapter 89 of title 5, United States Code.".

(d) MEDICARE ACTUAL CHARGE LIMITATION FOR NONPARTICIPATING PHYSICIANS.—Section 1848(g) of the Social Security Act (42 U.S.C. 1359w-4(g)) is amended by adding at the end thereof the following paragraph:

"(8) LIMITATION OF ACTUAL CHARGES FOR ENROLLEES OF THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—(A) A nonparticipating physician shall not impose an actual charge in excess of the limiting charge defined in paragraph (2) for items and services furnished after 1992 in any case involving—

"(i) an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) or section 8903 or section 8903a of title 5, United States Code; and

"(ii) an item or service of a type that is covered for benefits under both this part and chapter 89 of title 5, United States Code.

"(B) If a person knowingly and willfully bills for physicians' services in violation of subparagraph (A), the Secretary shall apply sanctions against the person in accordance with section 1842(j)(2).".

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to health care provider charges for items and services furnished to individuals enrolled in plans under chapter 89 of title 5, United States Code, in contract years beginning after December 31, 1992.

(2) The amendment made by subsection (b) applies to agreements for periods after 1991.

SYMMS (AND GRAHAM) AMENDMENT NO. 2784

Mr. SYMMS (for himself and Mr. GRAHAM) proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place insert the following new sections:

SECTION 1. REMOVAL OF VOLUME CAP FOR CERTAIN HIGH-SPEED RAIL FACILITY BONDS

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exception for certain bonds) is amended by inserting ", other than any such bond described in subsection (h)(1)" after "rail facilities".

(b) CONFORMING AMEMDMENT.—Subsection (h) of section 146 (relating to exception for Government-owned solid waste disposal facilities) is amended—

(1) by striking "section 142(a)(6)" in paragraph (1) and inserting "paragraph (6) or (11) of section 142(a)", and

(2) by inserting "AND HIGH-SPEED RAIL" before "FACILITIES" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

SEC. 2. DEDUCTION FOR MOVING EXPENSE.

(a) IN GENERAL.—Paragraph (1) of section 217(c) of the Internal Revenue Code of 1986 (relating to Conditions for allowance) is amended by striking every occurrence of the phrase "35 miles" and replacing it with the phrase "55 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after January 1, 1993.

PRESSLER AMENDMENT NO. 2785

Mr. PRESSLER proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place, insert the following:

SEC. . AMENDMENT.

The Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 220. FIELD PERSONNEL.

"(a) IN GENERAL.—To the extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of Transportation, in fiscal year 1993, shall employ and maintain thereafter an additional 12 pipeline field personnel above the number of field personnel authorized for fiscal year 1992 for the Research and Special Programs Administration. These personnel will work primarily on public water supply protection and other environmental public water supply protection and other environmental public health and safety aspects of pipeline regulations. The Secretary shall take such action as may be necessary to assure that the activities of such additional field personnel focus on—

"(1) inspecting intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program that meets the requirements of subsection (a) or (b) of section 205 of this title;

"(2) assisting the States identified under paragraphs (1) and (3) in developing hazardous liquid pipeline safety programs that meet the requirements of subsection (a) or (b) of section 205 of this title;

"(3) inspecting interstate hazardous liquid pipeline facilities constructed prior to 1971; and

"(4) providing technical assistance and training to State pipeline inspectors and assisting in the review and management of pipeline safety grants.

"(b) ASSIGNMENT OF FIELD PERSONNEL.—The additional field personnel provided under subsection (a) shall be assigned by the Secretary to the Research and Special Programs Administration pipeline safety regional offices on the basis of the extent to which—

"(1) hazardous liquid pipelines constructed prior to 1971 exist in a region;

"(2) there are in a region States having intrastate hazardous liquid pipeline facilities that do not have a hazardous liquid pipeline safety program meeting the requirements of subsection (a) or (b) of section 205 of this title; and

"(3) there are other factors, including those based on public water supply protection and other environmental public health and safety concerns, which the Secretary deems relevant to improving the extent and quality of Federal and State hazardous liquid pipeline safety programs.

"(c) FUNDING.—The Secretary of Transportation may use such sums as may be necessary of funds appropriated pursuant to section 17(a) of the Natural Gas Pipeline Safety Act of 1986, as amended, and section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as amended, to carry out this section.".

BROWN AMENDMENT NO. 2786

Mr. JOHNSTON (for Mr. BROWN) proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . URANIUM MILL TAILINGS RADIATION CONTROL ACT EXTENSION.

Section 112(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7922(a)) is amended by striking "1994" and inserting "1998".

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 2787

Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. FORD, Mr. ADAMS, Mr.

AKAKA, Mr. DIXON, Mr. INOUYE, Mr. RIEGLE, Mr. SIMON, Mr. SPECTER, and Mr. WOFFORD) proposed an amendment to the bill H.R. 776, supra, as follows:

On page 645, strike subtitle C of title XX and insert:

Subtitle C—Health Care of Coal Miners

SEC. 1941. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 1942. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the production, transportation, and use of coal substantially affects interstate and foreign commerce and the national public interest; and

(2) in order to secure the stability of interstate commerce, it is necessary to modify the current private health care benefit plan structure for retirees in the coal industry to identify persons most responsible for plan liabilities in order to stabilize plan funding and allow for the provision of health care benefits to such retirees.

(b) STATEMENT OF POLICY.—It is the policy of this subtitle—

(1) to remedy problems with the provision and funding of health care benefits with respect to the beneficiaries of multiemployer benefit plans that provide health care benefits to retirees in the coal industry;

(2) to allow for sufficient operating assets for such plans; and

(3) to provide for the continuation of a privately financed self-sufficient program for the delivery of health care benefits to the beneficiaries of such plans.

SEC. 1943. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. COAL INDUSTRY HEALTH BENEFITS.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A—Definitions of general applicability.

"SUBCHAPTER B—Combined benefit fund.

"SUBCHAPTER C—Health benefits of certain miners.

"SUBCHAPTER D—Other provisions.

"Subchapter A—Definitions of General Applicability

"Sec. 9701. Definitions of general applicability.

"SEC. 9701. DEFINITIONS OF GENERAL APPLICABILITY.

"(a) PLANS AND FUNDS.—For purposes of this chapter—

"(1) UMWA BENEFIT PLAN.—

"(A) IN GENERAL.—The term 'UMWA Benefit Plan' means a plan—

"(i) which is described in section 404(c), or a continuation thereof; and

"(ii) which provides health benefits to retirees and beneficiaries of the industry which maintained the 1950 UMWA Pension Plan.

"(B) 1950 UMWA BENEFIT PLAN.—The term '1950 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired before 1976.

"(C) 1974 UMWA BENEFIT PLAN.—The term '1974 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired on or after January 1, 1976.

"(2) 1950 UMWA PENSION PLAN.—The term '1950 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired before 1976.

"(3) 1974 UMWA PENSION PLAN.—The term '1974 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired in 1976 and thereafter.

"(4) 1992 UMWA BENEFIT PLAN.—The term '1992 UMWA Benefit Plan' means the plan referred to in section 9713A.

"(5) COMBINED FUND.—The term 'Combined Fund' means the United Mine Workers of America Combined Benefit Fund established under section 9702.

"(b) AGREEMENTS.—For purposes of this section—

"(1) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means—

"(A) the National Bituminous Coal Wage Agreement, or

"(B) any other agreement entered into between an employer in the coal industry and the United Mine Workers of America that required or requires one or both of the following:

"(i) the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan; or

"(ii) contributions to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or any predecessor thereof.

"(2) SETTLORS.—The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (referred to in this chapter as the 'BCOA').

"(3) NATIONAL BITUMINOUS COAL WAGE AGREEMENT.—The term 'National Bituminous Coal Wage Agreement' means a collective bargaining agreement negotiated by the BCOA and the United Mine Workers of America.

"(c) TERMS RELATING TO OPERATORS.—For purposes of this section—

"(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a person which is or was a signatory to a coal wage agreement.

"(2) RELATED PERSONS.—

"(A) IN GENERAL.—A person shall be considered to be a related person to a signatory operator if that person is—

"(i) a member of the controlled group of corporations (within the meaning of section 52(a)) which includes such signatory operator;

"(ii) a trade or business which is under common control (as determined under section 52(b)) with such signatory operator; or

"(iii) any other person who is identified as having a partnership interest or joint venture with a signatory operator in a business within the coal industry, but only if such business employed eligible beneficiaries, except that this clause shall not apply to a person whose only interest is as a limited partner.

A related person shall also include a successor in interest of any person described in clause (i), (ii), or (iii).

"(B) TIME FOR DETERMINATION.—The relationships described in clauses (i), (ii), and (iii) of subparagraph (A) shall be determined as of July 20, 1992, except that if, on July 20, 1992, a signatory operator is no longer in business, the relationships shall be determined as of the time immediately before such operator ceased to be in business.

"(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

"(A) a signatory operator which was a signatory to the 1988 National Bituminous Coal Wage Agreement,

"(B) an employer in the coal industry which was a signatory to an agreement containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 National Bituminous Coal Wage Agreement, or

"(C) an employer from which contributions were actually received after 1987 and before July 20, 1992, by the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan in connection with employment in the coal industry during the period covered by the 1988 National Bituminous Coal Wage Agreement.

"(4) LAST SIGNATORY OPERATOR.—The term 'last signatory operator' means, with respect to a coal industry retiree, a signatory operator which was the most recent coal industry employer of such retiree.

"(5) ASSIGNED OPERATOR.—The term 'assigned operator' means, with respect to an eligible beneficiary defined in section 9703(f), the signatory operator to which liability under subchapter B with respect to the beneficiary is assigned under section 9706.

"(6) OPERATORS OF DEPENDENT BENEFICIARIES.—For purposes of this chapter, the signatory operator, last signatory operator, or assigned operator of any eligible beneficiary under this chapter who is a coal industry retiree shall be considered to be the signatory operator, last signatory operator, or assigned operator with respect to any other individual who is an eligible beneficiary under this chapter by reason of a relationship to the retiree.

"(7) BUSINESS.—For purposes of this chapter, a person shall be considered to be in business if such person conducts or derives revenue from any business activity, whether or not in the coal industry.

"(d) ENACTMENT DATE.—For purposes of this chapter, the term 'enactment date' means the date of the enactment of this chapter.

"Subchapter B—Combined Benefit Fund

"Part I—ESTABLISHMENT AND BENEFITS

"Part II—FINANCING

"Part III—ENFORCEMENT

"Part IV—OTHER PROVISIONS

"PART I—ESTABLISHMENT AND BENEFITS

"Sec. 9702. Establishment of the United Mine Workers of America Combined Benefit Fund.

"Sec. 9703. Plan benefits.

"SEC. 9702. ESTABLISHMENT OF THE UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—As soon as practicable (but not later than 60 days) after the enactment date, the persons described in subsection (b) shall designate the individuals to serve as trustees. Such trustees shall create a new private plan to be known as the United Mine Workers of America Combined Benefit Fund.

"(2) MERGER OF RETIREE BENEFIT PLANS.—As of February 1, 1993, the settlors of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall cause such plans to be merged into the Combined Fund, and such merger shall not be treated as an employer withdrawal for purposes of any 1988 coal wage agreement.

"(3) TREATMENT OF PLAN.—The Combined Fund shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(4) TAX TREATMENT.—For purposes of this title, the Combined Fund and any related trust shall be treated as an organization exempt from tax under section 501(a).

"(b) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

"(A) one individual who represents employers in the coal mining industry shall be designated by the BCOA;

"(B) one individual shall be designated by the three employers, other than 1988 agreement operators, who have been assigned the greatest number of eligible beneficiaries under section 9706;

"(C) two individuals designated by the United Mine Workers of America; and

"(D) three persons selected by the persons appointed under subparagraphs (A), (B), and (C).

"(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

"(3) SPECIAL RULES.—

"(A) BCOA.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.

"(B) FORMER SIGNATORIES.—The initial trustee under paragraph (1)(B) shall be designated by the 3 employers, other than 1988 agreement operators, which the records of the 1950 UMWA Benefit Plan and 1974 UMWA Benefit Plan indicate have the greatest number of eligible beneficiaries as of the enactment date, and such trustee and any successor shall serve until November 1, 1993.

"(c) PLAN YEAR.—The first plan year of the Combined Fund shall begin February 1, 1993, and end September 30, 1993. Each succeeding plan year shall begin on October 1 of each calendar year.

"SEC. 9703. PLAN BENEFITS.

"(a) IN GENERAL.—Each eligible beneficiary of the Combined Fund shall receive—

"(1) health benefits described in subsection (b), and

"(2) in the case of an eligible beneficiary described in subsection (f)(1), death benefits coverage described in subsection (c).

"(b) HEALTH BENEFITS.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide health care benefits to each eligible beneficiary by enrolling the beneficiary in a health care services plan which undertakes to provide such benefits on a prepaid risk basis. The trustees shall utilize all available plan resources to ensure that, consistent with paragraph (2), coverage under the managed care system shall to the maximum extent feasible be substantially the same as (and subject to the same limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) PLAN PAYMENT RATES.—

"(A) IN GENERAL.—The trustees of the Combined Fund shall negotiate payment rates with the health care services plans described in paragraph (1) for each plan year which are in amounts which—

"(i) vary as necessary to ensure that beneficiaries in different geographic areas have access to a uniform level of health benefits; and

"(ii) result in aggregate payments for such plan year from the Combined Fund which do not exceed the total premium payments required to be paid to the Combined Fund under section 9704(a) for the plan year, adjusted as provided in subparagraphs (B) and (C).

"(B) REDUCTIONS.—The amount determined under subparagraph (A)(ii) for any plan year shall be reduced—

"(i) by the aggregate death benefit premiums determined under section 9704(c) for the plan year, and

"(ii) by the amount reserved for plan administration under subsection (d).

"(C) INCREASES.—The amount determined under subparagraph (A)(ii) shall be increased—

"(i) by any reduction in the total premium payments required to be paid under section 9704(a) by reason of transfers described in section 9705,

"(ii) by any carryover to the plan year from any preceding plan year which—

"(I) is derived from amounts described in section 9704(e)(3)(B)(i), and

"(II) the trustees elect to use to pay benefits for the current plan year, and

"(iii) any interest earned by the Combined Fund which the trustees elect to use to pay benefits for the current plan year.

"(3) QUALIFIED PROVIDERS.—The trustees of the Combined Fund shall not enter into an agreement under paragraph (1) with any provider of services which is of a type which is required to be certified by the Secretary of Health and Human Services when providing services under title XVIII of the Social Security Act unless the provider is so certified.

"(4) EFFECTIVE DATE.—Benefits shall be provided under paragraph (1) on and after February 1, 1993.

"(c) DEATH BENEFITS COVERAGE.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide death benefits coverage to each eligible beneficiary described in subsection (f)(1) which is identical to the benefits provided under the 1950 UMWA Pension Plan or 1974 UMWA Pension Plan, whichever is applicable, on July 20, 1992. Such coverage shall be provided on and after February 1, 1993.

"(2) TERMINATION OF COVERAGE.—The 1950 UMWA Pension Plan and the 1974 UMWA Pension Plan shall each be amended to provide that death benefits coverage shall not be provided to eligible beneficiaries on and after February 1, 1993. This paragraph shall not prohibit such plans from subsequently providing death benefits not described in paragraph (1).

"(d) RESERVES FOR ADMINISTRATION.—The trustees of the Combined Fund may reserve for each plan year, for use in payment of the administrative costs of the Combined Fund, an amount not to exceed 5 percent of the premiums to be paid to the Combined Fund under section 9704(a) during the plan year.

"(e) LIMITATION ON ENROLLMENT.—The Combined Fund shall not enroll any individual who is not receiving benefits under the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of July 20, 1992.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this subchapter, the term 'eligible beneficiary' means an individual who—

"(1) is a coal industry retiree who, on July 20, 1992, was eligible to receive, and receiving, benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or

"(2) on such date was eligible to receive, and receiving, benefits in either such plan by reason of a relationship to such retiree.

"PART II—FINANCING

"Sec. 9704. Liability of assigned operators.
"Sec. 9705. Transfers.
"Sec. 9706. Assignment of eligible beneficiaries.

"SEC. 9704. LIABILITY OF ASSIGNED OPERATORS.

"(a) ANNUAL PREMIUMS.—Each assigned operator shall pay to the Combined Fund for each plan year beginning on or after February 1, 1993, an annual premium equal to the sum of the following three premiums—

"(1) the health benefit premium determined under subsection (b) for such plan year, plus

"(2) the death benefit premium determined under subsection (c) for such plan year, plus

"(3) the unassigned beneficiaries premium determined under subsection (d) for such plan year.

Any related person with respect to an assigned operator shall be jointly and severally liable for any premium required to be paid by such operator.

"(b) HEALTH BENEFIT PREMIUM.—For purposes of this chapter—

"(1) IN GENERAL.—The health benefit premium for any plan year for any assigned operator shall be an amount equal to the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries assigned to such operator under section 9706.

"(2) PER BENEFICIARY PREMIUM.—The Secretary of Health and Human Services shall calculate a per beneficiary premium for each plan year beginning on or after February 1, 1993, which is equal to the sum of—

"(A) the amount determined by dividing—

"(i) the aggregate amount of payments from the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for health benefits (less reimbursements but including administrative costs) for the plan year beginning July 1, 1991, for all individuals covered under such plans for such plan year, by

"(ii) the number of such individuals, plus

"(B) the amount determined under subparagraph (A) multiplied by the percentage (if any) by which the medical component of the Consumer Price Index for the calendar year in which the plan year begins exceeds such component for 1992.

"(3) ADJUSTMENTS FOR MEDICARE REDUCTIONS.—If, by reason of a reduction in benefits under title XVIII of the Social Security Act, the level of health benefits under the Combined Fund would be reduced, the trustees of the Combined Fund shall increase the per beneficiary premium for the plan year in which the reduction occurs and each subsequent plan year by the amount necessary to maintain the level of health benefits which would have been provided without such reduction.

"(c) DEATH BENEFIT PREMIUM.—The death benefit premium for any plan year for any assigned operator shall be equal to the applicable percentage of the amount, actuarially determined, which the Combined Fund will be required to pay during the plan year for death benefits coverage described in section 9703(c).

"(d) UNASSIGNED BENEFICIARIES PREMIUM.—The unassigned beneficiaries premium for any plan year for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

"(e) PREMIUM ACCOUNTS; ADJUSTMENTS.—

"(1) ACCOUNTS.—The trustees of the Combined Fund shall establish and maintain 3 separate accounts for each of the premiums described in subsections (b), (c), and (d). Such accounts shall be credited with the premiums received and debited with expenditures allocable to such premiums.

"(2) ALLOCATIONS.—

"(A) ADMINISTRATIVE EXPENSES.—Administrative costs for any plan year shall be allocated to premium accounts under paragraph (1) on the basis of expenditures (other than administrative costs) from such accounts during the preceding plan year.

"(B) INTEREST.—Interest shall be allocated to the account established for health benefit premiums.

"(3) SHORTFALLS AND SURPLUSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if, for any plan year, there is a shortfall or surplus in any premium account, the premium for the following plan year for each assigned operator shall be proportionately reduced or increased, whichever is applicable, by the amount of such shortfall or surplus.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any surplus in the health benefit premium account or the unassigned beneficiaries premium account which is attributable to—

"(i) the excess of the premiums credited to such account for a plan year over the benefits (and administrative costs) debited to such account for the plan year, but such excess shall only be available for purposes of the carryover described in section 9703(b)(2)(C)(ii) (relating to carryovers of premiums not used to provide benefits), or

"(ii) interest credited under paragraph (2)(B) for the plan year or any preceding plan year.

"(C) NO AUTHORITY FOR INCREASED PAYMENTS.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits for any plan year in excess of the limit under section 9703(b)(2).

"(f) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means, with respect to any assigned operator, the percentage determined by dividing the number of eligible beneficiaries assigned under section 9706 to such operator by the total number of eligible beneficiaries assigned under section 9706 to all such operators (determined on the basis of assignments as of October 1, 1993).

"(2) ANNUAL ADJUSTMENTS.—In the case of any plan year beginning on or after October 1, 1994, the applicable percentage for any assigned operator shall be redetermined under paragraph (1) by making the following changes to the assignments as of October 1, 1993:

"(A) Such assignments shall be modified to reflect any changes during the period beginning October 1, 1993, and ending on the last day of the preceding plan year pursuant to the appeals process under section 9706(f).

"(B) The total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries of assigned operators which (and all related persons with respect to which) had ceased business (within the meaning of section 9701(c)(6)) during the period described in subparagraph (A).

"(g) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—The annual premium under subsection (a) for any plan year shall be payable in 12 equal monthly installments, due on the twenty-fifth day of each calendar month in the plan year. In the case of the plan year beginning February 1, 1993, the annual premium under subsection (a) shall be added to such premium for the plan year beginning October 1, 1993.

"(2) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(h) INFORMATION.—The trustees of the Combined Fund shall, not later than 60 days after the enactment date, furnish to the Secretary of Health and Human Services information as to the benefits and covered beneficiaries under the fund, and such other information as the Secretary may require to compute any premium under this section.

"(i) TRANSITION RULES.—

"(1) 1988 AGREEMENT OPERATORS.—

"(A) 1ST YEAR COSTS.—During the plan year of the Combined Fund beginning February 1, 1993, the 1988 agreement operators shall make contributions to the Combined Fund in amounts necessary to pay benefits and administrative costs of the Combined Fund incurred during such year, reduced by the amount transferred to the Combined Fund under section 9705(a) on February 1, 1993.

"(B) DEFICITS FROM MERGED PLANS.—During the period beginning February 1, 1993, and ending September 30, 1994, the 1988 agreement operators shall make contributions to the Combined Fund as are necessary to pay off the expenses accrued (and remaining unpaid) by the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, reduced by the assets of such plans as of such date.

"(C) FAILURE.—If any 1988 agreement operator fails to meet any obligation under this paragraph, any contributions of such operator to the Combined Fund or any other plan described in section 404(c) shall not be deductible under this title until such time as the failure is corrected.

"(D) PREMIUM REDUCTIONS.—

"(i) 1ST YEAR PAYMENTS.—In the case of a 1988 agreement operator making contributions under subparagraph (A), the premium of such operator under subsection (a) shall be reduced by the amount paid under subparagraph (A) by such operator for the plan year beginning February 1, 1993.

"(ii) DEFICIT PAYMENTS.—In the case a 1988 agreement operator making contributions under subparagraph (B), the premium of such operator under subsection (a) shall be reduced by the amounts which are paid to the Combined Fund by reason of claims arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims based on the 'evergreen clause' found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan, and which are allocated to such operator under subparagraph (E).

"(iii) LIMITATION.—Clause (ii) shall not apply to the extent the amounts paid exceed the contributions.

"(iv) PLAN YEARS.—Premiums under subsection (a) shall be reduced for the first plan year for which amounts described in clause (i) or (ii) are available and for any succeeding plan year until such amounts are exhausted.

"(E) ALLOCATIONS OF CONTRIBUTIONS AND REFUNDS.—Contributions under subparagraphs (A) and (B), and premium reductions under subparagraph (D)(ii), shall be made ratably on the basis of aggregate contributions made by such operators under the applicable 1988 coal wage agreements as of January 31, 1993.

"(2) 1ST PLAN YEAR.—In the case of the plan year of the Combined Fund beginning February 1, 1993—

"(A) the premiums under subsections (a)(1) and (a)(3) shall be 67 percent of such premiums without regard to this paragraph, and

"(B) the premiums under subsection (a) shall be paid as provided in subsection (g).

"(3) STARTUP COSTS.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall pay the costs of the Combined Fund incurred before February 1, 1993. For purposes of this section, such costs shall be treated as administrative expenses incurred for the plan year beginning February 1, 1993.

"SEC. 9705. TRANSFERS.

"(a) TRANSFER OF ASSETS FROM 1950 UMWA PENSION PLAN.—

"(1) IN GENERAL.—From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pension Plan shall transfer to the Combined Fund—

"(A) $70,000,000 on February 1, 1993,

"(B) $70,000,000 on October 1, 1993, and

"(C) $70,000,000 on October 1, 1994.

"(2) RESERVATION.—Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate $210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

"(3) USE OF FUNDS.—Amounts transferred to the Combined Fund under paragraph (1) shall—

"(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

"(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available.

Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

"(4) TAX TREATMENT; VALIDITY OF TRANSFER.—

"(A) NO DEDUCTION.—No deduction shall be allowed under this title with respect to any transfer pursuant to paragraph (1), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMWA Pension Plan, the 1950 UMWA Benefit Plan, the 1974 UMWA Pension Plan, the 1974 UMWA Benefit Plan, the 1992 UMWA Benefit Plan, or the Combined Fund.

"(B) OTHER TAX PROVISIONS.—Any transfer pursuant to paragraph (1)—

"(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMWA Pension Plan.

"(5) TREATMENT OF TRANSFER.—Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

"(b) TRANSFERS FROM ABANDONED MINE RECLAMATION FUND.—

"(1) IN GENERAL.—The Combined Fund shall include any amount transferred to the Fund under section 402(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)).

"(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.

"SEC. 9706. ASSIGNMENT OF ELIGIBLE BENEFICIARIES.

"(a) IN GENERAL.—For purposes of this chapter, the Secretary of Health and Human Services shall, before October 1, 1993, assign each coal industry retiree who is an eligible beneficiary to a signatory operator which (or any related person with respect to which) remains in business in the following order:

"(1) First, to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry for at least 2 years.

"(2) Second, if the retiree is not assigned under paragraph (1), to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry.

"(3) Third, if the retiree is not assigned under paragraph (1) or (2), to the signatory operator which employed the coal industry retiree in the coal industry for a longer period of time than any other signatory operator prior to the effective date of the 1978 coal wage agreement.

"(b) RULES RELATING TO EMPLOYMENT AND REASSIGNMENT UPON PURCHASE.—For purposes of subsection (a)—

"(1) AGGREGATION RULES.—

"(A) RELATED PERSON.—Any employment of a coal industry retiree in the coal industry by a signatory operator shall be treated as employment by any related persons to such operator.

"(B) CERTAIN EMPLOYMENT DISREGARDED.—Employment with—

"(i) a person which is (and all related persons with respect to which are) no longer in business, or

"(ii) a person during a period during which such person was not a signatory to a coal wage agreement,

shall not be taken into account.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of an assigned operator after the enactment date, the assigned operator may transfer the assignment of an eligible beneficiary under subsection (a) to such successor, and such successor shall be treated as the assigned operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the assigned operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. An assigned operator shall notify the trustees of the Combined Fund of any transfer described in this paragraph.

"(c) IDENTIFICATION OF ELIGIBLE BENEFICIARIES.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall, by the later of October 1, 1992, or the twentieth day after the enactment date, provide to the Secretary of Health and Human Services a list of the names and social security account numbers of each eligible beneficiary, including each deceased eligible beneficiary if any other individual is an eligible beneficiary by reason of a relationship to such deceased eligible beneficiary. In addition, the plans shall provide, where ascertainable from plan records, the names of all persons described in subsection (a) with respect to any eligible beneficiary or deceased eligible beneficiary.

"(d) COOPERATION BY OTHER AGENCIES AND PERSONS.—

"(1) COOPERATION.—The head of any department, agency, or instrumentality of the United States shall cooperate fully and promptly with the Secretary of Health and Human Services in providing information which will enable the Secretary to carry out his responsibilities under this section.

"(2) PROVIDING OF INFORMATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, including section 6103, the head of any other agency, department, or instrumentality shall, upon receiving a written request from the Secretary of Health and Human Services in connection with this section, cause a search to be made of the files and records maintained by such agency, department, or instrumentality with a view to determining whether the information requested is contained in such files or records. The Secretary shall be advised whether the search disclosed the information requested, and, if so, such information shall be promptly transmitted to the Secretary, except that if the disclosure of any requested information would contravene national policy or security interests of the United States, or the confidentiality of census data, the information shall not be transmitted and the Secretary shall be so advised.

"(B) LIMITATION.—Any information provided under subparagraph (A) shall be limited to information necessary for the Secretary to carry out his duties under this section.

"(3) TRUSTEES.—The trustees of the Combined Fund, the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, the 1950 UMWA Pension Plan, and the 1974 UMWA Pension Plan shall fully and promptly cooperate with the Secretary in furnishing, or assisting the Secretary to obtain, any information the Secretary needs to carry out the Secretary's responsibilities under this section.

"(e) NOTICE BY SECRETARY.—

"(1) NOTICE TO FUND.—The Secretary of Health and Human Services shall advise the trustees of the Combined Fund of the name of each person identified under this section as an assigned operator, and the names and social security account numbers of eligible beneficiaries with respect to whom he is identified.

"(2) OTHER NOTICE.—The Secretary of Health and Human Services shall notify each assigned operator of the names and social security account numbers of eligible beneficiaries who have been assigned to such person under this section and a brief summary of the facts related to the basis for such assignments.

"(f) RECONSIDERATION BY SECRETARY.—

"(1) IN GENERAL.—Any assigned operator receiving a notice under subsection (e)(2) with respect to an eligible beneficiary may, within 30 days of receipt of such notice, request from the Secretary of Health and Human Services detailed information as to the work history of the beneficiary and the basis of the assignment.

"(2) REVIEW.—An assigned operator may, within 30 days of receipt of the information under paragraph (1), request review of the assignment. The Secretary of Health and Human Services shall conduct such review if the Secretary finds the operator provided evidence with the request constituting a prima facie case of error.

"(3) RESULTS OF REVIEW.—

"(A) ERROR.—If the Secretary of Health and Human Services determines under a review under paragraph (2) that an assignment was in error—

"(i) the Secretary shall notify the assigned operator and the trustees of the Combined Fund and the trustees shall reduce the premiums of the operator under section 9704 by (or if there are no such premiums, repay) all premiums paid under section 9704 with respect to the eligible beneficiary, and

"(ii) the Secretary shall review the beneficiary's record for reassignment under subsection (a).

"(B) NO ERROR.—If the Secretary of Health and Human Services determines under a review conducted under paragraph (2) that no error occurred, the Secretary shall notify the assigned operator.

"(4) DETERMINATIONS.—Any determination by the Secretary of Health and Human Services under paragraph (2) or (3) shall be final.

"(5) PAYMENT PENDING REVIEW.—An assigned operator shall pay the premiums under section 9704 pending review by the Secretary of Health and Human Services or by a court under this subsection.

"(6) PRIVATE ACTIONS.—Nothing in this section shall preclude the right of any person to bring a separate civil action against another person for responsibility for assigned premiums, notwithstanding any prior decision by the Secretary.

"(g) CONFIDENTIALITY OF INFORMATION.—Any person to which information is provided by the Secretary of Health and Human Services under this section shall not disclose such information except in any proceedings related to this section. Any civil or criminal penalty which is applicable to an unauthorized disclosure under section 6103 shall apply to any unauthorized disclosure under this section.

"PART III—ENFORCEMENT

"Sec. 9707. Failure to pay premium.

"SEC. 9707. FAILURE TO PAY PREMIUM.

"(a) GENERAL RULE.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

"(b) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) on any failure with respect to any eligible beneficiary shall be $100 per day in the noncompliance period with respect to any such failure.

"(c) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure to pay any premium or installment thereof, the period—

"(1) beginning on the due date for such premium or installment, and

"(2) ending on the date of payment of such premium or installment.

"(d) LIMITATIONS ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew, or exercising reasonable diligence, would have known, that such failure existed.

"(2) CORRECTIONS.—No penalty shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER.—In the case of a failure that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed by subsection (a) for failures to the extent that the Secretary determines, in his sole discretion, that the payment of such penalty would be excessive relative to the failure involved.

"(e) LIABILITY FOR PENALTY.—The person failing to meet the requirements of section 9704 shall be liable for the penalty imposed by subsection (a).

"(f) TREATMENT.—For purposes of this title, the penalty imposed by this section shall be treated in the same manner as the tax imposed by section 4980B.

"PART IV—OTHER PROVISIONS

"Sec. 9708. Effect on pending claims or obligations.

"SEC. 9708. EFFECT ON PENDING CLAIMS OR OBLIGATIONS.

"All liability for contributions to the Combined Fund that arises on and after February 1, 1993, shall be determined exclusively under this chapter, including all liability for contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for coal production on and after February 1, 1993. However, nothing in this chapter is intended to have any effect on any claims or obligations arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims or obligations based on the 'evergreen' clause found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan. This chapter shall not be construed to affect any rights of subrogation of any 1988 agreement operator with respect to contributions due to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of February 1, 1993.

"Subchapter C—Health Benefits of Certain Miners

"Part I—Individual employer plans

"Part II—1992 UMWA benefit plan

"PART I—INDIVIDUAL EMPLOYER PLANS

"Sec. 9711. Continued obligations of individual employer plans.

"SEC. 9711. CONTINUED OBLIGATIONS OF INDIVIDUAL EMPLOYER PLANS.

"(a) COVERAGE OF CURRENT RECIPIENTS.—The last signatory operator of any individual who, as of February 1, 1993, is receiving retiree health benefits from an individual employer plan maintained pursuant to a 1978 or subsequent coal wage agreement shall continue to provide health benefits coverage to such individual and the individual's eligible beneficiaries which is substantially the same as (and subject to all the limitations of) the coverage provided by such plan as of January 1, 1992. Such coverage shall continue to be provided for as long as the last signatory operator (and any related person) remains in business.

"(b) COVERAGE OF ELIGIBLE RECIPIENTS.—

"(1) IN GENERAL.—The last signatory operator of any individual who, as of February 1, 1993, is not receiving retiree health benefits under the individual employer plan maintained by the last signatory operator pursuant to a 1978 or subsequent coal wage agreement, but has met the age and service requirements for eligibility to receive benefits under such plan as of such date, shall, at such time as such individual becomes eligible to receive benefits under such plan, provide health benefits coverage to such individual and the individual's eligible beneficiaries which is described in paragraph (2). This paragraph shall not apply to any individual who retired from the coal industry after September 30, 1994, or any eligible beneficiary of such individual.

"(2) COVERAGE.—Subject to the provisions of subsection (d), health benefits coverage is described in this paragraph if it is substantially the same as (and subject to all the limitations of) the coverage provided by the individual employer plan as of January 1, 1992. Such coverage shall continue for as long as the last signatory operator (and any related person) remains in business.

"(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—Each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

"(d) MANAGED CARE AND COST CONTAINMENT.—The last signatory operator shall not be treated as failing to meet the requirements of subsection (a) or (b) if benefits are provided to eligible beneficiaries under managed care and cost containment rules and procedures described in section 9712(c) or agreed to by the last signatory operator and the United Mine Workers of America.

"(e) TREATMENT OF NONCOVERED EMPLOYEES.—The existence, level, and duration of benefits provided to former employees of a last signatory operator (and their eligible beneficiaries) who are not otherwise covered by this chapter and who are (or were) covered by a coal wage agreement shall only be determined by, and shall be subject to, collective bargaining, lawful unilateral action, or other applicable law.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means any individual who is eligible for health benefits under a plan described in subsection (a) or (b) by reason of the individual's relationship with the retiree described in such subsection (or to an individual who, based on service and employment history at the time of death, would have been so described but for such death).

"(g) RULES APPLICABLE TO THIS PART AND PART II.—For purposes of this part and part II—

"(1) SUCCESSOR.—The term 'last signatory operator' shall include a successor in interest of such operator.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of a last signatory operator after the enactment date, the last signatory operator may transfer any liability of such operator under this chapter with respect to an eligible beneficiary to such successor, and such successor shall be treated as the last signatory operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the last signatory operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. A last signatory operator shall notify the trustees of the 1992 UMWA Benefit Plan of any transfer described in this paragraph.

"PART II—1992 UMWA BENEFIT PLAN

"Sec. 9712. Establishment and coverage of 1992 UMWA Benefit Plan.

"SEC. 9712. ESTABLISHMENT AND COVERAGE OF 1992 UMWA BENEFIT PLAN.

"(a) CREATION OF PLAN.—

"(1) IN GENERAL.—As soon as practicable after the enactment date, the settlors shall create a separate private plan which shall be known as the United Mine Workers of America 1992 Benefit Plan. For purposes of this title, the 1992 UMWA Benefit Plan shall be treated as an organization exempt from taxation under section 501(a). The settlors shall be responsible for designing the structure, administration and terms of the 1992 UMWA Benefit Plan, and for appointment and removal of the members of the board of trustees. The board of trustees shall initially consist of five members and shall thereafter be the number set by the settlors.

"(2) TREATMENT OF PLAN.—The 1992 UMWA Benefit Plan shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(b) COVERAGE REQUIREMENT.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall only provide health benefits coverage to any eligible beneficiary who is not eligible for benefits under the Combined Fund and shall not provide such coverage to any other individual.

"(2) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means an individual who—

"(A) but for the enactment of this chapter, would be eligible to receive benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, based upon age and service earned as of February 1, 1993; or

"(B) with respect to whom coverage is required to be provided under section 9711, but who does not receive such coverage from the applicable last signatory operator or any related person,

and any individual who is eligible for benefits by reason of a relationship to an individual described in subparagraph (A) or (B). In no event shall the 1992 UMWA Benefit Plan provide health benefits coverage to any eligible beneficiary who is a coal industry retiree who retired from the coal industry after September 30, 1994, or any beneficiary of such individual.

"(c) HEALTH BENEFITS.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall provide health care benefits coverage to each eligible beneficiary which is substantially the same as (and subject to all the limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) MANAGED CARE.—The 1992 UMWA Benefit Plan shall develop managed care and cost containment rules which shall be applicable to the payment of benefits under this subsection. Application of such rules shall not cause the plan to be treated as failing to meet the requirements of this subsection. Such rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules may include, but are not limited to, elements described in paragraph (3).

"(3) MAJOR ELEMENTS OF RULES.—Elements described in this paragraph are—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use,

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status with the amount of the potential discount varying by geographic region,

"(C) limiting benefit payments to physicians to the allowable charge under title XVIII of the Social Security Act, while protecting beneficiaries from balance billing by providers,

"(D) utilizing, in the claims payment function 'appropriateness of service' protocols under title XVIII of the Social Security Act if more stringent,

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries,

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network, and

"(G) utilizing a managed care network provider system, as practiced in the health care industry, at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this subsection.

"(4) LAST SIGNATORY OPERATORS.—The board of trustees of the 1992 UMWA Benefit Plan shall permit any last signatory operator required to maintain an individual employer plan under section 9711 to utilize the managed care and cost containment rules and programs developed under this subsection if the operator elects to do so.

"(5) STANDARDS OF QUALITY.—Any managed care system or cost containment adopted by the board of trustees of the 1992 UMWA Benefit Plan or by a last signatory operator may not be implemented unless it is approved by, and meets the standards of quality adopted by, a medical peer review panel, which has been established—

"(A) by the settlors, or

"(B) by the United Mine Workers of America and a last signatory operator or group of operators.

Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending on the nature of the medical need.

"(d) GUARANTEE OF BENEFITS.—

"(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c), in accordance with contribution requirements established in the 1992 UMWA Benefit Plan. Such contribution requirements, which shall be applied uniformly to each 1988 last signatory operator, on the basis of the number of eligible and potentially eligible beneficiaries attributable to each operator, shall include:

"(A) the payment of an annual prefunding premium for all eligible and potentially eligible beneficiaries attributable to a 1988 last signatory operator,

"(B) the payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA Benefit Plan, and

"(C) the provision of security (in the form of a bond, letter of credit or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator. If a 1988 last signatory operator is unable to provide the security required, the 1992 UMWA Benefit Plan shall require the operator to pay an annual prefunding premium that is greater than the premium otherwise applicable.

"(2) ADJUSTMENTS.—The 1992 UMWA Benefit Plan shall provide for—

"(A) annual adjustments of the per beneficiary premium to cover changes in the cost of providing benefits to eligible beneficiaries, and

"(B) adjustments as necessary to the annual prefunding premium to reflect changes in the cost of providing benefits to eligible beneficiaries for whom per beneficiary premiums are not paid.

"(3) ADDITIONAL LIABILITY.—Any last signatory operator who is not a 1988 last signatory operator shall pay the monthly per beneficiary premium under paragraph (1)(B) for each eligible beneficiary described in such paragraph attributable to that operator.

"(4) JOINT AND SEVERAL LIABILITY.—A 1988 last signatory operator or last signatory operator described in paragraph (3), and any related person to any such operator, shall be jointly and severally liable with such operator for any amount required to be paid by such operator under this section.

"(5) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(6) 1988 LAST SIGNATORY OPERATOR.—For purposes of this section, the term '1988 last signatory operator' means a last signatory operator which is a 1988 agreement operator.

"Subchapter D—Other Provisions

"Sec. 9721. Civil enforcement.

"Sec. 9722. Sham transactions.

"SEC. 9721. CIVIL ENFORCEMENT.

"The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.

"SEC. 9722. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction."

(b) AMENDMENTS TO SURFACE MINING ACT.—

(1) EXTENSION OF FEE PROGRAM.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 1995" and inserting "September 30, 2004".

(2) TRANSFER TO FUND.—Section 402 of such Act (30 U.S.C. 1232) is amended by adding at the end the following new subsection:

"(h) TRANSFER OF FUNDS TO COMBINED FUND.—(1) In the case of any fiscal year beginning on or after October 1, 1995, with respect to which fees are required to be paid under this section, the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in paragraph (2).

"(2) The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of—

"(A) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

"(B) the amount by which the amount described in subparagraph (A) is less than $70,000,000.

"(3)(A) The aggregate amount which may be transferred under paragraph (2) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

"(B) The aggregate amount which may be transferred under paragraph (2)(B) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

"(4) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

(3) CONFORMING AMENDMENTS.—(A) Section 401(c) of such Act (30 U.S.C. 1231(c)) is amended by striking "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by adding after paragraph (11) the following new paragraph:

"(12) for the purpose described in section 402(h); and".

(B) Section 402(g)(1) of such Act (30 U.S.C. 1232(g)) is amended by striking "Moneys" and inserting "Except as provided in subsection (h), moneys".

SIMPSON AMENDMENT NO. 2788

Mr. JOHNSTON (for Mr. SIMPSON) proposed an amendment to the bill H.R. 776, supra, as follows:

On page 274, after line 21, redesignate paragraphs (2) through (4) as paragraphs (3) through (5), respectively and insert a new paragraph (2) as follows:

"(2) a survey of practices and policies under which electric cooperatives prepare least-cost plans, submit such plans to the Rural Electrification Administration, and the extent to which such least cost planning is reflected in rates charged to customers:"

WELLSTONE AMENDMENT NO. 2789

Mr. WELLSTONE proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place in the Committee amendment, insert the following new title:

TITLE ____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. ____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. ____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is con-

ducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC.——____03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a ben-

eficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 17 months after the date of enactment of this Act.

DODD AMENDMENT NO. 2790

Mr. DODD proposed an amendment to amendment No. 2789 proposed by Mr. WELLSTONE to the bill H.R. 776, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE _____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. _____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. _____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination,

except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup

transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC.— 03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

MURKOWSKI AMENDMENT NO. 2791

Mr. MURKOWSKI proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place, insert the following new section:

SEC. (a) JOBS SURVEY REPORT.—Within available funds, the Secretary of Labor and the Secretary of Commerce in consultation with the Council of Economic Advisors and working with other appropriate Federal officials, shall within ninety (90) days of the date of enactment of this Act, submit a Jobs Survey Report to the Congress on significant public and/or private sector construction, development or manufacturing projects under consideration by Congress, scheduled, or proposed to be undertaken or initiated prior to June 30, 1993. For purposes of this section, the term "significant projects" means any new construction, developmental or manufacturing project which will, at its peak, provide new job and employment opportunities to 2500 or more people within the United States."

"(b) In developing the Jobs Survey Report required by subsection (a), the Secretaries shall provide the Congress with the following information on the significant public and private sector projects defined in subsection (a):

(1) the location of the project;

(2) the private or public sector sponsor of the project;

(3) the total capital cost of the project;

(4) the scheduled period for construction and the projected completion date;

(5) the number of jobs associated with the project (by category):

(A) construction;

(B) fabrication;

(C) manufacturing;

(D) indirect; and

(E) operation and maintenance.

(6) the physical location of the jobs, by state and region, associated with the project;

(7) the impact of the project, when completed, on improving national economic well-being and other aspects of the national interest;

(8) the extent to which the project, if undertaken on a timely basis, would reduce unemployment on a national, regional and state basis;

(9) the potential impact of the project on promoting the export of U.S. goods and services and in reducing the balance of trade deficit;

(10) any authorization, regulatory, financing or other impediments which threaten or may threaten to delay initiation of the project in accordance with the sponsor's project schedule; and

(11) any appropriate legislative action recommended to the Congress to expedite initiation of the project schedule and the creation of new jobs for unemployed American working men and women."

"(c) In preparing the Jobs Survey Report, the Secretaries shall devote one section of the Report to a review and analysis of trends underway in the nation's domestic petroleum industry which are causing the export of U.S. capital and jobs. The Council shall analyze the causes of these trends and shall identify the contributing role, if any, of the following factors and make appropriate recommendations to the Congress:

(1) world oil prices;

(2) any decline in technological leadership;

(3) lack of leasing opportunities in prospective areas, including the public lands;

(4) shortages of capital for domestic petroleum development;

(5) tax policy, environmental and other regulatory restrictions which make development and operations more attractive in foreign countries;

(6) significant changes in domestic demand for petroleum products; and

(7) any reduction in the degree of risk associated with reliance on foreign sources of oil for 50 percent or more of domestic demand."

MURKOWSKI AMENDMENT NO. 2792

Mr. WALLOP for (Mr. MURKOWSKI) proposed an amendment to the bill H.R. 776, supra, as follows:

Strike all after the word "TITLE" and insert the following:

—STUDY OF THE FUTURE OIL AND GAS POTENTIAL AND ECONOMIC IMPORT

SEC. . The Secretary of Energy, in consultation with the Secretaries of Labor, Commerce, State, the Interior, and Defense, shall prepare and complete within 6 months from the date of enactment of this Act and submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of the following:

(1) the current and projected status of the domestic oil and gas industry and other energy industries, including:

(A) the quantity and types of jobs created and lost in the industry during the 10 year period ending on the date of enactment of this Act; and

(B) the potential for job creation and loss during the 10 year period beginning on the date of enactment of this Act together with the basis for any alternative projection;

(2) the historic and projected future trends in oil and gas industry and other energy industry investment in the United States and foreign countries and the related change in investments in the United States;

(3) the current and projected status of the rate of imports of foreign oil in absolute terms and as a percentage of consumption;

(4) the current and projected impacts of increasing reliance on imported oil on:

(A) the economy of the United States;

(B) the balance of trade deficit of the United States; and

(C) national security interests of the United States, including related military and other costs;

(5) the current and projected status of decline in production of oil from Alaska's North Slope transported through the Trans-Alaska Pipeline System (TAPS) and effects of this decline on:

(A) regional and national employment in the United States;

(B) the national security of the United States; and

(C) energy prices in the United States;

(6) (A) the estimated date for the required removal of the TAPS in the event there is no oil production from the coastal plain of the Arctic National Wildlife Refuge (ANWR); and

(B) the effect of the shutdown and removal of the TAPS on the production of Alaska North Slope heavy oil reserves and otherwise economically marginal fields for which production technologies are in the process of development;

(7) the impact of potential ANWR coastal plain oil production on:

(A) the longevity of the TAPS and on oil production and consumption in the United States; and

(B) the potential loss of otherwise producible domestic available reserves;

(7) the potential quantity and types of jobs that would be created, both directly and indirectly, by the exploration and development of the coastal plain of ANWR and the loss of such jobs if exploration and development does not occur;

(8) the domestic industrial production capabilities which would be created by the exploration and development of the coastal plain of ANWR and the potential loss of such capability if exploration and development does not occur, including the ability to explore and develop other domestic oil and gas prospects;

(9) the potential impact of exploration and development of the coastal plain of ANWR on:

(A) the economy of the United States;

(B) the economies of the regions of the United States; and

(C) the balance of trade deficit of the United States;

(D) production from wells producing 15 barrels of oil per day or less.

(10) the projected potential revenues and costs, both direct and indirect, to the United States Treasury and the State of Alaska that would be generated or incurred by exploration and development of oil reserves within the coastal plain of ANWR;

(11) the technologies available for reducing the environmental impact of exploration and production of oil from the coastal plain of ANWR; and

(12) the development and application of Arctic oil production technologies on Alaska's North Slope including:

(A) a comparison of the technology used at the Prudhoe Bay and Endicott oil fields; and

(B) a comparison of technologies available for Alaska North Slope develoment with conventional oil field exploration and development in the contiguous United States.

(13) all possible alternative energy supplies (including energy conservation) currently available in the United States, and which might be available in the foreseeable future, that would provide the same amount or greater amouts of energy than are estimated by the Department of the Interior to be available from the coastal plain.

(14) the known and estimated reserves of oil and gas on the North Slope of Alaska (including State and federal offshore lands) outside of the Arctic National Wildlife Refuge.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. JOHNSTON. 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, July 29, 1992, at 10 a.m. to conduct a hearing on the condition of credit unions.

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

COMMITTEE ON SMALL BUSINESS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 10:30 a.m. The committee will hold a full committee hearing on H.R. 5191, the Small Business Equity Enhancement Act of 1992.

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

SUBCOMMITTEE ON MEDICARE AND LONG TERM CARE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long Term Care of the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 2 p.m. to hold a hearing on how Medicare payment policies affect physicians' choice of medical specialties.

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

COMMITTEE ON FINANCE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 10 a.m. to hold a hearing on the state of U.S. trade policy and the merits of pending trade legislation.

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

COMMITTEE ON FINANCE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 5 p.m. to consider H.R. 11, the Revenue Act of 1992.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 29, 1992, at 9:30 a.m. on telecommunications and education.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, to hold a hearing on efforts to combat fraud and abuse in the insurance industry: part 6.

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

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Subcommittee on Juvenile Justice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 10 a.m., to hold a hearing on S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 1:30 p.m., to hold a markup on S. 287, S. 1181, S. 1652, S. 1859, S. 1947, Senate Resolution 171, H.R. 238, H.R. 454, and H.R. 478.

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

COMMITTEE ON THE JUDICIARY

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 2 p.m. to hold a hearing on Japanese competition policies and the United States response.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 2 p.m. to hold a closed hearing on intelligence matters.

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

ADDITIONAL STATEMENTS

COMMENDING WILLIAM L. IRONS

• Mr. SHELBY. Mr. President, I rise today to commend William L. Irons, prominent Birmingham attorney, for his recent publication in the National Society of the Sons of the American Revolution's SAR magazine. Entitled, "The Revolutionary War at Sea," Irons' article was featured as cover story in the National Society's spring edition.

The SAR magazine's cover pictures the dramatic battle painting of Capt. John Paul Jones' *Bonhomme Richard* broadsiding the British man-of-war, *Serapis*, in the North Sea. This painting hangs near the crypt of John Paul Jones in the chapel of the U.S. Naval Academy at Annapolis.

Mr. Irons chronicles the formation of the Continental Navy, its pre-Revolutionary victories, and the first amphibious assault in American naval history. He recounts the heroic deeds of the Continental Navy as they attacked the British in global warfare on the Atlantic, Baltic, and Caribbean Seas.

Before Thomas Jefferson had scratched a word of the Declaration of Independence on parchment, the first Continental squadron had raided Nassau, a 3,000-mile voyage, captured an island, its Governor, and needed artillery. While the British controlled Philadelphia, Boston, and most American cities, the Continental Navy scored brilliant victories in the Caribbean and North Seas. Privateers—privately commissioned ships—caused unprecedented damage to British commerce leading to petitions before Parliament demanding cessation of the war.

Attacking and destroying enemy warships, John Paul Jones, commanding the *Bonhomme Richard*, took the fight home to England, encircling the British Isles and defeating the enemy man-of-war, *Serapis*, in the North Sea's bloodiest battle in the age of sail.

The final battle, Irons recounts, closes at Yorktown, where the British fleet was defeated off Chesapeake Bay, slamming the doors shut on Cornwallis' retreat from the Carolinas. Naval transports from the Caribbean gave the Continental Army a 2-to-1 advantage, allowing General Washington to close the noose around the British Army, causing its surrender and end of the war.

In 1990, the SAR magazine featured another cover story written by attorney Irons, entitled, "Thomas Jefferson, Father of American Architecture," tracing the architectural achievements of the author of the Declaration of Independence. This story explored Jefferson's development as an architect in Colonial America, his enlightening experience in Paris, France, as America's ambassador succeeding Benjamin Franklin and Jefferson's most celebrated creations—University of Virginia's Rotunda; Monticello, Jefferson's home in the Blue Ridge Mountains near Charlottesville; and the Virginia State capitol in Richmond.

For his research, scholarship and authorship, the National Society of the Sons of the American Revolution awarded William L. Irons the Minnesota Stephen Taylor Award—its highest individual honor—for distinguished contribution to the preservation of the history of the American Revolutionary era, at its Centennial Congress in Louisville, KY. William L. Irons is the only Alabamian ever to receive this high honor. His achievements perpetuate the memory of the heroic sacrifice of the brave patriots of the American Revolution and reflect great credit on the entire State of Alabama. America salutes William L. Irons for his scholarship, writings and devotion to task—preserving America's rich heritage.

Irons, a DuPont regional scholar at the University of Virginia, received his doctor of jurisprudence from Samford University's Cumberland School of Law. He is a member of the Alabama, Federal, and American Trial Lawyers Associations. A decorated Air Force captain, Strategic Air Command, Irons was selected as the Outstanding Junior Officer of the U.S. Air Force during the Vietnam war. Irons has served as U.S. trustee, Northern District of Alabama for 25 years, and is a senior partner in a major Birmingham law firm. He is listed in "Who's Who in Alabama" and "Who's Who in American Law."

Unlike any other country, "to secure the blessings of liberty," it was first necessary to fight and win independence from the most powerful colonial empire on Earth. Only through recounting these stirring battles and scenes of the American pageant and a thorough understanding of our past, are we able to chart a true course for America's future. May our rich historic past serve as prolog to America's future.

Mr. President, the heroic exploits of courageous American patriots served to forge the character and destiny of the American Nation. Chronicling the brave deeds of the Continental Navy, Colonial privateers, and revisiting the events which led to winning the Revolutionary War at Sea, provides all Americans a genuine source of inspiration.

The National Society of the Sons of the American Revolution was established by act of the U.S. Congress in 1889, and is composed of 27,000 members who are descendants of the patriots of the American Revolution. The National Society's past members include many Members of Congress, 16 American Presidents, including Gen. Dwight Eisenhower and Gen. George Patton, and Apollo mission astronaut, Col. Charles Duke, who landed on the Moon in 1972.

I ask that these cover stories entitled, "Thomas Jefferson, Father of American Architecture," spring, 1990, and "The Revolutionary War at Sea," spring, 1992, authored by William L. Irons, be reprinted in the CONGRESSIONAL RECORD.

The articles follow:

REVOLUTIONARY WAR AT SEA

(By Compatriot William L. Irons)

John Adams, writing to an old friend from a boardinghouse near the Philadelphia waterfront in the summer of 1775, asked, "What think you of an American fleet?" Advocating the need for a navy in debate on the floor of the Continental Congress, Adams' efforts were opposed.

The first formal movement for a Continental Navy came from the Rhode Island Colony. In August, the Rhode Island assembly resolved: "That the building and equiping of an American fleet as soon as possible would greatly and essentially conduce to the preservation of the lives, liberty and property of the good people of these colonies."

Unknown to Rhode Islanders or the Congress, Washington, seeking capture of desperately needed munitions, had already ordered vessels outfitted to pursue enemy transports on the New England coast.

Finally the Continental Congress was presented Rhode Island's resolution for a national navy on October 7th. Opposition was "very loud and vehement", Adams recalled. The proposal was "represented as the most wild, visionary mad project that had ever been imagined, an infant taking the bull by the horns." Maryland's Samuel Chase thundered, "it is the maddest idea in the world to think of building an American fleet. We should mortgage the whole continent."

Virginia's George Wythe silenced him with an appeal to history. Rome built a fleet from scratch and destroyed Carthage. No maritime power near the seacoast can be safe without a navy. The Continental Congress ordered on October 13, 1775, "with all possible dispatch" two armed vessels (*Cabot* and *Andrew Doria*) of 10 and 14 guns, for intercepting such transports as may be laden with warlike stores and other supplies for our enemies.

Congress authorized the building of 13 frigates, which it expected ready for sea in three months. These were three-masted squareriggers, about 125 feet long carrying a main battery of 12 pounders and a second battery of 4, 6 and 9 pounders.

On November 10, 1775, Congress created the Marine Corps. Then it adopted the "rules for Regulation of the Navy of the United Colonies of North America." Precursor of the Manual "Rocks and Shoals", this first set of Navy Regulations was framed by John Adams.

WASHINGTON'S NAVY

Throughout the summer of 1775 Washington had watched from his Cambridge camp the unhindered passage of supply ships carrying supplies to the enemy. What a temptation for a powder starved army!

Washington had reconnoitered "the sea coast East of Boston harbour" and decided to raid British supply lines with armed vessels. Without Congressional authority or knowledge, Washington put his small navy of schooners to sea. His orders were to attack supply and transport ships only; combat with British men-of-war was to be avoided.

After several unsuccessful attempts by the armed schooners, *Hannah* (September 1775), *Hancock* and *Unity*, the *Lee*, a 74-ton vessel, put to sea. *Lee's* experienced skipper, John Manley, had his schooner's topsail bellying taut in a strong whistling wind when he spotted the long sought British brig, *Nancy*. Surprisingly, the British mistook the *Lee* as a pilot boat and welcomed them aborad.

As soon as Manley's crew boarded, they drew their pistols and captured the heavily loaded transport. *Nancy* was a floating arsenal—2,000 muskets, 31 tons of musket shot, 20,000 round shot, 100,000 musket flints, 11 mortar beds and a huge 13-inch mortar, later useful in the Boston siege. Washington had asked Congress for muskets and here in one stroke, he had a large supply—with bayonets.

Washington's fleet grew to six ships, including the newly armed 64-ton schooner, *Harrison*, and the 160-ton brig, *Washington*—the squadron's largest most powerful craft. The *Washington* was soon taken by a British frigate within hours after sailing from Plymouth. As the first American armed vessel fell into British hands, not a shot was fired in her defense.

The new year—1776—found all five of Washington's remaining ships lying deserted in their piers. Colonel Moylan, Mustermaster General of the Army, observed: "All the vessels are now in port, the officers and men have quitted them; what a pity, as British vessels are arriving every day; indeed the chances of taking them is pretty well over, as a man-of-war (*Fowey*) is stationed so as to command the entrance of the Beverly, Salem and Marblehead—we must have ships to cope with them."

Washington kept the New England fleet under his control. Instead of army or navy commissions, his officers were subject directly to Washington. More aggressive sea captains were sought. Washington warned, "any who failed to exert themselves shall be dismissed from the service and rendered incapable of serving the country in any Honorable Station hereafter."

The Commander's caveat brought results. Putting to sea in a New England winter, Manley's *Hancock* seized two supply ships near the Boston Harbor. *Franklin* and *Lee*, captained by Samuel Tucker and Daniel Waters, took several prizes in February, driving British blockaders from their stations. By March Washington's navy of five ships prepared for its first joint cruise.

On the night of March 2nd, heavy bombardment rang out in Boston harbor. For three nights Washington's navy continued shelling to divert enemy attention from American efforts to fortify Dorchester Heights. On the second night Manley's 13-inch mortar explored. The British, duped by bombardment as Washington hoped, failed to notice the Americans digging in. With the Americans in control of the Heights the British Admiral advised Commanding British General Howe, its fleet could be shot to pieces. After an 11-month siege, the British fleet withdrew from Boston Bay, and sailed to Halifax.

After evacuation of Boston, a convoy of 35 transports carrying 3,000 Highland troops sailed for America. Scattered by storm after leaving England, several vessels appeared off the northern coast without escort and plopped into the Yankee net like codfish. Washington's *Lee*, *Lynch* and *Warren* easily took the *Anne* along with over a hundred troops of the Seventy-First Highland Regiment.

On June 15th transports *George* and *Arabella* arrived thinking the British still occupied Boston. After taking a volley of British six pounders the transports were taken. Days later, *Lord Howe* was taken without a fight. Some 354 Highlanders were captured. It was the largest capture of troops at sea during the American Revolution.

Washington's fleet had twisted the Lion's tail and disrupted shipments of arms. The remainder of 1776 and 1777, Washington's armed schooners cruised Massachusetts Bay taking a total of 55 prizes loaded with critically needed supplies. The psychological effect transcended the supplies' value. Indeed it could be said Washington's fleet was as successful as any American fleet of equal size and force during the Revolution—all achieved by a band of "rascally privateersmen."

Ultimately Washington planned one of the most remarkable victories in history, acknowledging naval superiority was fundamental to any campaign, and displaying a genuine genius at naval strategy. The General understood more than any admiral the grand scale of components necessary to strike a victory by combined naval and army forces arriving from all over the globe. In the end Washington struck the British where they were thought to be invincible—at sea—and won.

TO SEA AT LAST

On a wintry morning Commander Esek Hopkins boarded a boat at Philadelphia's Walnut Street pier. Breaking through bobbing chunks of ice, his party rowed to the 300-ton warship, *Alfred*. Boatswain's pipes shrilled in best naval tradition as Hopkins gathered his command on the quarterdeck. With crowds cheering and reverberating echoes of booming cannon sounding over Delaware Bay, a young lieutenant hoisted the first colors on an American man-of-war.

Through puffs of white smoke a new yellow flag fluttered, embroidered with a coiled American serpent—the deadly rattlesnake. Raising the colors was a newly commissioned lieutenant in the Continental Navy—John Paul Jones.

Anchored in the Chesapeake Bay were three British men-of-war; Congress was eager

to attack. Commanding the Continental Navy's first voyage was Commodore Hopkins, 57-year-old merchant skipper and former privateer. An officer would log in the *Andrew Doria's* journal: "At 2 PM cast off ye warf in company with ye Commodore ship, *Alfred, Columbus* and *Cabot*. Light airs from ye westward and much ice in ye river." By dawn the Delaware would be frozen from shore to shore.

Slowly breaking the icy Delaware, the fleet was joined by two ships believed to be the first launched by the Continental Navy. Named in hopes they would sting the British, the *Wasp* with eight 4-pounders and *Hornet* armed with ten 4-pounders would be the first in a long line of ships to win fame in the American navy.

Ignoring orders, Hopkins charted a course, not for the Chesapeake, but the Bahamas. Making a fast run south, Hopkins' squadron dropped anchor in 12 fathoms off Grand Abaco Island in the Bahamas.

After capturing two British sloops Hopkins learned from prisoners there were two forts on New Providence Island (now Nassau), with heavy cannon and powder reserves.

Marine Captain Samuel Nicholson's 200 marines and 50 blue jackets stored ashore under the protective guns of *Wasp* and *Providence* in the first amphibious assault in American naval history. Landing on the eastern shores they marched toward its capitol, Nassau. After slight resistance Nassau was taken as were 100 cannon, 24 powder casks and the Governor of the Bahamas himself!

Off Nassau the fleet was struck by a sailor's deadliest enemy—disease. Longboats full of sick men surrounded by stench of death were transferred to the brig, *Doria*, for return to home port. Lying in the boats, terrible to look at, sailors' faces were unrecognizable from smallpox sores and swellings.

Loaded with military booty Hopkins' squadron encountered on return the *HMS Glasgow*, 20. The British sloop fought off the *Cabot*, then *Alfred* for four hours, before breaking action and scurrying to its British fleet. Hopkins sailed into New London with precious cargo.

Before Thomas Jefferson's pen scratched a word of the Declaration of Independence on parchment, the first Continental Navy squadron had raided Nassau, a 3,000-mile voyage, captured an island, its Governor and need artillery. The New Providence raid would stand as the most successful naval operation of the American Revolution.

SAILING AGAINST ENGLAND

Benjamin Franklin now urged Congress to bring the war home to England. From Paris Franklin would write:

"Two or three of the Continental frigates sent into the German Ocean (North Sea) with some lesser swift sailing cruisers, might intercept and seize a great part of the Baltic and Northern trade."

If England perceived France was colluding in such a raid, an outraged Britain might be forced into the war. This was exactly what the crafty American diplomat sought. While Franklin lived long before the age of psychological warfare, he understood it well. Behind a benevolent smile lurked a master of intrigue maneuvering the vacillating European powers.

Lambert Wicks of Maryland received orders to "cruise against our enemies and let old England see how they like to have an active enemy at their door; they have sent fire and sword to ours."

Wickes' arrival as Reprisal's skipper marked the first continental warship in European seas. With Reprisal were two English vessels captured of her trans-Atlantic voyage from the Colonies. Beginning the year of the hangman (1777), Reprisal sailed out to cruise the English Channel.

Manning the sails were French sailors and a pilot, strengthening perception of French involvement. It was the Continental Navy's first raid in European waters. Four merchant ships were soon taken. Later, after several volleys and American casualties, Wickes' crew boarded the English packet, Swallow. With over 100 prisoners and five vessels valued at 600,000 livres, Wickes returned to a French port. The three-week cruise brought immediate British protests against France for neutrality violations.

Acting as Commodore, Wickes now sought to lead the first American squadron into European seas. With three ships, Reprisal, Dolphin and Lexington, Wickes aimed for the rich Irish linen fleet. His crews were again heavily sprinkled with French officers and sailors. After a month at sea, the Americans, flying the Union Jack, cannonaded the bow of the brig, Expedition, out a Whitehaven on the English west coast. Wickes' party boarded and announced to a surprised captain, he was now a prisoner of the Continental squadron:

Within a week Wickes squadron had captured 18 ships in the Irish sea—all in sight of English shores. Yet unfavorable winds kept the Irish linen fleet anchored in Dublin Bay, thwarting Wickes mission.

Returning to France Wickes sighted a large ship near Ushant Island, thought to be a heavily laden Indiaman. But it was a British man-of-war, Burford, 74. Seeking another prize and unaware of danger, Reprisal closed. Burford, suspecting a "rebel privateer", elected to play the game, causing no alarm. Soon the Americans saw large gunports across the waves, and quickly clapped on sail to escape the trap reversed. As the man-of-war gained, signal flags fluttered from Reprisal's yardarms warning the Dolphin and Lexington to separate.

With the schooner, Hawk, armed with 3-pounders, and army volunteers, he found his prey anchored down river with eight 12-pounders and ten swivels loaded and primed. Her sides were protected by nettings to prevent boarding.

With Yankee ingenuity, Talbot lashed a large kedge anchor to the Hawk's bowsprit to shred the nettings. A grapnel was ready to be thrown aboard the enemy craft to lock the vessels.

As the Hawk bore down on the floating fortress, the enemy hailed her, followed by musket fire. Talbot's men lay motionless on the deck safe from enemy fire. Before the British could open fire, Hawk banged into the galley's side.

The kedge anchor ripped a gaping hole in the nettings and the grapnel interlocked the vessels. "Boarders away!" shouted Talbot. Swinging cutlasses and brandishing pikes, patriots swept through ripped nettings and drove the British from the deck. The last defender on deck was the galley's commander, who was surrounded and forced to surrender in his underwear. Talbot's exploit earned him a promotion to lieutenant colonel.

In 1779, aboard Argo, a clumsy craft steered by tiller rather than wheel, Talbot put to sea. Soon he snapped up three enemy privateers. Next he seized a 14 gun brig, King George. In late summer he ran afoul of the British privateer, Dragon, armed with fourteen 6-pounders. After a bitter four hour fight with pistol shot and cannonballs flying, Talbot's coattails were taken off by a flying cannonball and his speech trumpet pierced several times.

Taking several direct hits below waterline, the Argo was in danger of sinking, when a lucky shot brought down the Dragon's mainmast. She quickly surrendered.

After making his vessel shipshape again, Talbot spotted the British brig, Hannah, 18. though badly battered and facing a brig twice here strength, Talbot attacked. Sharp fighting ensued. But luckily, the Macaroni, 6, a Yankee privateer, joined the fight. The British ship struck. Talbot's victories earned him a commission as captain in the Continental Navy.

But he was not through with his "army privateer." For several more cruise he captured some 12 prizes and cleared the lower New England coast of Tory privateers.

Unable to obtain a Continental ship, Talbot was made skipper of the privateer, *General Washington*. Carrying a crew of 120 men off Sandy Hook, the *Washington* stumbled into a British squadron and was pursued by the 74-gun *Culloden*.

In a blowing storm *Washington* was unable to outrace the enemy and Talbot, facing 74's double gunport rows, had no choice but to strike. Taken prisoner and transferred to the notorious *Jersey*, Talbot and his fellow prisoners were treated with barbarity. Crammed into a lower hold without light or fresh air for 53 days. 11 men died, during a stormy voyage to England.

Survivors were taken to Old Mill Prison where treatment was not much better. Released, Talbot secured passage home on a Rhode Island brig. In a later war against the British, Talbot would command the frigate *Constitution*. The ex-cabin boy had come a long way.

The world's richest trading area was the Carribean Islands. This was where American privateers would deliver their heaviest blow.

No stranger to the Carribean was Philadelphia's privateer, *Holker*—so successful she was known as the "millionaire maker." The speedy brig went out under Captain George Geddes as a 10-gun letter of marque in April 1779. She returned from St Eustatius with a cargo of rum and sugar as well as the *Friendship*, a British ship loaded with molasses, tobacco and rice. Her owner was so enthusiastic he increased her armaments to 16 guns and transformed her into an all-out privateer.

On her first cruise she captured six prizes including a vessel loaded with 80 cannon for the British army. Proceeds of the voyage alone amounted to a million pounds, netting over 100,000 pounds for Captain Geddes, sending him to retirement.

Matthew Lawler then took over her command on a four-month cruise to the Carribean. Three prizes were taken before returning

Putting out to sea again, she fell in with the British privateer, *Admiral Rodney*, matching her in gun power. They slugged it out, until both ships were badly damaged. *Holker* escaped disaster and returned to port for repair and a new skipper.

Escorting a smaller privateer, *Fair American*, they worked in tandem to snare a valuable brig loaded with 300 casks of fine Madeira wine. Taking a string of prizes, she cleared over a million pounds for her owner. More successful cruises followed.

English newspapers reported her triumphs, calling her the "mischievous *Holker*." British men-of-war were scanning the seas for her. Soon bad news was received. *Holker* had been taken by a British frigate in the West Indies.

Paid many times over, her owner accepted the loss as a fortune of war.

A month later *Holker* was spotted off the Delaware capes. Its reported capture had been false. *Holker* had been cruising the islands taking prizes left and right. That winter she returned to the Carribean and popped 14 more British ships in her bag. Her captain became so rich he retired from the sea. The summer of '82 also made her successor shipper a rich man. Within six weeks, she took 16 prizes.

Holker's luck finally ran out in the Carribean in March, 1783. Scudding along the St. Lucia-Martinique channel under dark and squally skies, a British frigate started pursuit. Clapping on sail, she soon began to draw away from the warship. She was heeling well over the press of wind against her canvas when another squall bore down and the *Holker* vanished into a thick curtain of rain. When darkness lifted, the horizon was empty. The squall's fury had kicked *Holker* on her beam's ends, capsizing her. Forty-seven survivors were snatched from the sea by the pursuing frigate—less than half her hundred man crew.

While commerce raiding did not protect the American coast, it forced the British to divide their fleet to escort merchantmen and protect trade. Privateers slowed the speed of trade and sometimes interfered with land campaigns. Fear of American privateers snatching straggling supply and troop ships, resulted in late reinforcements to Canada in 1776. General Burgoyne later blamed his tardy convoy for the failure to cut off the American retreat from Quebec.

Without manufacturing capability, capture of munitions was essential to sustain the American cause. Ninety percent of the gunpowder available to American forces before 1778—some 1.5 million pounds—was brought in by sea. Without it, the rebellion would have shriveled away. Prizes taken shifted commerce from the enemy, bleeding the British economy.

Considering the Americans' limited resources, John Adams accurately described privateering as "a short, easy and infallible method of humbling the British." During the course of the war, 1,700 privateers carrying 18,000 guns and more than 70,000 men operated under Congressional authority. The Colonies commissioned nearly 2,000 privateers ranging from 100 to 500 tons.

In 1781, when the Continental Navy had shrunk to two commissioned ships, Congress issued 559 letters of marque, 249 more than the year before. By comparison, the Continental Navy's entire blue water fleet never exceeded 80 ships during the entire war.

Privateers captured 3,187 British vessels while the Continental Navy captured 196 ships. Privateers captured some 600 British merchantmen worth $18 million. Some authorities calculate the value of prizes taken in excess of $66 million. Privateers garnered supplies, disrupted British resupply of its armies, drove up insurance rates and undercut popular support of the war at home.

While Washington's forces captured a thousand men at Trenton, 8,000 at Saratoga and 7,000 at Yorktown, American naval forces captured or killed 16,000 at sea, unreplaceable by mercenaries and without mass surrenders.

YORKTOWN

Fifteen hundred miles south of New York in the San Domingo harbor lay 20 ships of the line clustered about the 110-gun three-decker flag ship, *Ville de Paris*, largest warship on the seas. Commodore of this awesome armada was Admiral Francois Joseph Paul de Grasse-Tily. Six-foot-two, de Grasse had fought the British since boyhood. Well schooled in naval combat, de Grasse was promoted to flag rank and given command of the French naval forces in American waters. Sailing from France with a convoy of 150 transports, de Grasse had reached Martinque in April of 1781. The new commander in chief of French naval forces was under orders to strike the British on the North American coast.

In the cabin of the *Ville de Paris*, the French admiral opened a dispatch pouch to discover the American Revolution was in its last days. Reading from a communique from the commander of French forces at Newport, general Rochambeau described Washington's ragged underfed army, bankrupt government and desperate need for money and four or five thousand men. Rochambeau's communique urged:

"Monsieur, these people are at the end of their resources. Washington has not half the troops he counted on: M. de La Fayette has not 1000 regulars with the militia to defend Virginia. This is the great crisis at which America finds itself."

Tropical fevers had decimated de Grasse's crews. Eighteen hundred sick had been left on Martinique. On board the *Intrepid*, 74, a clerk drawing taffia (robust brandy) by lantern light, ignited a cask of volatile liquor exploding the ship, damaging houses ashore and drowning 20 sailors. Another similar accident blew up the frigate, *Inconstante*, losing 120 crew members while British ships prowled the Carribean.

Nevertheless, de Grasse boldly prepared to sail north, leaving the West Indies exposed. Needing more vessels for troops, he chartered from his funds, 15 merchantships. By August, three regiments, 100 dragoons and 350 artillerymen were boarded.

The 74 pressed pursuit and by four o'clock had closed enough to fire a ranging shot. The cannonball fell astern of *Reprisal*. The *Burford* punctuated pursuit by peppering the sea with shots around her quarry. Wickes kept his stern to the enemy to present a small target.

Desperate to avoid capture, Wickes jettisoned the *Reprisal*'s battery of 18 six pounders. Straining seamen lifted heavy guns over her sides into the deep. *Burford* now closed within musket shot.

In the gathering twilight Wickes looked off in the distance and saw the French coast beckoning. He veered his ships toward land avoiding a marked turn which would expose his side for a broadside. Throwing his guns overboard gained speed for *Reprisal* but not distance. Wickes had only one more trick.

Ship carpenters were ordered to saw through beams making the ship limber, lessening resistance to pounding waves. This last resort weakened the ship's structure. After 12 hours of chase, darkness was closing and it appeared hopeless for the Americans.

Suddenly *Burfords* masts separated—she was turning. Alarmed at being too near the approaching rocky French shore, with darkness closing, *Burford* hailed in its studding sails and reefed its topsail. Wickes had won the chase. Hugging the French coastline throughout the night, he sighted the *Dolphin* at sunrise and the American trio returned to safe harbor in France.

Wickes' raid alarmed the British. English merchants demanded convoys for cargo ships and the British admiralty was assailed for failure to protect its nation's commerce.

Wickes' trio now cleared port bound for America. Off Ushant, the *Lexington* ran into a large British cutter, the *Alert*, 10. For hours *Lexington* and *Alert* dueled. The Americans fired at the cutter's riggings and sails. Then the Yankee brig broke and ran but the enemy's damaged sails were repaired, and pursuit made. With battered sail the enemy caught the *Lexington* and resumed cannon fire. Facing Atlantic voyage, sparse ammunition and a tenacious foe, the *Lexington* struck. *Lexington* lost seven sailors with 11 wounded.

Few American naval officers were as successful as Gustavus Conygham. In 18 months cruising European waters, he captured 27 British vessels and burned another 33. An Irishman from Philadelphia, he came to Europe as master of the brig, *Charming Polly*, on a "powder cruise." Blockaded by the British in France, he sailed to Holland and loaded 16 tons of powder. Again the British interfered and Conygham and crew fled to Dunkirk.

Armed with ten small guns aboard the *Surprise*, he captured several English packets and returned to France. Britain's sloops of war seized his ship and arrested him, demanding trial as a pirate. France refused and after Conygham's release, he vowed to strike the British again.

Slipping away from watching British eyes, Conygham escaped into the open sea on *Revenge*, an armed cutter, for a cruise that would strike the hearts of English merchants. Seizing the British schooner *Happy Return*, and two ships, he navigated around Britain into the Irish Sea destroying 20 sail and threatened the Town of Lyn unless ransomed. Conygham was now the terror of the English and Scottish coasts and carricatures depicting him as a ferocious pirate with pistol and sword appeared. Now the "Dunkirk pirate" swept the British seas where her supremacy had never been challenged. English ships refused to leave.

Using Spanish ports as bases, he cruised south for prizes in the Biscay Bay, Gilbraltar Straits and the distant Canary Islands in the Atlantic.

Though popular his aggressive campaign of seizing prizes—sometimes belonging to French or Spanish subjects—resulted in both countries barring him from port. So late in 1778, he sailed to the West Indies where the *Revenge* joined William Bingham's fleet of commerce raiders. Soon he was capturing British ships off Barbadoes. At the turn of the year he returned to Philadelphia with 50 chests of arms. Finally a British man-of-war capture Conygham and send him to the Old Mill Prison threatening the gallows.

Gloom descended over the Americans in Paris when word was received gallant Lambert Wickes' ship has gone down in a treacherous gale off Newfoundland. Wickes and his crew of 131 were all lost.

News would soon arrive of Burgoyne's surrender at Saratoga, drastically changing the war at sea. At last Americans would see Franklin's scheme succeed. France would declare war on England. Spain would follow. Americans sails would now find foreign harbors welcoming them to port.

JOHN PAUL JONES

Of all the mighty admirals who sailed the seas during the Revolutionary War—d'Estaing, d'Orvilliers and de Grasse of France; Howe, Keppel and Kempenfelt of Britain—the exploits of one would burn with such brilliance to eclipse even this galaxy of greats—John Paul Jones, Captain, United States Navy.

Unlike Washington, Jefferson or Adams, all well-born in the colonies, Jones was the son of a gardener born near the rocky coasts of Scotland. John Paul—Jones' original name—went to sea at 12 and was captain at

22. Although he never expressed any great love of the sea, he was a skillful sailor.

Alert and quick tempered, Jones was often in trouble. In 1773 he killed the leader of a mutiny on his ship in the West Indies, fled to Virginia and was commissioned as a lieutenant in the Continental Navy. By 1776 he was a captain who aggressively sought the enemy. He succeeded almost immediately as a combat commander by capturing eight ships and destroying eight others.

On November 2, 1777, the new 318-ton Continental sloop of war, *Ranger*, 18, docked in France from New Hampshire. On her quarterdeck was the 31-year-old Jones, bearing news of Burgoyne's surrender at Saratoga.

After France signed the treaty of Alliance, Jones set out on the first leg of his epoch cruise, bound for the Irish Sea. Encountering severe storms, *Ranger* captured and sunk a British merchantman in the English Channel, then sailed northwestward.

Trolling in the Irish Sea, near Dublin, *Ranger* captured another valuable prize merchant ship and sent her to France. Jones then boldly attempted a raid on Whitehaven on the English west coast. Foiled by weather, he crossed to Ireland's Carrick-fergus Bay. Returning to Whitehaven, heavily harbored with merchantmen, *Ranger* docked and sent two armed boat crews ashore. Two forts were quickly seized and their guns spiked. Setting ships afire, crews reboarded and sailed for the Scottish Isle of St. Mary. Seeking to kidnap the Earl of Selkirk, for possible exchange of imprisoned American seamen, he seized his home, but found the Earl missing.

Still fighting in the Lion's mouth with British squadrons now combing Irish waters, Jones resumed his hunt for *Drake*. Soon their courses crossed. In bow to bow fighting, Jones masterfully shortened sail then put up helm crossing *Drake's* bow with torturous fire. Dueling over an hour, *Drake* was dismasted and finally struck. Forty-five of her crew were killed or badly wounded. *Ranger* lost two. Sailing for France with battered prize, Jones brought both vessels into the port of Brest where he was warmly received.

Jones' exploits cannot be overestimated. By invading English waters and capturing commercial ships, Jones undermined Britain's confidence to defend its shores. Ever sensitive to invasion, the "tiny island's" citizenry wondered: if Jones could sail hostile ships into British harbors, could not others? Certainly his actions contributed to the entry of old English enemies into the war—Spain and France—and later England's war declaration against the Netherlands.

The most spectacular sea battle in naval history was the classic fight between the 900-ton east Indiaman, *Duc de Duras*, renamed *Bonhomme Richard* (literary pseudonym of Benjamin Franklin) and the *Serapis*. After many disappointments, an Irish merchant in Lorient, found, not the ideal vessel, but, as Jones wrote, "the only ship for sale in France that will answer our purpose." *Duc de Duras*, launched in 1766, was sturdily built, as were all ships designed for the dangerous China trade. Purchased by France, the King himself bore the expense of refitting her as an American warship.

When ready for sail, her armament included 18-pounders of questionable worth. Jones' task force consisted of *Bonhomme Richard*, 40, the new Continental frigate, *Alliance*, 36, French frigate, *Pallas*, the corvette, *La Vengeance*, 12, a fast cutter, *Cert*, 18, and two privateers, *Monsieur*, 39 and *Granville*, 10.

Eleven nationalities were represented in *Richard*'s crew of 380, but all the naval officers were Americans—some just released from British prison. Jones' genius whipped this motley collection of sailors and peasants into as stout a force as ever served under the Stars and Stripes.

Jones had learned a Baltic convoy escorting English merchantmen loaded with naval supplies, was approaching Flamborough Head. The American fleet first sailed around the British Isles, took many prizes and intimidated the cities of Edinburgh and New Castle. Scouting the seas it caught up with the convoy at sunset on September 23, 1779, on the Yorkshire coast in the North Sea.

Ahead Jones sighted a huge quarry of 41 ships escorted by the powerful swift sailing new British two decker, *Serapis*. Slowly, the scene darkened, sunset fading into darkness. As if nature herself did not wish to miss this epic battle a harvest moon rose, illuminating a night action that would last over three hours.

To shelter the convoy *Serapis* tacked toward *Richard*. Jones moved windward of *Serapis* flying British colors, British Admiral Person hailed, "What ship that?" Jones answered, "*Princess Royal*" (a British merchantman). At Pearson's next hailing, Jones hoisted the American flag and both ships opened fire coursing parallel.

As *Richard*'s guns glared, screams and smash of timbers rained, two of her ancient cannon exploded wounding her gun crews. Without heavy guns, Jones now faced the *Serapis* loaded with twenty 18-pounders, twenty 12-pounders and ten 6-pounders—some 50 guns total. Facing *Serapis*' double gundeck of superior firepower, Jones realized his only chance was to grapple the enemy warship.

Serapis evaded *Richard*'s first grappling attempt but on the second, her mizzen shrouds caught the *Serapis*' jib boom which Jones himself quickly lashed together in a final deadly embrace.

During this fighting, broadside to broadside, muzzle to muzzle, a *Richard* sailor, thinking his ship would sink if she did not strike, screamed, "Quarters, quarters, for God's sake!" At this the angered Jones pulled his pistol and hurled it at the chief, dropping him to the deck. When the battle seemed to be going against the Americans, enemy captain, Pearson, called to Jones, "So, do you ask for quarter?" Through clash of battle Jones shouted his immortal battle cry, "I have not yet begun to fight!" With his maindeck guns silenced, his hold filling fast and one of his own ships (*Alliance*) firing into his, Jones refused to strike. Instead he brought up a nine-pounder from across the deck and began pounding *Serapis*' mainmast.

Meanwhile, *Richard*'s crew, driven from the gunnery below, had swarmed to the forecastle deck and tops, where the swept the *Serapis* with murderous musket fire, hurling hand grenades on board. Fearing boarding, *Serapis*' port lids were closed when she swung broadside. Guns now fired through the lids, reducing the American's hull to splinters. Repeated broadside blasting at point blank range would ultimately sink the *Richard*.

Now *Serapis* caught fire and blazed. With each booming volley, victory slowly leaned towards the British warship. But one courageous act would turn the tide of battle. An American sailor climbed out on the *Richard*'s mainyard, overhanging high above *Serapis*' deck, and threw a grenade down the main hatchway of the *Serapis*' gunroom, detonating an arsenal of powder cartridges. A flashing explosion ran the length of the *Serapis*' crowded deck, scorching its crews. Fifty were killed or wounded in one strike. Five of its guns were silenced.

High in the riggings, American marines with muskets firing, poured down a rain of death preventing British boarding. At battle's climax, *Serapis*' mainmast gave falling into the sea. Amidst the carnage and wreckage of both ships, Pearson lowered *Serapis*' colors.

At battle's end, *Richard*'s quarterdeck was about to fall into its gunroom, with nearly every gun knocked out. With its hold swamped, the *Bonhomme Richard*, shattered victor in the fiercest fight in the age of sail, too damaged to repair, slowly sank in the North Sea.

Bloodied by head injury, Jones and his crew transferred to *Serapis*, and towed by the *Alliance*, the battered fleet limped eastward to Holland.

While the *Richard* would rest in the cold dark waters of the North Sea, the heroic exploits and courageous fighting spirit of Captain John Paul Jones would forever inspire Americans fighting on land or sea. From Bastogne, Iwo Jima and Coral Sea to the beaches of Normandy, wherever the American flag was challenged, fighting men would be forever moved by Jones' invincible spirit against overwhelming odds.

PRIVATEERING EXTENSIVE

From the *Rattlesnake*, which took prizes worth over a million dollars in one cruise, when loose in the Baltic Sea, to Rhode Island's *Hope*, which seized "enough rum to make all Rhode Island drunk," the daring enterprise of the privateers attacking in a "guerre de course" fashion characterized the rugged American spirit with a "lust for profit."

While Britannia ruled the waves at the outbreak of the Revolution, Americans possessed a seafaring tradition. Her ports were teeming with ships and seamen. On the eve of the Revolution, a third of all vessels in British trade were American-built; the same percentage of seamen was American. To challenge the British flag on the high seas, without an organized naval force, would have to come from private ships manned by merchant seamen.

On April 3, 1776, Congress formally authorized privateering. A privateer was a ship armed at private expense for the purpose of preying on enemy commerce for her owner's profit, bearing a commission or letter of marque, authorizing this "piracy" from a Colony or the Congress.

Smuggling cargoes ashore had become not only fashionable but patriotic in pre-Revolutionary days. And smugglers needed fast ships. Colonial shipbuilders had launched for decades vessels noted for fine line and superior sailing features. American sails could outrun all but the fleetest British cruisers.

In fighting for the "inalienable rights of man" on the open seas, some privateer captains stood out above the rest, like Jonathan Haraden, who began his naval service on the Massachusetts brigantine, *Tyrannicide*. On his first voyage, as first lieutenant, in 1776, he captured a Royal Navy cutter, a schooner and several other ships displaying expert seamanship and ability to fight at sea.

In 1780, commanding General Pickering, 16, he carried a sugar cargo to Spain. Sailing into Biscay Bay, sighting a ship in the dark, estimating superior force, he eased alongside. Proclaiming Pickering was a frigate of world class force, he threatened to blow the schooner out of the water. Since John Paul Jones was on the loose in European waters the fearful British skipper surrendered. His prize proved to be the Golden Eagle, 22, an English privateer of superior force.

Standing in Bilbao, Haraden asked the captured captain about an approaching ship.

When told it was the Achilles, 42, a powerful London privateer, Haraden would have been expected to stand clear. But having bluffed the Golden Eagle into hauling down its colors Haraden suspected his prisoner might return the bluff. Soon Achilles had retaken Haraden's prize and awaited daybreak to attack General Pickering.

At dawn the English ship commenced firing, but Haraden kept close to the shoals and leveled raking fire at Achilles' waterline. The small American boat continued firing for two hours refusing to close. Running short of ammunition, Haraden ordered all guns loaded with crowbars.

Launching a "flight of crowbars", British riggings were torn to shreds and gun crews driven from their stations. Achilles abandoned fight and fled for open sea. Also abandoned was the Golden Eagle.

Observing American privateering success, the British quickly outfitted their own privateers to prey on Colonial coastal trade. Soon American commerce in Long Island Sound and off Rhode Island was almost annihilated.

Prodded by General Washington, a 100-ton sloop, Argo, armed with twelve 6-pounders, was placed under Lieutenant Colonel Silas Talbot's command, with orders to stamp out Tory commerce raiding.

Earlier Talbot had volunteered to attack Lord Howe's fleet on the Hudson. Manning a fireship, he sailed into New York Harbor attacking the largest British warship, Asia 64. Alertly, the British spied his fireship and opened fire. Talbot ordered his gunpowder fired and his crew overboard. Within minutes his craft crashed with the man-of-war, and burst into flames, severely burning Talbot. Wounded and blinded, he groped over the side and was picked up by a friendly vessel. Eventually he regained sight and recovered. The enemy ship survived attack, but alarmed British readjusted their moorings further out.

Twice wounded while defending Delaware's Fort Mifflin, Talbot planned, while convalescing, to capture a heavily armed British galley stationed in the Sakonnet River, blocking passage to Providence, homeport of many privateers.

De Grasse then sought 300,000 piastres from the dons of San Domingo, pledging his French chateau as security. Delayed, an anxious de Grasse raised 1,200,000 livres from Havana where ladies gave him their diamonds to "aid the cause."

With billowing canvas sail the 28 ships led by the Ville de Paris, monarch of the French fleet, labored out of harbor through the Carribean surf for a rendezvous which would change the course of a new nation.

De Grasse skillfully navigated his warships along the northern coast of Cuba through the dreaded Bahama Channel laden with reefs and violent storms—hiding from the British.

Plowing northward some 26 days, de Grasse's fleet anchored near sunset, August 29, nine miles southeast of Cape Henry in the Chesapeake. Fluttering bourbon lilies from its masts, the fleet then entered Lynnhaven Bay just inside the Capes and anchored.

Vigilant, the British, suspecting de Grasse would join Washington's forces in New York, outsailed the French fleet. Arriving in the Chesapeake before de Grasse, Admiral Hood sailed inside the Bay, found it clear of enemy sail, and continued north, mistakenly in pursuit of de Grasse.

WASHINGTON'S ARMY

As spring broke across the Hudson Highlands, the Continental Army had barely survived another winter. Washington's thoughts again turned southward—into a strategy he had entertained for two years—defeat of the British at New York, where Clinton was in command.

Unable to venture inland, Clinton's army remained protected by his navy. But the British had moved Cornwallis and an army south to the Carolinas in hope that a populace more sympathetic to the crown would allow their military superiority to prevail.

Here in the Carolinas, it did. Trying to face the British head-on, the Americans were badly beaten at Charleston and Camden. Cornwallis now raged through South Carolina like an invincible lion until the Americans called upon a familiar ally—the wilderness. Washington sent into the southern campaign his most able desciples, Nathanial Greene to the Carolinas, and the 23-year-old boy general, Marquis de Lafayette, to Virginia.

Using back trails and streams for transport, hitting from behind, then retreating into the landscape, the Americans turned the war into their own terms. General Greene would write: "We fight, get beat, rise and fight again."

Lafayette now brilliantly maneuvered with Cornwallis as the British moved into Virginia. Running short of supplies, the British looked for a port near the sea for resupply by Clinton. The place Cornwallis chose was at the York River, near the mouth of the Chesapeake. Here Cornwallis built his first perimeter defense—at Yorktown.

Rochambeau persuaded Washington to move the combined armies of the American and French forces south from New York by land and river to Virginia—a journey of 450 miles. Part of this plan called on the French fleet under Admiral de Grasse to sail from the Caribbean to the mouth of the Chesapeake and block Cornwallis' escape.

On August 20, the march began—one of the most remarkable military movements in history. Ten thousand French and American troops extended in a human chain 30 miles down the eastern seaboard. Miraculously, Rochambeau and Washington reached the Delaware before Clinton received intelligence of the movement; too late for him to alert Cornwallis of impending danger.

From the head of Elk, the American armies split, some continuing overland, others transported down the Chesapeake by barge and boats supplied by Admiral de Grasse. De Grasse sent Washington miraculous news. The main fleet had arrived. The Chesapeake, and Cornwallis' escape, was blocked.

De Grasse now faced the combination of two British fleets. The first under Admiral Samuel Hood, who in stalking de Grasse from the Caribbean, passed him and mistakenly pursued him to New York. And Admiral Thomas Graves who had joined Hood and was now heading south to the Chesapeake for battle.

Deployment of the French fleet on September 5, 1781, provided the British a classic opportunity. De Grasse's ships lay anchored in Lynnhaven Bay inside Cape Henry. Near noon the approaching British fleet is sighted. De Grasse, caught off guard with many seamen ashore and tides against him, sends a message: "Raise anchor or cut your cables." Graves has the wind and is in formation. De Grasse lies floundering. Graves, inexplicably, allows de Grasse to clear the Bay and form up.

At 4:30 p.m. the Battle of the Capes commenced. With a deafening thunderous roar, ships of the lines open broadside with volcanic force. Cannons hurl over a half a ton of metal a volley. The French aim for the riggings; the British for the hulls.

As winds die and twilight fades, the two battered fleets float south, finally separating—the British to New York, de Grasse to the Chesapeake. The great wooden doors had been slammed shut behind Cornwallis. Yorktown was now in siege.

Sailing wide, Admiral de Barras slipped inside the Bay from Newport with eight warships and siege artillery. Washington now turned to Rochambeau, veteran of 14 European sieges. On October 9, General Washington entered the trenches of the first dug parallel. The Commander stood behind the most sophisticated armament of European warfare—the French siege guns.

The Yorktown siege commenced with a cannon roar never heard before on the North American continent. "So horrendous it seemed the heavens would split," a Royal Navy lieutenant wrote. Against a reddened sky whistling rocketing shells like "fiery meteors" exploded in a deathly spectacle. On the night of October 14, by bayonet the two remaining redoubts were taken—the last obstacles for closing the steel noose.

On the morning of the 17th, an American lieutenant listened for the sharp pecking sound of rattling drums and remembered: "I thought I never heard a drum equal to it—the most delightful music of all."

Stretching three miles long, along Yorktown Road, between white uniformed French soldiers on the left and Americans on the right, marched the defeated British, their eyes down, their flags furled and their band playing a tune. The patriots had "turned the world upside down." As the British marched to lay down their arms in surrender, Americans would march into the future, laying step by step the foundation of a government which would become the bulwark of freedom to men around the world. Nearby in the Bay, the man-of-war, *Ville de Paris*, weighed anchor signaling triumph of the Revolution and guarantee of liberty offered by the American Declaration of Independence.

After the Revolutionary War the Continental Navy and the exploits of John Paul Jones would soon be forgotten. Jones, a sea warrior always, was commissioned Rear Admiral in the Russian Navy by Empress Catherine in a Turkish war. Later he died nearly destitute and lay buried in an unmarked grave in Paris for over a century.

Ships of the Continental Navy were sold and crews vanished. It would be 13 years before the United States Navy would be reborn. With its difficulties, the Continental Navy, a product of its time, had served the American cause well, and given the young American nation one of its most authentic heroes.

BIBLIOGRAPHY

Allen, Gardener W., *A Naval History of the American Revolution*, Boston, 1913.

Coggins, Jack, *Ships and Seamen of the American Revolution*, Harrisburg, 1969.

Hagan, Kenneth J., *This People's Navy—The Making of American Sea Power*, New York, 1991.

Knox, Dudley W., *The Naval Genius of George Washington*, Boston, 1932.

Maclay, Edgar S., *A History of American Privateers*, New York, 1899.

Maclay, Edgar S., *A History of the United States Navy*, New York, 1901.

Miller, Nathan, *Sea of Glory, The Continental Navy Fights for Independence, 1775–1783*, New York, 1974.

Morison, Samuel E., *John Paul Jones: A Sailor's Biography*, Boston, 1959.

Stivers, Reuben E., *Privateers and Volunteers, 1766–1866*, Naval Institute Press, Annapolis, Maryland, 1975.

Wagner, Frederick, *Submarine Fighter of the American Revolution*, New York 1963.

THOMAS JEFFERSON—FATHER OF AMERICAN ARCHITECTURE

(By Compatriot William L. Irons)

Thomas Jefferson was born in 1743 in the wilderness of the Colony of Virginia. Thirty-three years later the words he wrote would shape a republic. But had he never penned a word, it would be said he shaped the spaces, dimensions and taste of the American nation.

Just as Jefferson left the world a design for free men to govern themselves, he also left a legacy in timber and brick which reached the sublime. As he led a revolution against the most powerful colonial power, likewise he led a revolution in architecture, rebelling from the English style to establish a new order based on the ancient classical lines of beauty and grace taken from Rome. With remarkable creative genius he took the raw materials of the American wilderness and molded them into graceful lines of tranquility, symmetry and rhythm which still inspire like rare objects of beauty, yet are practical structures fully functional in a modern world. Such was the genius of America's first architect.

As a student at the College of William and Mary, the words of Patrick Henry ringing out in the House of Burgesses fell on young Jefferson's ears. As Henry torched the fires of political rebellion, Jefferson lashed out at the established English architecture, "as the most wretched style I ever saw." His life was devoted to creating a new order which today is the symbol of the American nation. From his earliest drawings of Monticello, at age 24, until his final days, Jefferson believed architecture was an "elegant and useful art . . . an enthusiasm of which I am not ashamed as its object is to improve the taste of my countrymen."

At the time Jefferson entered the only college in the British colony of Virginia in 1760, there were no schools for architects. Even the College of William and Mary where Jefferson studied, had no architecture courses. Most buildings were constructed by housewrights or cabinet makers. Occasionally a pattern book might be referred to for guidance. Rarely were formal plans used.

Jefferson visits Westover, plantation home of William Byrd II, and is exposed to a valuable source of architectural designs—books. For the first time Jefferson's eye envelops a new world of form not present in the primitive wilderness of Virginia.

From the scarce architecture books, Jefferson discovers, only one writer would make an indelible impression—Andrea Palladio, the 16th century Italian architect. Palladio's works entitled Four Books of Architecture, originally published in 1570, became the "bible" and he advised others to "stick very close to it." Jefferson would become Palladio's lifelong disciple.

Why Palladio? His works, based on inspirational Roman antiquities, set out definite rules or immutable canons which dictate a correct design. If the rules were followed, the result would be a structure of beautiful proportions. Jefferson's analytical mind could relate to this ordered set of formulas and precise measurements to erect buildings which would yield symmetry and elegance—features he found rare in the British capital.

Soon Jefferson's library would include Robert Morris's Select Architecture and James Gibbs Rules for Drawing Orders, a book owned before 1769. One of the earliest studies for Monticello, dating from 1869, notes that "the pediments should be in height two ninths of their span," a rule found only in Palladio's work. Local Virginia builders would not be familiar with this rule.

Largely from his arduous study regimen and self discipline Jefferson develops a critical eye of the buildings in the British capital. "The genius of architecture seems to have shed its maledictions over this land." His remarks reveal a precociously discerning eye. "The Capitol is a light and airy structure . . . it is crowned with a pediment which is too high for its span. "The Governor's Palace, where he would later reside as Virginia's second governor, "is not handsome without, but it is spacious and commodious within, is prettily situated, and with grounds annexed to it, it is capable of being made an elegant seat," he would write. Perhaps his most critical remarks were reserved for the spaces he saw most often, "the College and Hospital are rude, mishapen piles, which, but that they have roofs would be taken for brick kilns." And for the other structures, "there are no other public buildings but churches and courthouses, in which no attempts are made at elegance."

Later Jefferson observed, "Virginia houses are rarely constructed of stone or brick, much the greatest proportion being of scantling and boards, plaistered with lime. It is impossible to devise things more ugly, uncomfortable and happily more perishable." Nor could a workman "scarcely be found here capable of drawing an order."

GEORGIAN ARCHITECTURE POPULAR

There were extant in Tidewater, Virginia several plantation homes of grand proportions: Tuckahoe (1712), Westover (1730), Carter's Hall (1730) and Mount Airy (1760). Williamsburg's public buildings were not insignificant: the Capitol (1701), College of William and Mary (1705), Governor's Palace (1706), Bruton Parish Church (1711), President's House at the College of William and Mary (1723). By the end of the 17th century, Virginia had become the most populous and richest colony in Colonial America. Indeed, it would build more celebrated Georgian manor houses than any other English colony during the first half of the 18th century.

While these buildings were of magnificent proportions, generally they were unimaginative boxlike designs build by carpenters without drawings. While some had verandas or porticoes—like Shirley—there was little evidence of classical design. Jefferson of course was not immune to the political tide rising against the prevailing English Georgian architecture and his political "animus" is revealed in his commentary on the spaces surrounding him.

A small mountain across the Rivanna River, from Jefferson's birthplace at Shadwell, was a favorite haunt of his boyhood and became the focus of his adult dreams. Even then he hunted its steeply forested slopes and under an ancient oak on its north face made a pact with friend Dabney Carr to be buried in the sublime haunt of their youth.

When 14 he inherited the land from his father, and named it Monticello, Italian for "little mountain." By Age 24, he conceived an imaginative plan for building a house on its summit.

WORK ON MONTICELLO BEGINS

If a place can shape destinies, then Monticello was the heart of Jefferson's visionary genius. Long before the Declaration of Independence, Governor of Virginia, Minister to France, President of the United States or founding the University of Virginia, there was a place that honed his earliest dreams. Monticello was the first manifestation of his genius and in the 40 years he lavished on its design and construction, Monticello became recreation for his boundless intellect.

Most sites for great houses were on lower land accessible to water for transportation—never a mountaintop. But Jefferson boldly chose this summit above the clouds with a commanding view of the Blueridge mountains and his beloved Virginia countryside which later afforded him as wartime Governor of Virginia a vantage point to escape British dragoon Banastre Tarleton. Jefferson's description is still true:

"How sublime to look down into the workhouse of nature, to see her clouds, hail, snow, rain, thunder, all fabricated at our feet! And the glorious sun, when rising as if out of a distant water, just gilding the tops of the mountains."

Self taught, Jefferson does the Palladian calculations for what would be an art gallery, a library, a house—the first Monticello.

As a young lawyer and member of the House of Burgesses in Colonial Virginia, Jefferson begins building in 1769. Three years later on a snowy night, he brought his bride, Martha Wayles Skelton, a wealthy widow, by horseback to an unfinished house with only the dining room under roof. The newlyweds were content to occupy a one room brick outbuilding or south pavilion called the Honeymoon Cottage. It had been used earlier as the bridegroom's bachelor quarters.

The house had a two story portico flanked by slightly lower wings. Later he designed octagonal bays to the garden front and sides. The main room on the upper floor was the library, from which he could walk out beneath a free standing portico and gaze at the monumental view or retire with his books.

Progress was slow since construction was by hand and lumber cleared from the mountaintop. During the revolution, he urged its completion and on election day as Governor of Virginia, 12 years later, it was nearly complete in 1779. But for Jefferson, whose home was his "essay in architecture," it would be in a constant state of rebuilding.

After a visit to Monticello, in 1782, General Marquis de Chastellux wrote:

"The house resembles none of the others seen in this country, so that it may be said that Mr. Jefferson is the first American who has consulted the Fine Arts to know how he should shelter himself from the weather."

In 1782, after ten years of "unchequered happiness" in marriage, Jefferson wrote, "a single event wiped away all my plans." His memorandum book contained this entry for September 6, 1782: "My dear wife died this day at 11H 45′ A.M." He later told a friend:

"My history . . . would have been as happy a one as I could have asked could the objects of my affection have been immortal. But all the favors of fortune have been embittered by domestic losses, of six children I have lost four, and finally their mother."

NAMED AMBASSADOR TO FRANCE

This domestic tragedy renders Jefferson disconsolate, and his friends are concerned. But an event occurs which would change his life and the face of the American nation—Jefferson is appointed as an American diplomat to France.

In 1784 Jefferson sails the Atlantic to succeed Benjamin Franklin as the American Ambassador in Paris. Like no other visitor he is smitten by the arts and scenes of this universal city. He wrote, "behold me at length on the vaunted scene of Europe . . . were I to tell you how much I enjoy their architecture, sculpture, painting, music, I should want words."

About a mile from his Parisian residence, he pauses often to watch the construction of a building which would become one of his favorites. "I was violently smitten by the

Hotel de Salm," he wrote, "sitting on the parapet each day, twisting my head around to see the object of my admiration, I generally left with a stiff neck." This was the first dome he has seen under construction but it would become the symbol of Monticello and the American nation.

In 1776 Jefferson, as a member of Virginia's House of Delegates, had written a bill to move the Virginia capital to Richmond, ridding remaining vestiges of British rule in Williamsburg. This bill provided for separate buildings for the three branches of the new government. While the bill failed, a similar one passed in 1779. When the move was made in 1780, Governor Jefferson was selected to construct the buildings. He drew plans for enlarging the town on a grid basis, and made studies for necessary buildings. The capitol, he envisioned, in the then unimagined form of a rectangular classical temple with porticoes at both ends. War delayed completion of these plans. When Jefferson sailed for France July, 1784, no construction had begun in Richmond.

DESIGNS VIRGINIA CAPITOL

As a diplomat in Paris, he was asked to select a design for the new building. Traveling to southern France, Jefferson becomes immersed in antiquities he had read so much about. He wrote, "from morning to night I have been nourished with the remains of roman grandeur. Were I to attempt to give you the news I would tell you stories one thousand years old."

In Nimes, Jefferson encounters the Roman temple of Maison Caree—built during the reign of the caesars in the first century. He is smitten by it and gazes for hours, "as a lover at his mistress." His letters describe it as the "most perfect model of ancient architecture remaining on earth." A model is made and shipped to Richmond. Jefferson prepares drawings for a public building which would change forever the architecture of the fledgling nation 4,000 miles away in the Virginia wilderness.

Today his unique design of his State's capitol is followed in 48 of America's state capitols. Virginia profoundly influenced architecture throughout the nation. The Duc de la Rochefoucauld-Liancourt called the Richmond capitol, "beyond comparison the most beautiful, the most noble, and the greatest in all America." This was the first attempt to create a large public building in the form of a Roman temple. Undoubtedly Virginia's capitol was a landmark of the first importance.

Jefferson designed changes for every house in which he resided including his rented Parisian Hotel de Langeac on the Champs Elysees. While in Paris Jefferson was introduced to the vanguard of "modern" neoclassical architecture. These French designers stripped Roman architecture of unnecessary ornament and reduced it to pure geometric form—the cube, the sphere, the pyramid. This visionary work appealed to Jefferson.

MONTICELLO DOUBLED IN SIZE

Upon his return from France, Jefferson was appointed Secretary of State in President Washington's cabinet and there was time to replan Monticello. Jefferson probably could not wait to return and try out the new images he had seen on Monticello. Just as President Jefferson later doubled the territorial size of the American nation, he now doubled the size of his home, installed 14 new skylights, indoor water closets, two piazzas and added a dome. He reduced the heights of the rooms and arranged windows to give the illusion it was a one story house—not three.

Jefferson built a new entrance hall which would later serve as a museum for countless visitors to examine Indian artifacts and mammoth bones—treasures from Lewis and Clark's epic expedition. The two stairs were relocated to make them invisible from the public rooms. He extended the east side's outer wall, creating a recessed porch beneath the portico. On both sides of the entrance hall a second pair of balancing rooms with bays were added. And he added a mezzanine on the second floor for easy lateral passageway upstairs.

The primary axis of this plan contained the "rooms of entertainment" (parlor, entrance hall, dining room and tearoom)—all uniformly full height. Jefferson occupied the entire south wing, his "sanctum sanctorum" which comprises a bedroom, cabinet (study), greenhouse and library, containing 6,000 volumes until sold to form the Library of Congress. The south wing and northeast bedrooms are only half as high as the core rooms, conveying the sense of an apartment not a mansion. Above there are a series of bedrooms paralleling the central core.

While the exterior of the house is symmetrical, the interior spaces are not. Jefferson's rooms are unified as though virtually one space. Even his bed, recessed in an alcove, may be entered from either room. On the opposite side, the dining room and tearoom flow together but unlike the southside prohibit free passageway to the adjoining rooms, increasing privacy. The north bedrooms are also different in shape. A rectangular "north square room" and "north octagonal room" are cut off to insure privacy.

On the outside the east entrance is recessed, creating a spatial volume which penetrates the main wall of the house. This effect tends to dissolve the wall and draw one inside. On the garden side, Jefferson creates just the opposite effect. Rather than a recessed porch, the central octagonal room is projected boldly with a portico two columns deep, accenting the outward thrust of the central core.

This outward movement is countered by the dome, arising above the central core. This becomes the culminating motif of the entire design. Partially screened behind the combined horizontals of the entablature and ballustrade, the dome's ultimate effect is to enhance rather than counteract the long extended mass of the house. Simultaneously, its outward upward thrust (dome and portico) is just the reverse of the inward penetrating movement of the portico and recessed porch on the entrance side.

Jefferson has masterfully created a spatial inversion, a juxtaposition of contrasting thrusts which fascinate and express from another point of view the fundamental separation on the interior of the public from the private rooms.

In the final version of Monticello, Jefferson reveals he was no slavish imitator, but pragmatic, experimental, willing to revise and if necessary to tear apart to perfect. He was a measurer, a designer, an engineer, and a draftsman, fascinated by detail as much as by the total creation.

He made mistakes, but refused to yield to his error. Eventually he would tear the house apart at great inconvenience, rebuilding until he completed the perfection of the Monticello Americans see today, a miracle of light, elegance and symmetry.

Jefferson has been described as a classicist, but this does not mean he was a conservative. He built like no other Virginian in his day. His revolutionary taste was an expression of his total architectural experience from the ancients to the most "modern" neoclassicists. His complex, sensitive and expressive design relationships make Monticello one of the most provocative houses in American architectural history.

HELPS FORMAT WASHINGTON, DC

While Jefferson was Secretary of State, legislation was passed to place the new capital city on the Potomac in Virginia. Soon he was advising Washington on the city's design. Jefferson's plan of a rectangular grid was ultimately adopted with modification for diagonal avenues by Major Pierre Charles L'Enfant. Jefferson assisted by supplying town plans of the European cities of Frankfurt, Karlsruhle, Amsterdam, Strasbourg, Paris, Orleans, Bordeaux, Lyons, Montpellier, Marseilles, Turin and Milan. Not one British town was tendered.

In 1791 Jefferson wrote L'Enfant conveying his views on two structures which when built would be national landmarks:

Whenever it is proposed to prepare plans for the Capitol, I should prefer the adoption of some one of the models of antiquity . . . and for the President's House I should prefer the celebrated fronts of modern buildings, which have already received the approbation of all good judges.

Later it was Jefferson who determined the sites for the Capitol and the President's House (later called The White House). When erection of a President's House was proposed, he established an architectural competition and laid down its rules. And he submitted his own unsuccessful entry into the competition, anonymously, based on Palladio's Villa Rotunda.

A competition was also held for the nation's Capitol. Jefferson, though not an entrant, passed along a sketch for a domical structure with four wings projecting based on the Pantheon in Paris. The winning design was quite similar.

As President (1801–1809), he set his stamp of approval on classical architecture for the nation's capital. Professional architects were recruited to the government and Jefferson created the post of surveyor of the public buildings and appointed the well-trained Benjamin Latrobe. As occupant of the President's House, he had Latrobe add terrace pavilions, like the President himself had designed for Monticello and later the University of Virginia. He was responsible for the additions of the rectangular North Portico and rounded South Portico designed by Latrobe. Those were completed in 1829. The interior was furnished with exquisite French pieces—many purchased while in Paris. And his own inventions were installed. In the dining room he installed dumbwaiters so guests could serve themselves and not be interrupted by servants who might overhear important diplomatic exchanges. Aware of his interest in natural science, Lewis and Clark sent him a collection of bones from their exploration of the West (1804–1806). The bones were placed in a room where Jefferson spent hours examining them. They also sent him grizzly bears, which for a time were kept on the grounds.

Jefferson also played an active role in landscaping the grounds, planting elms and magnolias. He added a wall around the grounds to provide some privacy. Today with its porticoes, terraces and columns and ballustrades, The White House is a simple yet elegant house for our nation's Presidents.

PLANS UNIVERSITY OF VIRGINIA

After completing two terms as President in 1809, Jefferson returned to Monticello. While

for most retirement is not reserved for one's crowning achievement, Jefferson's most monumental legacy had yet to begin. At age 75, Jefferson's dream of building an "academical village" would become his most enduring achievement dedicated to the "illimitable freedom of the human mind"—the creation of the University of Virginia. He would refer to it simply as the "hobby of my old age."

Jefferson was not only its architect, he selected its site, purchased the land, drew the deed, designed its buildings, supervised its construction and rode daily by horseback from Monticello to oversee the workmanship. Later, he planned its curriculum, recruited its faculty and prepared a list of nearly 7,000 volumes to be acquired for the first library.

Its architecture would be revolutionary, forsaking all well established American models, such as Harvard, Princeton or his own school, the College of William and Mary. Also rejected were English models of collegiate architecture at Oxford and Cambridge featuring quadrangles or cloisters. Historically, American universities were housed in single buildings which Jefferson denounced as "common dens, always ugly, inconvenient, exposed to the accident of fire, and bad in cases of infection." Jefferson captured a bold new scheme for educating America's future generations:

A small and separate lodge for each professorship with only a hall below for his class, and two chambers above for himself. Joining these lodges by barracks for a certain portion of the students, opening into a covered way to give dry communication between all the schools. The whole of these arranged around an open square of grass or trees.

Jefferson's unique plan was for the students and professors to live together in one "academical village", with free exchange of academic ideas during and after class hours. Moreover, the gardens and elegant architecture were to enhance the educational experience and improve the taste of the students. More innovative was to design classrooms designated "pavilions", which would "teach" or serve as models of "chaste and correct architecture as specimens for the architectural lecturer." By "specimens of good architecture," Jefferson meant the columns, capitals and entablatures of ancient temples, which were from books by Palladio and Freart de Chambray's Parallele de L'Architecture Antique avec le Moderne. But the forms of the buildings would come from the ingenius imagination of Jefferson alone. Only three "pavilions" germinated from others. Pavilion VII was suggested by Benjamin Latrobe; Pavilion VIII was suggested by William Thornton, architect for the U.S. Capitol; Pavilion IX—the most advanced design—was based on the Parisian Hotel Guinard seen by Jefferson four decades before in France.

In Jefferson's plan, there were ten temple-like pavilions with rooms for professor's lodging and classes. Next to the pavilions in smaller units were lodges for students connected by colonades in parallel rows. Behind this rectangular area referred to as the "lawn"—not campus—were gardens enclosed by serpentine walls, also unique. Paralleling the lawn were two ranges, to the east and west, providing additional lodges for students and six "hotels" or dining rooms.

At the focus of the lawn would be the Rotunda, a temple based on the Roman Pantheon, which would house the source of enlightenment and knowledge—the library. While the Pantheon served as the model, Jefferson improved its design by reducing the number of columns, halving its size to avoid dwarfing the pavilions, adding windows and steps while using materials from Albemarle county—his native soil.

Inside the Rotunda is the Dome Room, a white circular chamber housing the original library, and described as the "most beautiful room in America." The Rotunda was restored in 1976, and appears today substantially as it did in Jefferson's lifetime.

Today the Lawn is reserved for 54 outstanding upperclassmen or women who have distinguished themselves by service to the University. The residents are chosen by their fellow students. Former notable residents include Edgar Allen Poe (Room 13, West Range), and Woodrow Wilson (Room 31, West Range), 28th President of the United States.

NEW TYPE CURRICULUM INTRODUCED

But Jefferson created more than an architectural gem. He introduced a radically different educational curriculum challenging prevelant practices. His courses included agriculture, sciences, modern languages, as well as the classics. Space was also provided for martial arts and a gymnasium for exercise, in the Rotunda. Discipline was by self government and the individual's honor.

By rare fortune Jefferson, unlike other statesmen, could translate the "inalienable rights of man" into mortar and brick as an architect and educator. In his complex architecture, incomprehensible to his contemporaries, the "academical village" symbolically sustains the dignity of the individual. Perhaps there has never been a more eloquent expression of the fundamental nature of the American democracy.

In 1976, the American Institute of Architects cited Jefferson's "academical village" as the most outstanding achievement in American architecture in 200 years. Even among European universities founded after centuries of educational experience, there is no equal to Mr. Jefferson's "academical village." A foremost architectural authority described his University as "one of the most enlightened and visionary conceptions in the history of man." Considering the work was done by manual labor with no modern machinery, its achievement is incredible. To recall it was the dream, creation and execution of a man between the ages of 74 and 83, is even more astounding.

DEATH COMES ON JULY 4, 1826

On his final visit to the University he created, the 83-year-old Jefferson rode his horse, Eagle, from Monticello to the Rotunda. Atop the Dome Room stairs he gazed over the Lawn from the window. Beyond Pavilions IX and X lay open country. Below workmen were lifting the first marble Corinthian capital which he had awaited from Italy. Jefferson sat for an hour watching its placement. When finished, he rose, descended its stairs, mounted his horse and rode away. A few weeks later, on July 4, 1826, he died where he wished "at Monticello." Adams and Jefferson were the last founding fathers to die.

Today the Lawn and Rotunda look just as they did when Jefferson walked the "grounds" and his boundless intellectual spirit truly survives. "Thomas Jefferson still lives," as Adams proclaimed the day of his death. To this day students refer to their founder as "Mr. Jefferson" as though present in his village of scholars.

Jefferson's vision of a national university remains a living legacy. With nearly 18,000 students from all regions of the American nation, the University is distinguished for its professional schools of law, medicine, architecture and the fine arts. The "academical village" remains, as he dreamed, a "natural aristocracy of virtue and talent." As Mr. Jefferson wrote, "the earth belongs to the living." So does his architecture and final gift to a young nation—the "academical village."

OTHER ARCHITECTURAL ACHIEVEMENTS

Jefferson's erudite passion for architecture did not confine itself to the capitols of this state or nation.

The Governor's Palace. The Palace was built by the British in 1709 as the Royal Governor's residence in Williamsburg. Jefferson prepared several design improvements between 1721 and 1781, which were never carried out. His drawings would have converted the Palace into a temple form by adding pedimented porticoes at both ends. If built it would have been the first temple form public building of the modern world. Clearly his fascination for the classic style predated his European experience. As the second Governor of the Virginia Colony he occupied the Governor's Palace prior to its move to Richmond in 1780. Jefferson contended the Palace was "capable of being made an elegant seat." Its destruction by fire in 1781 ended these hopes.

Governor's House (Richmond). Before 1780 Jefferson made studies for a new governor's house in Richmond using again the temple form. Five drawings survive. In his final plan, the rotunda house was adapted for the traditional Virginia plantation house design with wings connected by short colonnades. There is a circular room in the center of the house two stories high. This design followed Palladio with a four column portico. The original of the rotunda house was Palladio's villa rotunda near Vicenza, Italy, one of the most famous houses in the world. Even as his architectural skills advanced he never lost admiration for this villa. Jefferson's culminating design—the Rotunda on the Lawn of the University of Virginia—contained a circular room which has been described as the most beautiful room in America.

William and Mary College. In 1772 Jefferson designed a U shaped plan "for an addition to the College of William and Mary, drawn at the request of Lt. Dunmore." Dunmore was the Colonial Governor of Virginia. If constructed, it would have been the first collegiate quadrangle in America.

Chapel. As early as 1770, Jefferson designed a church—probably for Williamsburg—octagonal in shape with Tuscan peristyle. His notes read: "Design of a chapel, the model of the Temple of Vesta, Pallad (Palladio), Bk 4, Pl 38, 39." If built this would have been a neoclassical landmark for the colonies. He also drew plans for two other churches which were never erected.

Christ Church. Christ Episcopal Church in Charlottesville was the only ecclesiastical design actually built. During most of his life Charlottesville had no church. Jefferson not only designed it in 1824, but was one of the largest contributors to its building and support of its minister. Its exterior was based on Chalgin's Saint Philippe du Roule, near his residence in Paris. Christ Church influenced the design of many Virginia churches, including St. Thomas Church in Orange and the Presbyterian Church in Fredericksburg. Christ Church was torn down in 1895 to afford a larger building.

Penitentiary (Richmond). Jefferson was very interested in new social theories for rehabilitation of criminals. Virginia asked Jefferson for a draught for the prison to be built in Richmond. Jefferson wrote from Paris, January 26, 1786, explaining the latest theories of European prison reform and included

his drawing which featured isolation of youthful offenders from hardened criminals. A decade later, Benjamin Latrobe executed Jefferson's plan, erecting what is now called the Penitentiary (burned in 1823). The origin of Jefferson's plan was the noted French architect, Pierre-Gariel Bugniet of Lyons. Since Jefferson's drawing did not survive, he is usually not credited with this building.

Farmington. Jefferson's enthusiasm for "putting up and pulling down" had become well known. For his neighbor, George Divers, he designed in 1802 an addition to Farmington, a 20-year-old brick house near Charlottesville. His design included an elongated octagon containing a two story room in one end and a mezzanine in the other, a two story Tuscan portico and bull's eye clerestory window like those in the base of Monticello's dome. The circular windows are of Portland stone ordered from London in 1792 for use in Monticello's Dome Room. However, the house was not ready to receive them and they were installed at Farmington. On return Jefferson noted the column capitals were too small for the portico but this mistake was never corrected.

Poplar Forest. Even before Monticello was completed Jefferson started work in 1809 on one of the best house designs—Poplar Forest, a summer retreat, some 80 miles from Monticello, near Lynchburg. Octagonal in design throughout, it is considered one of America's most imaginative houses. Inside the octagonal theme includes four octagon shaped rooms surrounding a square dining room lighted by a skylight. Even the outdoor privies were domed octagons as were the outline of the terraces around the house. The octagon was a favorite geometric shape with Jefferson. It provided eight sides for windows, allowing maximum air and light, and was easy to construct. The octagon—unlike a circle—enabled furniture to be easily placed against the interior walls.

Jefferson also prepared designs for Edgehill (1798), built for his daughter, Martha; Oak Hill (1819), home of President James Monroe; Montpelier (1793), home of James Madison; and Ampthill (1815), home of Randolph Harrison in Cumberland County. He designed three courthouses: Boutetourt Courthouse (1818), Buckingham Courthouse (1821) and Charlotte Courthouse (1821–23). Subsequently there were some 15 Jeffersonian Roman revival courthouses in central Virginia, many built by Jefferson's workmen.

VARIETY OF DESIGNS CREATED

Jefferson drew 800 architectural designs which have survived. Some included drawings for elegant pieces of furniture and exquisite silver based on Roman relics. Jefferson inherited his father's drawing instruments and the surveyor's concern for precision. His early drawings were executed with pen and ink—a medium which allowed no errors and required thorough planning before touching the pen to paper.

After arriving in France (1784) he switched to a hard-pointed pencil, an easier more creative medium. His measurements were carried out to one-thousandths (1/1000ths) of an inch, an accuracy which could not be met by his workmen. His freehand drawings were considered terrible. Jefferson seemed incapable of drawing a straight line or joining two lines together. These freehand sketches were only used to allow the play of his creative genius. But his prepared drawings, not sketches, were mechanically perfect, consistent with his standard of absolutes and ethics of architecture.

JEFFERSON'S LEGACY

Jefferson's residential designs not only stimulated substantial housebuilding, they furnished models requiring large masses, good configuration and conventional detail superbly adapted to local conditions. His designs stamped their imprint on virtually every southern house of distinction before the Civil War.

Similarly, his visionary style met a real need in American public architecture, which the naive and delicate colonial style could never have satisfied. For the monumental requirements of a powerful nation and its great capital, antiquated Colonial forms were inadequate. Jefferson's urgings led to classical design in America's most celebrated buildings establishing the style of the early republic.

Few can question why noted architect Fiske Kimball referred to our third President as the "father of American architecture." While relying on the inspirational grandeur of Roman antiquities, the Sage of Monticello surpassed even those ancient masterpieces. While creating practical useful structures—a home, a church, a capitol and a university—Jefferson attained an aesthetic eloquence not seen since the birth of the Republic over 200 years ago.

The bright red Albemarle brick with clean white trim of Jefferson's Rotunda suggests a raw primitive strength and frontier innocence like the new nation he had founded. Its traditions and reputation in the community of nations lay in the future not past. The young republic was not saddled by past cultures or codes generations old. With rare genius Jefferson captured the new spirit of his countrymen and translated it into a bold statement in timber and brick—just as he had done in Philadelphia in 1776.

BIBLIOGRAPHY

Adams, William Howard, Jefferson's Monticello, Cross River Press, Ltd., 1983.

Adams, William Howard, Editor, The Eye of Thomas Jefferson, National Gallery of Art, 1976.

Guiness, Desmond and Sadler, Julius J., Jr., Mr. Jefferson Architect, The Viking Press, Inc., 1973.

Kimball, Fiske, Thomas Jefferson Architect, Da Capo Press, New York, 1968.

Lane, Mills, Architecture of the Old South: Virginia. The Beehive Press, Savannah, Georgia, 1987.

Leish, Kenneth W., The White House, Newsweek Book Division, 1972.

McLaughlin, Jack, Jefferson and Monticello, The Biography of a Builder, Henry Holt and Company, New York, 1988.

Peterson, Merrill D., Editor, Thomas Jefferson, A Reference Biography. Charles Scribner's Sons, New York, 1986.

Pierson, William H., Jr., American Buildings and Their Architects, Anchor Books, 1976.•

NATIONAL ENERGY EDUCATION DEVELOPMENT PROGRAM

• Mr. CHAFEE. Mr. President, I would like to take a moment to recognize the recipients of the 1992 National Energy Education Development Program Youth Award for Energy Achievement. This program, also known as NEED, was established 13 years ago, during the energy crisis, by Gerard Katz, a local science teacher. Mr. Katz developed the program to help young people learn about the importance of energy conservation and energy efficiency. Since its beginning, NEED has grown tremendously, involving students, teachers and schools across the country.

NEED challenges students to develop projects that will expand their knowledge of alternative fuel sources such as solar, wind, and hydropower, and energy efficiency. More importantly, this program allows the students to share their knowledge with their peers at other schools. Teachers oversee the program, but for the most part it is entirely student driven.

Mr. President, last month the 1992 NEED Awards luncheon was held in the Russell Caucus Room here on Capitol Hill. I am proud to say that Rhode Island was selected as the State of the Year in the NEED Project's Youth Awards Program for Energy Development. One of the award winning schools this year was Fogarty Memorial School of Glocester, RI. The student project leaders, a group of fifth grade students, established a schoolwide recycling program. The Nathan Bishop Middle School of Providence, RI, a school which I attended during my youth, also received recognition. Nathan Bishop students built an energy town, a working model of a town run by solar, wind, and hydropower.

Mr. President, Energy conservation and energy efficiency are vital to our efforts to reduce this Nation's dependence on foreign oil. The NEED Program has played an important role in improving awareness about energy issues among our Nation's young people. I am pleased to have the opportunity to recognize those who are involved in this fine project.•

SELF-DEFEATING MYTHS ABOUT AMERICA

• Mr. SIMON. Mr. President, one of the leading financial experts of this country is the senior partner of Lazard Freres investment firm in New York City.

He is Felix G. Rohatyn.

Recently, he had an op-ed piece in the Washington Post that reflects a message that he has been giving to us over and over again, that we pay little attention to.

Members do not have to agree with every detail of what he proposes, but the general concept, it seems to me, is absolutely sound.

I urge my colleagues who did not see the July 6 Washington Post, because we were in recess, to read the Felix Rohatyn item.

I ask to insert it into the RECORD at this point.

The article follows:

[From the Washington Post, July 6, 1992]

SELF-DEFEATING MYTHS ABOUT AMERICA

[By Felix G. Rohatyn]

A remarkable thing has happened over the past two or three years. The collapse of com-

munism and the victory in the Persian Gulf, which represent a spectacular victory for the values and the power of the West, were immediately followed by a collapse of American confidence and self-reliance.

This reaction is at least partly due to the general acceptance of two myths. The first is the myth of government impotence and incompetence. The second is that we are broke.

And yet, our problems are not unsolvable; they are the direct result of our failure to adapt to the competitive requirements of a global economy:

(1) We have to invest adequately in new plants and in research and development to enable American workers to be more productive;

(2) We have not invested adequately in human capital to provide all Americans with the education and training required to fill the available jobs;

(3) We have not invested adequately in public facilities to provide the infrastructure required by a modern industrial society.

The main reason for these failures is our unwillingness to pay for what we need. The net result has been a national debt of $4 trillion, deficits running at $400 billion annually, a stagnating economy and an eroding standard of living for most Americans.

The riots of Los Angeles focused attention on our urban problems. But the answer does not lie in a new urban policy. The answer lies in national policies that will deal not only with urban problems but with many other equally urgent problems facing us, such as employment, education and energy, and that will aid in the creation of human and financial capital.

To rectify our failures in these areas, a more active role for government is an absolute necessity. It will also be necessary to raise significant new revenues. Both ends are within our capacity to accomplish.

We require, for some period of time, a national administration elected on the basis of a specific national recovery program and able to put its program into effect. This is important both from a domestic and foreign policy point of view. We cannot indefinitely fight wars with other people's money. We cannot argue that we have sound foreign policies but are somehow deficient in dealing with our domestic policies. There is no dividing line between domestic and foreign policy today. The United States has to maintain a global position in which our national security strength is directly related to our economic power and to our social cohesion at home.

The coming presidential campaign should be the forum for a rational discussion of the appropriate role for government in a modern industrial democracy. Los Angeles has shown that the government must be more active in dealing with our social problems, such as health care, public education, drugs and public safety. The government must also stimulate the economy in order to finance the needed level of social services and eliminate our deficit over the next few years.

Our first priority should be the rebuilding of America. A vast national public investment program should be started promptly, both to meet the needs of the country and to provide a long-term countercyclical effect to the weak economy. It is worth noting that the most competitive economies in the world today are backed by the highest levels of infrastructure investment. Schools and airports, roads and bridges, and many other types of public facilities must be built to support the private sector economy, protect the environment and provide a civilized life to urban and suburban Americans.

The administration and Congress recently came forth with a $150 billion, five-year transportation plan. That is inadequate. Taiwan, approximately the size of Pennsylvania, recently announced a six-year plan that will result in $600 billion of public infrastructure investment. West Germany will have invested $1 trillion in East Germany, a country of 17 million people, by the year 2000.

The federal government should commit to provide at least $500 billion over the next 10 years to supplement existing state and local government efforts to rebuild America by investing in infrastructure.

This should include public/private partnerships for new airports, new air traffic control systems, rapid rail links etc. as well as more traditional public investments in roads, bridges, new schools, mass transit and other basic requirements. Financing such a program, which would amount to less than one percent of the decade's GNP, should be feasible. For instance, a 5-cent-per-gallon gas tax, increasing over 10 years to 50 cents per gallon, would generate $50 billion per annum by 2002.

With the backing of these committed revenues, a Public Investment fund could raise the necessary capital through the sale of investment-rated bonds, which would be acquired by private and public pension funds as well as the public markets over the 10-year period. The assets of these pension funds now amount to about $3 trillion and will double to $6 trillion over the next 10 years. They could easily accommodate at least three-quarters of such a program, with the public markets absorbing the rest.

A public investment program on such a scale would generate significant employment and could absorb many of the skilled people who will be laid off as a result of defense cutbacks. Study after study has shown that every dollar of public investment generates about 50 cents of additional private investment. Thus $500 billion of public investment would generate another $250 billion of private investment.

Public works construction can deal with the physical decay of the cities. Decent schools, decent housing, safe streets and safe public transport all would contribute to a different social climate. In addition, an organized effort should be part of such a program to provide employment to inner-city youngsters aged 16 to 22. This could be done through some version of the CCC of the 1930s, whereby youngsters would be first trained and then employed in the reconstruction of their own cities. Large public works programs would create real jobs instead of public service jobs.

At the same time, market-related efforts such as Housing Secretary Jack Kemp's proposal for enterprise zones, which would give tax breaks to investment in depressed areas, and private ownership of housing instead of subsidized government projects, should also be part of the mix.

The federal government could work with state and local governments by targeting public investment programs wherever possible and by providing retraining and relocation programs to minimize the impact of defense cutbacks.

Paying for such a program would not be terribly painful. A gasoline tax increase of 5 cents annually for 10 years amounts to about $50 for the average car owner driving 20,000 miles. It would be consistent with efforts to protect the environment, and it would reduce our dependence on Mideast oil.

For once, let us try to agree on something. It is time to get started.•

FOUNDERS AWARD RECIPIENT

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to one of my constituents, Craig A. Gilborn, who is this year's recipient of the Adirondack Historical Association's Founders Award. This prestigious award is given to individuals who have contributed to the welfare of the Adirondack region. Craig Gilborn has served as director of the Adirondack Museum, the acclaimed regional history museum in upstate New York, since 1972. In his capacity as director of the museum he has increased national awareness regarding the beauty and natural wealth of the Adirondack region.

Craig Gilborn received his B.A. from Michigan State University and an M.A. in Early American Culture from the University of Delaware. He began as a school teacher but invested most of his energies thus far in administrative roles for several northeastern museums. He has written and published extensively over the years on topics running the gamut from antique furniture to American history museums to life in the Adirondack region.

Married to Alice Wolf Gilborn, a writer and editor, Craig has two children: a son, Alexis, age 20; and Amanda, age 10. Craig has announced his intention to leave his post as museum director later this summer. His many contributions to the Adirondack Park are greatly appreciated and he will be sorely missed at the museum.

Besides his close association with the museum, Gilborn has been an officer on several regional organizations, serving as a director of the Adirondack North Country Association for over 10 years and president of the New York State Association of Museums for 3. He was a member of the Governor's Commission on the Adirondacks in the 21st century and has been recognized for his services to the region by Potsdam College and St. Lawrence University.

Craig Gilborn has made many great personal contributions to the Adirondack region of New York State and for this he is being honored by the Adirondack Museum. I stand here today to thank Mr. Gilborn for giving of himself so freely and gladly to make the great State of New York a better place to live and prosper. I wish Craig Gilborn much peace and fulfillment in all of his future endeavors.•

GETTING THE MESSAGE TO CHINA

• Mr. SIMON. Mr. President, all of us who serve in Congress have come to respect Tom Korologos, who lobbies us on one thing or another, but does it in a very pleasant way.

He has also served Presidents and currently serves as Chairman of the U.S. Advisory Commission on Public Diplomacy, appointed by the President.

Recently, he had an op-ed piece about getting the message of freedom to

China and the need to use Voice of America, rather than setting up some new entity.

After Tiananmen Square, I was frequently in touch with the head of USIA pushing for greater broadcasts into China.

It seems to me, that is the direction we have to go, and that is the advice that Tom Korologos gives us.

I ask to insert his comments into the RECORD at this point.

The article follows:

GETTING THE MESSAGE TO CHINA

(By Tom C. Korologos)

Radio Free Europe/Radio Liberty, the Cold War broadcasters to the Eastern bloc, are in their sunset years now, their most important work done. But the success of the two stations in providing news and information to people hungry for both has spawned an effort to create a similar station serving China and other countries in the region—a Radio Free Asia.

It's a bad idea, I think—an effort to fight today's war with yesterday's strategy. To be sure, it makes sense for the United States to broadcast news about internal events in China and other authoritarian Asian countries. It makes even more sense for the United States to convey information and support educational exchanges that encourage peaceful change, democratic principles and free-market economics.

But these worthwhile goals are being achieved right now with existing public diplomacy institutions. Americans do not need a costly new bureaucracy that would take years to come on line.

Here are four reasons why Radio Free Asia is not a good idea.

We already have a name-brand broadcaster that can do the job. With a large worldwide audience built during 50 years of broadcasting, the Voice of America broadcasts 21 hours a day in Mandarin, Tibetan, Khmer, Lao, Vietnamese, Burmese, Indonesian and Korean. VOA combines U.S. and world news with extensive coverage of events in and relevant to its listeners' countries. VOA also is uniquely suited to do "cross reporting" on what's happening in the former Soviet Union, Eastern Europe and elsewhere to provide context for what's going on in Asia.

Increases now planned in VOA's staff, program hours and Asia news research capabilities can be implemented immediately.

Some quick questions for Radio Free Asia partisans: Where would you get the $110 million (conservatively estimated) for a new station? What Asian country would let you build a surrogate shortwave station aimed at China? Why delay the years it would take to negotiate site agreements, build transmitters, hire staff and get started—and then more years to build an audience? Isn't it wiser to invest in VOA now for an immediate payoff?

China is not the Soviet Union of the 1950s. A flood of information reaches China and all of Asia through radio, television, VCRs, fax machines, computer links and the thousands of people who travel annually for education, business and tourism.

Radio Free Asia would face overwhelming competition from VOA and a formidable array of other international broadcasters. Some 329 hours of foreign radio broadcasts in Chinese are beamed into China each day. Radio Free Asia would not expand noticeably the listening audience for these foreign broadcasts.

Shortwave radio is still important, but it's not the technology of the future. The most reliable surveys now available show that television is the primary source of news and information for most Chinese adults. Increasingly, audiences worldwide are turning from shortwave to local TV programs, satellite-delivered television, VCRs and other information options.

Moreover, as far as radio is concerned, many experts now say space-based transmitters, audio information compression techniques and CD-quality digital transmission via satellite to home and automobile receivers will be a reality in five to 10 years.

We need to "get real" about international broadcasting priorities. A presidential task force recently made an eloquent case for U.S. international broadcasting in the post-Cold War world. But it ducked the hard questions: priorities and funding. It called for expanded VOA broadcasts, continuation of Radio Free Europe/Radio Liberty to the 21st century, increased USIA television operations and creation of a Radio Free Asia. All this with no prospect of "new" money from Congress.

The task force urged that funds for Radio Free Asia not be taken from existing U.S. broadcasting operations. But this is precisely what is most likely to happen in today's budget and political climate.

It is time for all concerned to work together to set reasonable public diplomacy priorities. We need to examine the current U.S. broadcasting mix, eliminate duplication and competition among U.S. broadcasters, consolidate assets where possible, terminate projects such as TV Marti that are not cost-effective and support those media, languages and programs that are most relevant to U.S. interests.

International broadcasting will continue to be a big part of all this in Asia. But so will Fulbright scholarships, educational and professional exchanges, speakers, English teaching, book translations, international visitor programs and a variety of other public diplomacy activities.

We need to move the Radio Free Asia debate from domestic politics to rational discussion of how we use public diplomacy to advance U.S. interests.●

CONSIDERATION OF PEOPLE IN APPLICATION OF THE ENDANGERED SPECIES ACT

● Mr. CRAIG. Mr. President, I read a very interesting article the other day and would like to recommend this article to my colleagues. The article, authored by Jack Larsen, takes a very enlightening, humorous, and realistic look at the present Endangered Species Act. This article supports my views that there must be a balance between preserving a species and preserving the jobs and way of life of many families affected by these species.

Mr. President, I ask that this article be included in the RECORD.

The article follows:

TERMITES AND BIOLOGICAL BIGOTRY

(By John S. Larsen)

Festering beneath the arguments for and against the existing Endangered Species Act is the huge question of whether a human being is really more important than an animal.

People arguing for the existing ESA might say people are animals. The dominant, destructive, cancerous link in an increasingly threatened food chain. We take far more than our fair share of other animals' lives. We occupy and control more than our fair share of habitat. In the larger organism, in which all life forms are vital, we are the trouble spot.

So we have the Endangered Species Act, which keeps our recklessness in check.

But the problem with the food chain approach to valuing life is exactly what many people consider its strength: it values all life equally. Although it starts with the responsible care of ecosystems, it ends in an absurdity that may work in theory, but not in practice. Like it or not, we tend to favor certain life forms. Look at the way you live your life. Nearly all of us tolerate some amount of biological bigotry.

For example, there is the ongoing, wholesale slaughter of insects. Even if you do not kill insects with chemicals or other means, you're killing them all the time anyway. Imagine how many butterflies died on the front of your car last summer, or how many termites were exterminated so you could get the mortgage on your home.

If you think the last paragraph is cynical, think again. To value an ecosystem is to value life. Period. If you do not intend to value all life, where do you draw the line? And why? You have to throw away the whole food-chain ethic to say that insects are less important than mammals. It's the same as saying people are more important than mammals. To do either requires eliminating links in the chain.

If it is hard for you to imagine federal agents busting into your home to arrest you just after killing a spider, you may agree that much of the popular, politically correct environmentalism is hypocrisy. It isn't the loss of life that worries us; it's that we're losing bits and pieces of our ecosystem. Sure, we want to protect the environment—for us. In our heads we see a food chain. In our hearts we see a hierarchy with ourselves on top.

The question is not whether people are more important than other life forms. Literally, we've already voted with our feet—every time we step on an ant in the kitchen. The question is how we are going to treat other life forms, and other parts of our environment. In the absence of objective values, and the presence of a lot of opinion, the answer is in finding a workable balance between differing views.

The Endangered Species Act, as it exists, has no balance. It reflects single-value thinking that is like a freight train: running on a narrow track and unsympathetic to anything in its path. The value is this: all species at any cost.

What's the expense? In Forks, Washington, a small timber community in the realm of the northern spotted owl, domestic violence increased 45 percent in 1991. Welfare grants for single-parent households increased 137 percent in one month. Juvenile assault in the county increased 148 percent. These people are not greedy timber barons or people who can move to Manhattan and get jobs in the investment banking industry. These are the same people who always bite the bullet when society takes an economic hit. These are the people taking the hit for the Endangered Species Act.

For the ESA to work, it has to blend a variety of needs. In 1992 Congress has the options of amending the act so that it takes human, social and economic factors into account. The decision to list a species should remain entirely biological. That is, if the

numbers show a species is endangered, list it. But as the plan is developed to save the species, human, social and economic factors need to go into the equation.

Leave them out and more American workers are going to end up among the truly endangered.•

FREE TRADE AND FAIR TRADE

• Mr. KASTEN. Mr. President, last Friday the Office of the U.S. Trade Representative announced that the United States would increase duties on beer from the Province of Ontario because of the Province's continued unwillingness to conform with rules under the General Agreement on Tariffs and Trade.

Free and fair trade is the policy that leads to increased trade and greater job creation for all involved countries. Unfortunately, in this case Ontario was clearly not playing by the rules. My sincere hope is that the Province of Ontario will repeal its 10-cent aluminum beer can tax, and the 50-percent duty on beer imported into the Province by G. Heileman brewing Co. and the Stroh Brewery Co. Both nations would benefit if we could put this dispute behind us and move back toward free and fair trade.

Mr. President, I ask that an editorial titled "Losing Heads Over Beer" from the July 27, 1992 issue of the Globe and Mail newspaper in Toronto be added to the RECORD after my remarks.

The editorial follows:

LOSING HEADS OVER BEER

Another win for Canada. The government of Ontario, standing on the letter of the same international trade law it has flouted for years, finds new and sneakier ways to protect its beer industry from competition. The United States, fed up with this behaviour, slaps a 50 percent tariff on Ontario beer. The government of Canada retaliates with a duty on two brands of American beer, escalating the dispute on the eve of crucial talks on North American free trade.

Result: the Canadian beer industry is shut out of its major export market; Canadian consumers are forced to pay higher prices for imported beer; the ability and inclination of Canada to honour international agreements is called in question; and a vastly more important trilateral trade deal is jeopardized. All in defence of a few picayune trade barriers, erected for the sole purpose of supporting an inefficient but hugely profitable cartel and its highly paid unions in the extortion of a dwindling number of domestic beer consumers.

It may be that, legally, the U.S. is in the wrong. It is certain that, morally, Canada is in the wrong. When the strongest principle that can be invoked on behalf of Ontario's actions is that they are "GATT-consistent," it's a sure sign the ground is getting slippery underfoot.

If there were really a good reason to force imported beers to pass through liquor board warehouses, aside from the excuse it creates to charge them a $2.53-a-case fee, then domestic beer would be subject to the same requirement. If the $2.40-a-case tax on aluminum cans were really motivated by environmental concerns, and not by the observation that most American beer comes in cans, while most Canadian beer comes in bottles, then it would apply to all aluminum cans, and not just to beer.

We find it difficult to fathom the motives, or the reasoning, of the players in this drama. Canadian brewers sell six times as much beer in the U.S. as Americans sell here, with much greater potential for expansion, and much more to lose from a trade war. Harder still to understand is the federal government's eagerness, by its own involvement, to make the rest of the country pay for their shortsightedness. If Ontario and the brewers choose to make a mockery of Canada's international trade obligations that is bad enough. But why should Ottawa assist them?•

NOMINATION OF PHILIP BRUNELLE, NATIONAL COUNCIL ON THE ARTS

• Mr. DURENBERGER. Mr. President, it is with great pleasure that I take the floor to speak enthusiastically for the President's outstanding nomination of Philip Brunelle to the National Council on the Arts. In so doing, the President recognizes a lifetime of achievement in music and adds a strong voice to the cause of national support for the arts.

I want to express my gratitude to Senator KENNEDY and my other colleagues on the Labor and Human Resources Committee for bringing this nomination to the floor expeditiously.

Mr. President, Minnesota ranks 21st in population among the States, but we are proud to be 3d in the Nation behind only California and New York in investment in the arts. We have proudly contributed a number of our citizens to the national effort to encourage all our citizens to do the same. Martin Friedman, former director of the Walker Art Center, was one such figure, whose commitment to the arts is matched by his ability to bring together the resources necessary to make them flourish. Ken Dayton also served on the NEA board from 1970 to 1976, as did Sandra Hale in 1980.

Philip Brunelle is affectionately known as Minnesota's Mr. Music. He is a native of Austin, MN. His talent as a performer, composer, arranger, conductor, artistic director, and producer have earned him acclaim throughout Minnesota, the Midwest, America and the world.

The span of his accomplishments—from his Plymouth Music Series, to the Minnesota Opera, to his 1989 Ovation Award for "Best Opera Recording," to over 100 appearances on Garrison Keillor's original "Prairie Home Companion"—is remarkable. But perhaps his greatest lasting contribution will be the work he does encouraging young artists and getting their works performed for the first time.

He is a person of unusual talent, which is magnified by a global vision for the importance of the arts to the welfare of humankind. I am pleased his name is now before the Senate, and that soon his energy will be behind the Federal effort for the arts.

I thank the leadership for bringing this matter up without delay and urge all of my colleagues to support this nomination.•

ORDER FOR TOMORROW

Mr. JOHNSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Thursday, July 30; that following the prayer, the Journal of Proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each; that Senators LEAHY and LOTT be recognized for up to 15 minutes each; and that at 10 a.m. the Senate resume consideration of H.R. 776, the energy bill.

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

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. JOHNSTON. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:09 p.m., recessed until Thursday, July 30, 1992, at 9:30 a.m.