

107TH CONGRESS  
1ST SESSION

# S. 389

To protect the energy security of the United States and decrease America's dependency on foreign oil sources to 50 percent by the year 2011 by enhancing the use of renewable energy resources, conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly; and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2001

Mr. MURKOWSKI (for himself, Mr. BREAUX, Mr. LOTT, Mr. VOINOVICH, Mr. DOMENICI, Mr. CRAIG, Mr. CAMPBELL, Mr. THOMAS, Mr. SHELBY, Mr. BURNS, Mr. HAGEL, Mr. STEVENS, and Mr. HUTCHINSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To protect the energy security of the United States and decrease America's dependency on foreign oil sources to 50 percent by the year 2011 by enhancing the use of renewable energy resources, conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly; and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Energy Secu-  
5       rity Act of 2001”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—The Congress finds that—

8               (1) Increasing dependence on foreign sources of  
9               oil causes systemic harm to all sectors of the United  
10              States economy, threatens national security, under-  
11              mines the ability of Federal, State, and local units  
12              of government to provide essential services, and  
13              jeopardizes the peace, security, and welfare of the  
14              American people;

15             (2) dependence on imports of foreign oil was 46  
16             percent in 1992, rose to more than 55 percent by  
17             the beginning of 2000, and is estimated by the De-  
18             partment of Energy to rise to 65 percent by 2020  
19             unless current policies are altered;

20             (3) even with increased energy efficiency, en-  
21             ergy use in the United States is expected to increase  
22             27 percent by 2020;

23             (4) the United States lacks a comprehensive na-  
24             tional energy policy and has taken actions that limit  
25             the availability and capability of the domestic energy

1 sources of oil and gas, coal, nuclear and hydro-  
2 electric;

3 (5) a comprehensive energy strategy must be  
4 developed to combat this trend, decrease the United  
5 States dependence on imported oil supplies and  
6 strengthen our national energy security;

7 (6) this comprehensive strategy must decrease  
8 the United States dependence on foreign oil supplies  
9 to not more than 50 percent by the year 2011;

10 (7) this comprehensive energy strategy must be  
11 multi-faceted and enhance the use of renewable en-  
12 ergy resources (including hydroelectric, solar, wind,  
13 geothermal and biomass), conserve energy resources  
14 (including improving energy efficiencies), and in-  
15 crease domestic supplies of conventional energy re-  
16 sources (including oil, natural gas, coal, and nu-  
17 clear);

18 (8) conservation efforts and alternative fuels  
19 alone will not enable America to meet this goal as  
20 conventional energy sources supply 96 percent of  
21 America's power at this time;

22 (9) immediate actions must also be taken to  
23 mitigate the economic effects of recent increases in  
24 the price of crude oil, natural gas, and electricity

1 and the related impacts on American consumers, in-  
 2 cluding the poor and the elderly.

3 (b) PURPOSES.—The purposes of this Act are to pro-  
 4 tect the energy security of the United States by decreasing  
 5 America’s dependence on foreign oil sources to not more  
 6 than 50 percent by 2010, by enhancing the use of renew-  
 7 able energy resources, conserving energy resources (in-  
 8 cluding improving energy efficiencies), and increasing do-  
 9 mestic energy supplies, improving environmental quality  
 10 by reducing emissions of air pollutants and greenhouse  
 11 gases, and mitigating the immediate effect of increases in  
 12 energy prices on the American consumer, including the  
 13 poor and the elderly.

14 **TITLE I—GENERAL PROVISIONS**  
 15 **TO PROTECT ENERGY SUP-**  
 16 **PLY AND SECURITY**

17 **SEC. 101. CONSULTATION AND REPORT ON FEDERAL AGEN-**  
 18 **CY ACTIONS AFFECTING DOMESTIC ENERGY**  
 19 **SUPPLY.**

20 Prior to taking or initiating any action that could  
 21 have a significant adverse effect on the availability or sup-  
 22 ply of domestic energy resources or on the domestic capa-  
 23 bility to distribute or transport such resources, the head  
 24 of a Federal agency proposing or participating in such ac-  
 25 tion shall notify the Secretary of Energy in writing of the

1 nature and scope of the action, the need for such action,  
2 the potential effect of such action on energy resource sup-  
3 plies, price, distribution, and transportation, and any al-  
4 ternatives to such action or options to mitigate the effects  
5 and shall provide the Secretary of Energy with adequate  
6 time to review the proposed action and make recommenda-  
7 tions to avoid or minimize the adverse effect of the pro-  
8 posed action. The proposing agency shall consider any  
9 such recommendations made by the Secretary of Energy.  
10 The Secretary of Energy shall provide an annual report  
11 to the Committee on Energy and Natural Resources of  
12 the United States Senate and to the appropriate Commit-  
13 tees of the House of Representatives on all actions brought  
14 to his attention, what mitigation or alternatives, if any,  
15 were implemented, and what the short-term, mid-term,  
16 and long-term effect of the final action will likely be on  
17 domestic energy resource supplies and their development,  
18 distribution, or transmission.

19 **SEC. 102. ANNUAL REPORT ON UNITED STATES ENERGY**  
20 **INDEPENDENCE.**

21 (a) REPORT.—Beginning on October 1, 2001, and  
22 annually thereafter, the Secretary of Energy, in consulta-  
23 tion with the Secretary of Defense and the heads of other  
24 relevant Federal agencies, shall submit a report to the  
25 President and the Congress which evaluates the progress

1 the United States has made toward obtaining the goal of  
2 not more than 50 percent dependence on foreign oil  
3 sources by 2010.

4 (b) ALTERNATIVES.—The report shall specify legisla-  
5 tive or administrative actions that must be implemented  
6 to meet this goal and set forth a range of options and  
7 alternatives with a benefit/cost analysis for each option or  
8 alternative together with an estimate of the contribution  
9 each option or alternative could make to reduce foreign  
10 oil imports. The Secretary shall solicit information from  
11 the public and request information from the Energy Infor-  
12 mation Agency and other agencies to develop the report.  
13 The report shall indicate, in detail, options and alter-  
14 natives to (1) increase the use of renewable domestic en-  
15 ergy sources, including conventional and non-conventional  
16 sources such as, but not limited to, increased hydroelectric  
17 generation at existing Federal facilities, (2) conserve en-  
18 ergy resources, including improving efficiencies and de-  
19 creasing consumption, and (3) increase domestic produc-  
20 tion and use of oil, natural gas, nuclear, and coal, includ-  
21 ing any actions necessary to provide access to, and trans-  
22 portation of, these energy resources.

23 (c) REFINERY CAPACITY.—As part of the reports  
24 submitted in 2001, 2005, and 2008, the Secretary shall  
25 examine and report on the condition of the domestic refin-

1 ery industry and the extent of domestic storage capacity  
 2 for various categories of petroleum products and make  
 3 such recommendations as he believes will enhance domes-  
 4 tic capabilities to respond to short-term shortages of var-  
 5 ious fuels due to climate or supply interruptions and en-  
 6 sure long-term supplies on a reliable and affordable basis.

7 (d) NOTIFICATION TO CONGRESS.—Whenever the  
 8 Secretary determines that stocks of petroleum products  
 9 have declined or are anticipated to decline to levels that  
 10 would jeopardize national security or threaten supply  
 11 shortages or price increases on a national or regional  
 12 basis, he shall immediately notify the Congress of the situ-  
 13 ation and shall make such recommendations for adminis-  
 14 trative or legislative action as he believes are necessary  
 15 to alleviate the situation.

16 **SEC. 103. STRATEGIC PETROLEUM RESERVE STUDY AND**  
 17 **REPORT.**

18 The President shall immediately establish an Inter-  
 19 agency Panel on the Strategic Petroleum Study (referred  
 20 to as the “Panel” in this section) to study oil markets  
 21 and estimate the extent and frequency of fluctuations in  
 22 the supply and price of, and demand for crude oil in the  
 23 future and determine appropriate capacity of and uses for  
 24 the Strategic Petroleum Reserve. The Panel may rec-  
 25 ommend changes in existing authorities to strengthen the

1 ability of the Strategic Petroleum Reserve to respond to  
2 energy requirements. The Panel shall complete its study  
3 and submit a report containing its findings and any rec-  
4 ommendations to the President and the Congress within  
5 six months from the date of enactment of this Act.

6 **SEC. 104. STUDY OF EXISTING RIGHTS-OF-WAY TO DETER-**  
7 **MINE CAPABILITY TO SUPPORT NEW PIPE-**  
8 **LINES OR OTHER TRANSMISSION FACILITIES.**

9       Within one year from the date of enactment of this  
10 Act, the head of each Federal agency that has authorized  
11 a right-of-way across Federal lands for transportation of  
12 energy supplies or transmission of electricity shall review  
13 each such right-of-way and submit a report to the Sec-  
14 retary of Energy and the Chairman of the Federal Energy  
15 Regulatory Commission whether the right-of-way can be  
16 used to support new or additional capacity and what modi-  
17 fications or other changes, if any, would be necessary to  
18 accommodate such additional capacity. In performing the  
19 review, the head of each agency shall consult with agencies  
20 of State or local units of government as appropriate and  
21 consider whether safety or other concerns related to cur-  
22 rent uses might preclude the availability of a right-of-way  
23 for additional or new transportation or transmission facili-  
24 ties and shall set forth those considerations in the report.



1 **SEC. 105. USE OF FEDERAL FACILITIES.**

2 (a) The Secretary of the Interior and the Secretary  
3 of the Army shall each inventory all dams, impoundments,  
4 and other facilities under their jurisdiction.

5 (b) Based on this inventory and other information,  
6 the Secretary of the Interior and the Secretary of the  
7 Army shall each submit a report to the Congress within  
8 six months from the date of enactment of this Act. Each  
9 report shall—

10 (1) describe, in detail, each facility that is capa-  
11 ble, with or without modification, of producing addi-  
12 tional hydroelectric power. For each such facility,  
13 the report shall state the full potential for the facil-  
14 ity to generate hydroelectric power, whether the fa-  
15 cility is currently generating hydroelectric power,  
16 and the costs to install, upgrade, modify, or take  
17 other actions to increase the hydroelectric generating  
18 capability of the facility. For each facility that cur-  
19 rently has hydroelectric generating equipment, the  
20 report shall indicate the condition of such equip-  
21 ment, maintenance requirements, and schedule for  
22 any improvements as well as the purposes for which  
23 power is generated, and

24 (2) describe what actions are planned or under-  
25 way to increase hydroelectric production from facili-  
26 ties under his jurisdiction and shall include any rec-

1       ommendations the Secretary deems advisable to in-  
2       crease such production, reduce costs, and improve  
3       efficiency at Federal facilities, including, but not  
4       limited to, use of lease of power privilege and con-  
5       tracting with non-Federal entities for operation and  
6       maintenance.

7   **SEC. 106. NUCLEAR GENERATION STUDY.**

8       The Chairman of the Nuclear Regulatory Commis-  
9       sion shall submit a report to the Congress within six  
10      months from the date of enactment of this Act on the state  
11      of nuclear power generation and production in the United  
12      States and the potential for increasing nuclear generating  
13      capacity and production as part of this Nation's energy  
14      mix. The report shall include an assessment of agency  
15      readiness to license new advanced reactor designs and dis-  
16      cuss the needed confirmatory and anticipatory research  
17      activities that would support such a state of readiness.  
18      The report shall also review the status of the relicensing  
19      process for civilian nuclear power plants, including current  
20      and anticipated applications, and recommendations for im-  
21      provements in the process, including, but not limited to  
22      recommendations for expediting the process and ensuring  
23      that relicensing is accomplished in a timely manner.

1 **SEC. 107. DEVELOPMENT OF A NATIONAL SPENT NUCLEAR**  
2 **FUEL STRATEGY AND ESTABLISHMENT OF AN**  
3 **OFFICE OF SPENT NUCLEAR FUEL RE-**  
4 **SEARCH.**

5 (a) Prior to the Federal Government taking any irre-  
6 versible action relating to the disposal of spent nuclear  
7 fuel, Congress must determine whether the spent fuel  
8 should be treated as waste subject to permanent burial  
9 or should be considered an energy resource that is needed  
10 to meet future energy requirements.

11 (b) OFFICE OF SPENT NUCLEAR FUEL RESEARCH.—  
12 There is hereby established an Office of Spent Nuclear  
13 Fuel Research (referred to as the “Office” in this section)  
14 within the Office of Nuclear Energy Science and Tech-  
15 nology of the Department of Energy. The Office shall be  
16 headed by the Associate Director, who shall be a member  
17 of the Senior Executive Service appointed by the Director  
18 of the Office of Nuclear Energy Science and Technology,  
19 and compensated at a rate determined by applicable law.

20 (c) ASSOCIATE DIRECTOR.—The Associate Director  
21 of the Office of Spent Nuclear Fuel Research shall be re-  
22 sponsible for carrying out an integrated research, develop-  
23 ment, and demonstration program on technologies for  
24 treatment, recycling, and disposal of high-level nuclear ra-  
25 dioactive waste and spent nuclear fuel, subject to the gen-  
26 eral supervision of the Secretary. The Associate Director

1 of the Office shall report to the Director of the Office of  
2 Nuclear Energy Science and Technology. The first such  
3 Associate Director shall be appointed within 90 days of  
4 the enactment of this Act.

5 (d) GRANT AND CONTRACT AUTHORITY.—In car-  
6 rying out his responsibilities under this Section, the Sec-  
7 retary may make grants, or enter into contracts, for the  
8 purposes of the research projects and activities described  
9 in (e)(2).

10 (e)(1) DUTIES.—The Associate Director of the Office  
11 shall involve national laboratories, universities, the com-  
12 mercial nuclear industry, and other organizations to inves-  
13 tigate technologies for the treatment, recycling, and dis-  
14 posal of spent nuclear fuel and high-level radioactive  
15 waste.

16 (2) The Associate Director of the Office shall—

17 (A) develop a research plan to provide rec-  
18 ommendations by 2015;

19 (B) identify technologies for the treatment, re-  
20 cycling, and disposal of spent nuclear fuel and high-  
21 level radioactive waste;

22 (C) conduct research and development activities  
23 on such technologies;

24 (D) ensure that all activities include as key ob-  
25 jectives minimization of proliferation concerns and

1 risk to health of the general public or site workers,  
2 as well as development of cost-effective technologies;

3 (E) require research on both reactor- and accel-  
4 erator-based transmutation systems;

5 (F) require research on advanced processing  
6 and separations;

7 (G) encourage that research efforts include par-  
8 ticipation of international collaborators;

9 (H) be authorized to fund international collabo-  
10 rators when they bring unique capabilities not avail-  
11 able in the United States and their host country is  
12 unable to provide for their support;

13 (I) ensure that research efforts with the Office  
14 are coordinated with research on advanced fuel cy-  
15 cles and reactors conducted within the Office of Nu-  
16 clear Energy Science and Technology.

17 (f) REPORT.—The Associate Director of the Office  
18 of Spent Nuclear Fuel Research shall annually prepare  
19 and submit a report to the Congress on the activities and  
20 expenditures of the Office, including the progress that has  
21 been made to achieve the objectives of subsection (c).

1 **SEC. 108. STUDY AND REPORT ON STATUS OF DOMESTIC**  
2 **REFINING INDUSTRY AND PRODUCT DIS-**  
3 **TRIBUTION SYSTEM.**

4 (a) ANNUAL REPORT.—The Secretary of Energy, in  
5 consultation with the Administrator of the Environmental  
6 Protection Agency, the States, the National Petroleum  
7 Council, and other representatives of the petroleum refin-  
8 ing, distribution and retailing industries, shall submit a  
9 report to the Congress on the condition of the domestic  
10 petroleum refining industry and the petroleum product  
11 distribution system. The first such report shall be sub-  
12 mitted no later than January 1, 2002, and revised annu-  
13 ally thereafter.

14 (b) RECOMMENDATIONS.—Each annual report shall  
15 include any recommendations that the Secretary believes  
16 should be implemented either through legislation or regu-  
17 lation to ensure that there is adequate domestic refining  
18 capacity and motor fuel supplies to meet the economic,  
19 social, and security requirements of the United States.

20 (c) PREPARATION.—In preparing each annual report,  
21 the Secretary shall—

22 (1) provide an assessment of the condition of  
23 the domestic petroleum refining industry and the  
24 Nation's motor fuel distribution system, including  
25 the ability to make future capital investments nec-  
26 essary to manufacture, transport, and store different

1 petroleum products required by local, State, and  
2 Federal statute and regulations;

3 (2) examine the reliability and cost of feed-  
4 stocks and energy supplied to the refining industry  
5 as well as the reliability and cost of products manu-  
6 factured by such industry;

7 (3) provide an assessment of the collective ef-  
8 fect of current and future motor fuel requirements  
9 on—

10 (A) the ability of the domestic motor fuels  
11 refining, distribution, and retailing industries to  
12 reliably and cost-effectively supply fuel to the  
13 Nation’s consumers and businesses;

14 (B) gasoline (reformulated and conven-  
15 tional) and diesel fuel (on-highway and off-high-  
16 way) supplies;

17 (C) retail motor fuel price volatility;

18 (4) explore opportunities to streamline permit-  
19 ting and siting decisions and approvals for expand-  
20 ing existing and/or building new domestic refining  
21 capacity;

22 (5) recommend actions that can be taken to re-  
23 duce future motor supply concerns; and

24 (6) provide an assessment of whether uniform,  
25 regional, or national performance-based fuel speci-

1       fications would reduce supply disruptions and price  
2       spikes.

3       (d) CONFIDENTIALITY OF DATA.—Any information  
4 requested by the Secretary to be submitted by industry  
5 for purposes of this section shall be treated as confidential  
6 and shall be used only for the preparation of the annual  
7 report.

8       **SEC. 109. REVIEW OF FEDERAL ENERGY REGULATORY**  
9                               **COMMISSION NATURAL GAS PIPELINE CER-**  
10                              **TIFICATION PROCEDURES.**

11       The Federal Energy Regulatory Commission shall, in  
12 consultation with other appropriate Federal agencies, im-  
13 mediately undertake a comprehensive review of policies,  
14 procedures, and regulations for the certification of natural  
15 gas pipelines to determine how to reduce the cost and time  
16 of obtaining a certificate. The Commission shall report its  
17 findings within 6 months of the date of the enactment of  
18 this Act to the Senate Committee on Energy and Natural  
19 Resources and the appropriate Committees of the United  
20 States House of Representatives, including any rec-  
21 ommendations for legislative changes.



1 **SEC. 110. ANNUAL REPORT ON AVAILABILITY OF DOMESTIC**  
2 **ENERGY RESOURCES TO MAINTAIN THE**  
3 **UNITED STATES' ELECTRICITY GRID.**

4 (a) Beginning on October 1, 2001, and annually  
5 thereafter, the Secretary of Energy, in consultation with  
6 the Federal Energy Regulatory Commission and the  
7 North American Electric Reliability Council, States, and  
8 appropriate regional organizations, shall submit a report  
9 to the President and the Congress which evaluates the  
10 availability and capacity of domestic sources of energy  
11 generation to maintain the electricity grid in the United  
12 States. Specifically, the Secretary shall evaluate each re-  
13 gion of the country with regard to grid stability during  
14 peak periods, such as summer, and options for improving  
15 grid stability.

16 (b) The report shall specify specific legislative or ad-  
17 ministrative actions that could be implemented to improve  
18 baseload generation and set forth a range of options and  
19 alternatives with a benefit/cost analysis for each option or  
20 alternative together with an estimate of the contribution  
21 each option or alternative could make to reduce foreign  
22 oil imports. The report shall indicate, in detail, options  
23 and alternatives to (1) increase the use of nonemitting do-  
24 mestic energy sources, including conventional and non-  
25 conventional sources such as, but not limited to, increased  
26 nuclear energy generation, and (2) conserve energy re-

1 sources, including improving efficiencies and decreasing  
2 fuel consumption.

3 **SEC. 111. STUDY OF FINANCING FOR NEW TECHNOLOGIES.**

4 (a) The Secretary of Energy shall undertake an inde-  
5 pendent assessment of innovative financing techniques to  
6 encourage and enable construction of new electricity sup-  
7 ply technologies with high initial capital costs that might  
8 not otherwise be built in a deregulated market.

9 (b) The assessment shall be conducted by a firm with  
10 proven expertise in financing large capital projects or in  
11 financial services consulting, and is to be provided to the  
12 Congress no later than nine months from the date of en-  
13 actment of this Act.

14 (c) The assessment shall include a comprehensive ex-  
15 amination of all available techniques to safeguard private  
16 investors in high capital technologies—including advanced  
17 design power plants including, but not limited to, nu-  
18 clear—against government-imposed risks that are beyond  
19 the investors' control. Such techniques may include (but  
20 not be limited to) Federal loan guarantees, Federal price  
21 guarantees, special tax considerations, and direct Federal  
22 Government investment.

1 **SEC. 112. REVIEW OF REGULATIONS TO ELIMINATE BAR-**  
2 **RIERS TO EMERGING ENERGY TECHNOLOGY.**

3 (a) IN GENERAL.—Each Federal agency shall carry  
4 out a review of its regulations and standards to determine  
5 those that act as a barrier to market entry for emerging  
6 energy-efficient technologies, including, but not limited to,  
7 fuel cells, combined heat and power, and distributed gen-  
8 eration (including small-scale renewable energy).

9 (b) REPORT TO CONGRESS.—No later than eighteen  
10 months from date of enactment of this section, each agen-  
11 cy shall provide a report to Congress and the President  
12 detailing all regulatory barriers to emerging energy-effi-  
13 cient technologies, along with actions the agency intends  
14 to take, or has taken, to remove such barriers.

15 (c) PERIODIC REVIEW.—Each agency shall subse-  
16 quently review its regulations and standards in this man-  
17 ner no less frequently than every five years, and report  
18 their findings to Congress and President. Such reviews  
19 shall include a detailed analysis of all agency actions taken  
20 to remove existing barriers to emerging energy tech-  
21 nologies.

22 **SEC. 113. INTERAGENCY AGREEMENT ON ENVIRONMENTAL**  
23 **REVIEW OF INTERSTATE NATURAL GAS PIPE-**  
24 **LINE PROJECTS.**

25 The Secretary of Energy, in coordination with the  
26 Federal Energy Regulatory Commission, shall establish an

1 administrative interagency task force to develop an inter-  
 2 agency agreement to expedite and facilitate the environ-  
 3 mental review and permitting of interstate natural gas  
 4 pipeline projects. The task force shall include the Bureau  
 5 of Land Management and the Fish and Wildlife Service  
 6 in the Department of the Interior, the United States Army  
 7 Corps of Engineers, the United States Forest Service, the  
 8 Environmental Protection Agency, the Advisory Council  
 9 on Historic Preservation and such other agencies as the  
 10 Office and the Federal Energy Regulatory Commission  
 11 deem appropriate. The interagency agreement shall re-  
 12 quire that agencies complete their review of interstate  
 13 pipeline projects within a specific period of time after re-  
 14 ferral of the matter by the Federal Energy Regulatory  
 15 Commission. The agreement shall be completed within six  
 16 months after the effective date of this section.

17 **SEC. 114. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY**  
 18 **RESEARCH AND DEVELOPMENT.**

19 (a) IN GENERAL.—The Secretary of Transportation,  
 20 in coordination with the Secretary of Energy, shall develop  
 21 and implement an accelerated cooperative program of re-  
 22 search and development to ensure the integrity of natural  
 23 gas and hazardous liquid pipelines. This research and de-  
 24 velopment program shall include materials inspection tech-

1 niques, risk assessment methodology, and information sys-  
2 tems surety.

3 (b) PURPOSE.—The purpose of the cooperative re-  
4 search program shall be to promote research and develop-  
5 ment to—

6 (1) ensure long-term safety, reliability and serv-  
7 ice life for existing pipelines;

8 (2) expand capabilities of internal inspection  
9 devices to identify and accurately measure defects  
10 and anomalies;

11 (3) develop inspection techniques for pipelines  
12 that cannot accommodate the internal inspection de-  
13 vices available on the date of enactment;

14 (4) develop innovative techniques to measure  
15 the structural integrity of pipelines to prevent pipe-  
16 line failures;

17 (5) develop improved materials and coatings for  
18 use in pipelines;

19 (6) improve the capability, reliability, and prac-  
20 ticality of external leak detection devices;

21 (7) identify underground environments that  
22 might lead to shortened service life;

23 (8) enhance safety in pipeline siting and land  
24 use;

1           (9) minimize the environmental impact of pipe-  
2       lines;

3           (10) demonstrate technologies that improve  
4       pipeline safety, reliability, and integrity;

5           (11) provide risk assessment tools for opti-  
6       mizing risk mitigation strategies; and

7           (12) provide highly secure information systems  
8       for controlling the operation of pipelines.

9       (c) AREAS.—In carrying out this section, the Sec-  
10   retary of Transportation, in coordination with the Sec-  
11   retary of Energy, shall consider research and development  
12   on natural gas, crude oil, and petroleum product pipelines  
13   for—

14           (1) early crack, defect, and damage detection,  
15       including real-time damage monitoring;

16           (2) automated internal pipeline inspection sen-  
17       sor systems;

18           (3) land use guidance and set back manage-  
19       ment along pipeline rights-of-way for communities;

20           (4) internal corrosion control;

21           (5) corrosion-resistant coatings;

22           (6) improved cathodic protection;

23           (7) inspection techniques where internal inspec-  
24       tion is not feasible, including measurement of struc-  
25       tural integrity;

1           (8) external leak detection, including portable  
 2           real-time video imaging technology, and the advance-  
 3           ment of computerized control center leak detection  
 4           systems utilizing real-time remote field data input;

5           (9) longer life, high strength, non-corrosive  
 6           pipeline materials;

7           (10) assessing the remaining strength of exist-  
 8           ing pipes;

9           (11) risk and reliability analysis models, to be  
 10          used to identify safety improvements that could be  
 11          realized in the near term resulting from analysis of  
 12          data obtained from a pipeline performance tracking  
 13          initiative;

14          (12) identification, monitoring, and prevention  
 15          of outside force damage, including satellite surveil-  
 16          lance; and

17          (13) any other areas necessary to ensuring the  
 18          public safety and protecting the environment.

19          (d) RESEARCH AND DEVELOPMENT PROGRAM  
 20          PLAN.—Within 240 days after the date of enactment of  
 21          this section, the Secretary of Transportation, in coordina-  
 22          tion with the Secretary of Energy and the Pipeline Integ-  
 23          rity Technical Advisory Committee, shall prepare and sub-  
 24          mit to the Congress a five-year program plan to guide ac-  
 25          tivities under this section. In preparing the program plan,

1 the Secretary shall consult with the appropriate represent-  
2 atives of the natural gas, crude oil, and petroleum product  
3 pipeline industries to select and prioritize appropriate  
4 project proposals. The Secretary may also seek the advice  
5 of utilities, manufacturers, institutions of higher learning,  
6 Federal agencies, the pipeline research institutions, na-  
7 tional laboratories, State pipeline safety officials, environ-  
8 mental organizations, pipeline safety advocates, and pro-  
9 fessional and technical societies.

10 (e) IMPLEMENTATION.—The Secretary of Transpor-  
11 tation shall have primary responsibility for ensuring the  
12 five-year plan provided for in subsection (d) is imple-  
13 mented as intended by this section. In carrying out the  
14 research, development, and demonstration activities under  
15 this section, the Secretary of Transportation and the Sec-  
16 retary of Energy may use, to the extent authorized under  
17 applicable provisions of law, contracts, cooperative agree-  
18 ments, cooperative research and development agreements  
19 under the Stevenson-Wydler Technology Innovation Act of  
20 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures,  
21 other transactions, and any other form of agreement avail-  
22 able to the Secretary consistent with the recommendations  
23 of the Advisory Committee.

24 (f) REPORTS TO CONGRESS.—The Secretary of  
25 Transportation shall report to the Congress annually as



1 to the status and results to date of the implementation  
2 of the research and development program plan. The report  
3 shall include the activities of the Departments of Trans-  
4 portation and Energy, the national laboratories, univer-  
5 sities, and any other research organizations, including in-  
6 dustry research organizations.

7 (g) PIPELINE INTEGRITY TECHNICAL ADVISORY  
8 COMMITTEE.—

9 (1) ESTABLISHMENT.—The Secretary of Trans-  
10 portation shall enter into appropriate arrangements  
11 with the National Academy of Sciences to establish  
12 and manage the Pipeline Integrity Technical Advi-  
13 sory Committee for the purpose of advising the Sec-  
14 retary of Transportation and the Secretary of En-  
15 ergy on the development and implementation of the  
16 five-year research, development, and demonstration  
17 program plan as defined in sec. 3(e). The Advisory  
18 Committee shall have an ongoing role in evaluating  
19 the progress and results of the research, develop-  
20 ment, and demonstration carried out under this sec-  
21 tion.

22 (2) MEMBERSHIP.—The National Academy of  
23 Sciences shall appoint the members of the Pipeline  
24 Integrity Technical Advisory Committee after con-  
25 sultation with the Secretary of Transportation and

1 the Secretary of Energy. Members appointed to the  
2 Advisory Committee should have the necessary quali-  
3 fications to provide technical contributions to the  
4 purposes of the Advisory Committee.

5 (h) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are authorized to be appropriated to the Secretary of  
7 Transportation and to the Secretary of Energy for car-  
8 rying out this section such sums as may be necessary for  
9 each of the fiscal years 2002 through 2006.

10 **SEC. 115. RESEARCH AND DEVELOPMENT FOR NEW NAT-**  
11 **URAL GAS TECHNOLOGIES.**

12 (a) The Secretary of Energy shall conduct a com-  
13 prehensive five-year program for research, development  
14 and demonstration to improve the reliability, efficiency,  
15 safety and integrity of the natural gas transportation and  
16 distribution infrastructure and for distributed energy re-  
17 sources (including microturbines, fuel cells, advanced en-  
18 gine-generators gas turbines reciprocating engines, hybrid  
19 power generation systems, and all ancillary equipment for  
20 dispatch, control and maintenance).

21 (b) There are authorized to be appropriated such  
22 sums as may be necessary for the purposes of this section.

1 **TITLE II—TECHNOLOGY RE-**  
2 **SEARCH AND DEVELOPMENT**  
3 **PROGRAM FOR ADVANCED**  
4 **CLEAN COAL TECHNOLOGY**  
5 **FOR COAL-BASED ELEC-**  
6 **TRICITY GENERATING FACILI-**  
7 **TIES**

8 **SEC. 201. PURPOSE.**

9 The purpose of this title is to direct the Secretary  
10 of Energy (referred to as “Secretary” in this title) to—

11 (1) establish a coal-based technology develop-  
12 ment program designed to achieve cost and perform-  
13 ance goals;

14 (2) carry out a study to identify technologies  
15 that may be capable of achieving, either individually  
16 or in combination, the cost and performance goals  
17 and for other purposes; and

18 (3) implement a research, development, and  
19 demonstration program to develop and demonstrate,  
20 in commercial-scale applications, advanced clean coal  
21 technologies for coal-fired generating units con-  
22 structed before the date of enactment of this title.

23 **SEC. 202. COST AND PERFORMANCE GOALS.**

24 (a) IN GENERAL.—The Secretary shall perform an  
25 assessment that identifies costs and associated perform-

1   ance of technologies that would permit the continued cost-  
 2   competitive use of coal for electricity generation, as chem-  
 3   ical feedstocks, and as transportation fuel in 2007, 2015,  
 4   and the years after 2020.

5       (b) CONSULTATION.—In establishing cost and per-  
 6   formance goals, the Secretary shall consult with represent-  
 7   atives of—

- 8           (1) the United States coal industry;
- 9           (2) State coal development agencies;
- 10          (3) the electric utility industry;
- 11          (4) railroads and other transportation indus-  
 12       tries;
- 13          (5) manufacturers of equipment using advanced  
 14       coal technologies;
- 15          (6) organizations representing workers; and
- 16          (7) organizations formed to—
  - 17           (A) further the goals of environmental pro-  
 18       tection;
  - 19           (B) promote the use of coal; or
  - 20           (C) promote the development and use of  
 21       advanced coal technologies.

22       (c) TIMING.—The Secretary shall—

- 23          (1) not later than 120 days after the date of  
 24       enactment of this Act, issue a set of draft cost and  
 25       performance goals for public comment; and

1           (2) not later than 180 days after the date of  
2           enactment of this Act, and after taking into consid-  
3           eration any public comments received, submit to  
4           Congress the final cost and performance goals.

5 **SEC. 203. STUDY.**

6           (a) IN GENERAL.—Not later than 1 year after the  
7           date of enactment of this Act, the Secretary, in coopera-  
8           tion with the Secretary of the Interior and the Adminis-  
9           trator of the Environmental Protection Agency, shall con-  
10          duct a study to—

11           (1) identify technologies capable of achieving  
12           cost and performance goals, either individually or in  
13           various combinations;

14           (2) assess costs that would be incurred by, and  
15           the period of time that would be required for, the  
16           development and demonstration of technologies that  
17           contribute, either individually or in various combina-  
18           tions, to the achievement of cost and performance  
19           goals; and

20           (3) develop recommendations for technology de-  
21           velopment programs, which the Department of En-  
22           ergy could carry out in cooperation with industry, to  
23           develop and demonstrate such technologies.

24           (b) COOPERATION.—In carrying out this section, the  
25          Secretary shall give appropriate consideration to the ex-

1 pert advice of representatives from the entities described  
2 in section 111(b).

3 **SEC. 204. TECHNOLOGY RESEARCH AND DEVELOPMENT**  
4 **PROGRAM.**

5 (a) IN GENERAL.—The Secretary shall carry out a  
6 program of research on and development, demonstration,  
7 and commercial application of coal-based technologies  
8 under—

9 (1) this Act;

10 (2) the Federal Nonnuclear Energy Research  
11 and Development Act of 1974 (42 U.S.C. 5901 et  
12 seq.);

13 (3) the Energy Reorganization Act of 1974 (42  
14 U.S.C. 5801 et seq.); and

15 (4) title XVI of the Energy Policy Act of 1992  
16 (42 U.S.C. 13381 et seq.).

17 (b) CONDITIONS.—The research, development, dem-  
18 onstration, and commercial application programs identi-  
19 fied in section 203(a) shall be designed to achieve the cost  
20 and performance goals, either individually or in various  
21 combinations.

22 (c) REPORT.—Not later than 18 months after the  
23 date of enactment of this Act, the Secretary shall submit  
24 to the President and Congress a report containing—

1           (1) a description of the programs that, as of the  
 2           date of the report, are in effect or are to be carried  
 3           out by the Department of Energy to support tech-  
 4           nologies that are designed to achieve the cost and  
 5           performance goals; and

6           (2) recommendations for additional authorities  
 7           required to achieve the cost and performance goals.

8 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

9           (a) IN GENERAL.—There is authorized to be appro-  
 10          priated to carry out the provisions of sections 202, 203,  
 11          and 204, \$100,000,000 for each of fiscal years 2002  
 12          through 2012, to remain available until expended.

13          (b) CONDITIONS OF AUTHORIZATION.—The author-  
 14          ization of appropriations under subsection (a)—

15               (1) shall be in addition to authorizations of ap-  
 16          propriations in effect on the date of enactment of  
 17          this Act; and

18               (2) shall not be a cap on Department of Energy  
 19          fossil energy research and development and clean  
 20          coal technology appropriations.

21 **SEC. 206. POWER PLANT IMPROVEMENT INITIATIVE.**

22          (a) IN GENERAL.—The Secretary shall carry out a  
 23          power plant improvement initiative program that will dem-  
 24          onstrate commercial applications of advanced coal-based  
 25          technologies applicable to new or existing power plants,

1 including co-production plants, that, either individually or  
2 in combination, advance the efficiency, environmental per-  
3 formance and cost competitiveness well beyond that which  
4 is in operation or has been demonstrated to date.

5 (b) PLAN.—Not later than 120 days after the date  
6 of enactment of this title, the Secretary shall submit to  
7 Congress a plan to carry out subsection (a) that includes  
8 a description of—

9 (1) the program elements and management  
10 structure to be used;

11 (2) the technical milestones to be achieved with  
12 respect to each of the advanced coal-based tech-  
13 nologies included in the plan; and

14 (3) the demonstration activities that will benefit  
15 new or existing coal-based electric generation units  
16 having at least a 50 megawatt nameplate rating in-  
17 cluding improvements to allow the units to achieve  
18 either—

19 (A) an overall design efficiency improve-  
20 ment of not less than 3 percentage points as  
21 compared with the efficiency of the unit as op-  
22 erated on the date of the enactment of this title  
23 and before any retrofit, repowering, replace-  
24 ment or installation;



1 (B) a significant improvement in the envi-  
 2 ronmental performance related to the control of  
 3 sulfur dioxide, nitrogen oxide or mercury in a  
 4 manner that is well below the cost of tech-  
 5 nologies that are in operation or have been  
 6 demonstrated to date; or

7 (C) a means of recycling or reusing a sig-  
 8 nificant proportion of coal combustion wastes  
 9 produced by coal-based generating units exclud-  
 10 ing practices that are commercially available at  
 11 the date of enactment.

12 **SEC. 207. FINANCIAL ASSISTANCE.**

13 (a) IN GENERAL.—Not later than 180 days after the  
 14 date on which the Secretary submits to Congress the plan  
 15 under section 206(b), the Secretary shall solicit proposals  
 16 for projects which serve or benefit new or existing facilities  
 17 and, either individually or in combination, are designed to  
 18 achieve the levels of performance set forth in section  
 19 206(b)(3).

20 (b) PROJECT CRITERIA.—A solicitation under sub-  
 21 section (a) may include solicitation of a proposal for a  
 22 project to demonstrate—

23 (1) the reduction of emissions of one or more  
 24 pollutants; or

1           (2) the production of coal combustion byprod-  
2           ucts that are capable of obtaining economic values  
3           significantly greater than byproducts produced on  
4           the date of enactment of this title.

5           (c) FINANCIAL ASSISTANCE.—The Secretary shall  
6           provide financial assistance to projects that—

7           (1) demonstrate overall cost reductions in the  
8           utilization of coal to generate useful forms of energy;

9           (2) improve the competitiveness of coal among  
10          various forms of energy to maintain a diversity of  
11          fuel choices in the United States to meet electricity  
12          generation requirements;

13          (3) achieve in a cost-effective manner, one or  
14          more of the criteria set out in the solicitation; and

15          (4) demonstrate technologies that are applicable  
16          to 25 percent of the electricity generating facilities  
17          that use coal as the primary feedstock on the date  
18          of enactment of this title.

19          (d) FEDERAL SHARE.—The Federal share of the cost  
20          of any project funded under this section shall not exceed  
21          50 percent.

22          (e) EXEMPTION FROM NEW SOURCE REVIEW PROVI-  
23          SIONS.—A project funded under this section shall be ex-  
24          empt from the new source review provisions of the Clean  
25          Air Act (42 U.S.C. 7401 et seq.).

1 **SEC. 208. FUNDING.**

2 To carry out sections 206 and 207, there are author-  
3 ized to be appropriated such sums as may be necessary.

4 **SEC. 209. RESEARCH AND DEVELOPMENT FOR ADVANCED**  
5 **SAFE AND EFFICIENT COAL MINING TECH-**  
6 **NOLOGIES.**

7 (a) The Secretary of Energy shall establish a cooper-  
8 ative research partnership involving appropriate Federal  
9 agencies, coal producers, including associations, equip-  
10 ment manufacturers, universities with mining engineering  
11 departments, and other relevant entities to develop mining  
12 research priorities identified by the Mining Industry of the  
13 Future Program and in the National Academy of Sciences  
14 report on Mining Technologies, establish a process for  
15 joint industry-government research, and expand mining  
16 research capabilities at universities.

17 (b) There are authorized to be appropriated to carry  
18 out the requirements of this section, \$10,000,000 in fiscal  
19 year 2002, \$12,000,000 in fiscal year 2003, and  
20 \$15,000,000 in fiscal year 2004. At least 20 percent of  
21 any funds appropriated shall be dedicated to research car-  
22 ried out at universities.

23 **SEC. 210. RAILROAD EFFICIENCY.**

24 (a) The Secretary shall, in conjunction with the Sec-  
25 retaries of Transportation and Defense, and the Adminis-  
26 trator of the Environmental Protection Agency, establish

1 a public-private research partnership involving the Federal  
 2 Government, railroad carriers, locomotive manufacturers,  
 3 and the Association of American Railroads. The goal of  
 4 the initiative shall include developing and demonstrating  
 5 locomotive technologies that increase fuel economy, reduce  
 6 emissions, improve safety, and lower costs.

7 (b) There are authorized to be appropriated to carry  
 8 out the requirements of this Section \$50 million in fiscal  
 9 year 2002, \$60 million in fiscal year 2003, and \$70 mil-  
 10 lion in fiscal year 2004.

## 11 **TITLE III—OIL AND GAS**

### 12 **Subtitle A—Deepwater and**

### 13 **Frontier Royalty Relief**

#### 14 **SEC. 301. SHORT TITLE.**

15 This part may be referred to as the “Outer Conti-  
 16 nental Shelf Deep Water and Frontier Royalty Relief  
 17 Act”.

#### 18 **SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL**

#### 19 **SHELF LANDS ACT.**

20 (a) Section 8(a)(3) of the Outer Continental Shelf  
 21 Lands Act (43 U.S.C. 1337(a)(3)), is amended—

- 22 (1) by designating the provisions of paragraph  
 23 (3) as subparagraph (A) of such paragraph (3); and  
 24 (2) by inserting after subparagraph (A), as so  
 25 designated, the following:

1           “(B) In the Western and Central Planning  
2           Areas of the Gulf of Mexico and the portion of  
3           the Eastern Planning Area of the Gulf of Mex-  
4           ico encompassing whole lease blocks lying west  
5           of 87 degrees, 30 minutes West longitude, the  
6           Secretary may, in order to—

7                   “(i) promote development or increased  
8                   production or producing or non-producing  
9                   leases; or

10                   “(ii) encourage production of mar-  
11                   ginal resources on producing or non-pro-  
12                   ducing leases;

13           through primary, secondary, or tertiary recov-  
14           ery means, reduce or eliminate any royalty or  
15           net profit share set forth in the lease(s). With  
16           the lessee’s consent, the Secretary may make  
17           other modifications to the royalty or net profit  
18           share terms of the lease in order to achieve  
19           these purposes.

20                   “(C)(i) Notwithstanding the provisions of  
21                   this Act other than this subparagraph, with re-  
22                   spect to any lease or unit in existence on the  
23                   date of enactment of the Outer Continental  
24                   Shelf Deep Water Royalty Relief Act meeting  
25                   the requirements of this subparagraph, no roy-

1 alty payments shall be due on new production,  
2 as defined in clause (iv) of this subparagraph,  
3 from any lease or unit located in water depths  
4 of 200 meters or greater in the Western and  
5 Central Planning Areas of the Gulf of Mexico,  
6 including that portion of the Eastern Planning  
7 Area of the Gulf of Mexico encompassing whole  
8 lease blocks lying west of 87 degrees, 30 min-  
9 utes West longitude, until such volume of pro-  
10 duction as determined pursuant to clause (ii)  
11 has been produced by the lessee.

12 “(ii) Upon submission of a complete appli-  
13 cation by the lessee, the Secretary shall deter-  
14 mine within 180 days of such application  
15 whether new production from such lease or unit  
16 would be economic in the absence of the relief  
17 from the requirement to pay royalties provided  
18 for by clause (i) of this subparagraph. In mak-  
19 ing such determination, the Secretary shall con-  
20 sider the increased technological and financial  
21 risk of deep water development and all costs as-  
22 sociated with exploring, developing, and pro-  
23 ducing from the lease. The lessee shall provide  
24 information required for a complete application  
25 to the Secretary prior to such determination.

1           The Secretary shall clearly define the informa-  
2           tion required for a complete application under  
3           this section. Such application may be made on  
4           the basis of an individual lease or unit. If the  
5           Secretary determines that such new production  
6           would be economic in the absence of the relief  
7           from the requirement to pay royalties provided  
8           for by clause (i) of this subparagraph, the pro-  
9           visions of clause (i) shall not apply to such pro-  
10          duction. If the Secretary determines that such  
11          new production would not be economic in the  
12          absence of the relief from the requirement to  
13          pay royalties provided for by clause (i), the Sec-  
14          retary must determine the volume of production  
15          from the lease or unit on which no royalties  
16          would be due in order to make such new pro-  
17          duction economically viable; except that for new  
18          production as defined in clause (iv)(I), in no  
19          case will that volume be less than 17.5 million  
20          barrels of oil equivalent in water depths of 200  
21          to 400 meters, 52.5 million barrels of oil equiv-  
22          alent in 400–800 meters of water, and 87.5  
23          million barrels of oil equivalent in water depths  
24          greater than 800 meters. Redetermination of  
25          the applicability of clause (i) shall be under-

1 taken by the Secretary when requested by the  
2 lessee prior to the commencement of the new  
3 production and upon significant change in the  
4 factors upon which the original determination  
5 was made. The Secretary shall make such rede-  
6 termination within 120 days of submission of  
7 a complete application. The Secretary may ex-  
8 tend the time period for making any determina-  
9 tion or redetermination under this clause for 30  
10 days, or longer if agreed to by the applicant,  
11 if circumstances so warrant. The lessee shall be  
12 notified in writing of any determination or rede-  
13 termination and the reasons for and assump-  
14 tions used for such determination. Any deter-  
15 mination or redetermination under this clause  
16 shall be a final agency action. The Secretary's  
17 determination or redetermination shall be sub-  
18 ject to judicial review under section 10(a) of the  
19 Administrative Procedures Act (5 U.S.C. 702),  
20 only for actions filed within 30 days of the Sec-  
21 retary's determination or redetermination.

22 “(iii) In the event that the Secretary fails  
23 to make the determination or redetermination  
24 called for in clause (ii) upon application by the  
25 lessee within the time period, together with any



1 extension thereof, provided for by clause (ii), no  
2 royalty payments shall be due on new produc-  
3 tion as follows:

4 “(I) For new production, as defined in  
5 clause (iv)(I) of this subparagraph, no roy-  
6 alty shall be due on such production ac-  
7 cording to the schedule of minimum vol-  
8 umes specified in clause (ii) of this sub-  
9 paragraph.

10 “(II) For new production, as defined  
11 in clause (iv)(II) of this subparagraph, no  
12 royalty shall be due on such production for  
13 one year following the start of such pro-  
14 duction.

15 “(iv) For purposes of this subparagraph,  
16 the term ‘new production’ is—

17 “(I) any production from a lease from  
18 which no royalties are due on production,  
19 other than test production, prior to the  
20 date of enactment of the Outer Continental  
21 Shelf Deep Water Royalty Relief Act; or

22 “(II) any production resulting from  
23 lease development activities pursuant to a  
24 Development Operations Coordination Doc-  
25 ument, or supplement thereto that would

1 expand production significantly beyond the  
2 level anticipated in the Development Oper-  
3 ations Coordination Document, approved  
4 by the Secretary after the date of enact-  
5 ment of the Outer Continental Shelf Deep  
6 Water Royalty Relief Act.

7 “(v) During the production of volumes de-  
8 termined pursuant to clause (ii) or (iii) of this  
9 subparagraph, in any year during which the  
10 arithmetic average of the closing prices on the  
11 New York Mercantile Exchange for light sweet  
12 crude oil exceeds \$28.00 per barrel, any produc-  
13 tion of oil will be subject to royalties at the  
14 lease stipulated royalty rate. Any production  
15 subject to this clause shall be counted toward  
16 the production volume determined pursuant to  
17 clause (ii) or (iii). Estimated royalty payments  
18 will be made if such average of the closing  
19 prices for the previous year exceeds \$28.00.  
20 After the end of the calendar year, when the  
21 new average price can be calculated, lessees will  
22 pay any royalties due, with interest but without  
23 penalty, or can apply for a refund, with inter-  
24 est, of any overpayment.

1           “(vi) During the production of volumes de-  
2           termined pursuant to clause (ii) or (iii) of this  
3           subparagraph, in any year during which the  
4           arithmetic average of the closing prices on the  
5           New York Mercantile Exchange for natural gas  
6           exceeds \$3.50 per million British thermal units,  
7           any production of natural gas will be subject to  
8           royalties at the lease stipulated royalty rate.  
9           Any production subject to this clause shall be  
10          counted toward the production volume deter-  
11          mined pursuant to clause (ii) or (iii). Estimated  
12          royalty payments will be made if such average  
13          of the closing prices for the previous year ex-  
14          ceeds \$3.50. After the end of the calendar year,  
15          when the new average price can be calculated,  
16          lessees will pay any royalties due, with interest  
17          but without penalty, or can apply for a refund,  
18          with interest, of any overpayment.

19          “(vii) The prices referred to in clauses (v)  
20          and (vi) of this subparagraph shall be changed  
21          during any calendar year after 1994 by the per-  
22          centage, if any, by which the implicit price  
23          deflator for the gross domestic product changed  
24          during the preceding calendar year.”.

1 (b) Section 8(a)(1)(D) of the Outer Continental Shelf  
 2 Lands Act (43 U.S.C. 1337(a)(1)(D)) is amended by  
 3 striking the word “area;” and inserting in lieu thereof the  
 4 word “area,” and the following new text: “except in the  
 5 Arctic areas of Alaska, where the Secretary is authorized  
 6 to set the net profit share at 16 $\frac{2}{3}$  percent. For purposes  
 7 of this section, ‘Arctic areas’ means the Beaufort Sea and  
 8 Chukchi Sea Planning Areas of Alaska.”.

9 (c) Section 8(a) of the Outer Continental Shelf Lands  
 10 Act (43 U.S.C. 1337(a)) is amended by adding a new sub-  
 11 paragraph (10) at the end thereof:

12 “(10) After an oil and gas lease is granted pur-  
 13 suant to any of the bidding systems of paragraph  
 14 (1) of this subsection, the Secretary shall reduce any  
 15 future royalty or rental obligation of the lessee on  
 16 any lease issued by the Secretary (and proposed by  
 17 the lessee for such reduction) by an amount equal  
 18 to—

19 “(A) 10 percent of the qualified costs of  
 20 exploratory wells drilled or geophysical work  
 21 performed on any lease issued by the Secretary,  
 22 whichever is greater, pursuant to this Act in  
 23 Arctic areas of Alaska; and

24 “(B) an additional 10 percent of the quali-  
 25 fied costs of any such exploratory wells which

1           are located ten or more miles from another well  
2           drilled for oil and gas.

3           For purposes of this Act, ‘qualified costs’ shall mean  
4           the costs allocated to the exploratory well or geo-  
5           physical work in support of an exploration program  
6           pursuant to 26 U.S.C. as amended; ‘exploratory  
7           well’ shall mean either an exploratory well as defined  
8           by the United States Securities and Exchange Com-  
9           mission in 17 CFR 210.4–10(a)(10), as amended,  
10          or a well three or more miles from any oil or gas  
11          well or a pipeline which transports oil or gas to a  
12          market or terminal; ‘geophysical work’ shall mean  
13          all geophysical data gathering methods used in hy-  
14          drocarbon exploration and includes seismic, gravity,  
15          magnetic, and electromagnetic measurements; and  
16          all distances shall be measured in horizontal dis-  
17          tance. When a measurement beginning or ending  
18          point is a well, the measurement point shall be the  
19          bottom hole location of that well.”.

20   **SEC. 303. NEW LEASES.**

21          Section 8(a)(1) of the Outer Continental Shelf Lands  
22   Act, as amended (43 U.S.C. 1337(a)(1)) is amended—

23               (1) by redesignating subparagraph (H) as sub-  
24          paragraph (I);

1           (2) by striking “or” at the end of subparagraph  
2           (G); and

3           (3) by inserting after subparagraph (G) the fol-  
4           lowing new subparagraph:

5                   “(H) cash bonus bid with royalty at no less  
6                   than 12½ per centum fixed by the Secretary in  
7                   amount or value of production saved, removed,  
8                   or sold, and with suspension of royalties for a  
9                   period, volume, or value of production deter-  
10                  mined by the Secretary, which suspensions may  
11                  vary based on the price of production from the  
12                  lease; or”.

13   **SEC. 304. LEASE SALES.**

14           For all tracts located in water depths of 200 meters  
15   or greater in the Western and Central Planning Area of  
16   the Gulf of Mexico, including that portion of the Eastern  
17   Planning Area of the Gulf of Mexico encompassing whole  
18   lease blocks lying west of 87 degrees 30 minutes West lon-  
19   gitude, any lease sale within five years of the date of en-  
20   actment of this part, shall use the bidding system author-  
21   ized in section 8(a)(1)(H) of the Outer Continental Shelf  
22   Lands Act, as amended by this part, except that the sus-  
23   pension of royalties shall be set at a volume of not less  
24   than the following:

1           (1) 17.5 million barrels of oil equivalent for  
2       leases in water depths of 200 to 400 meters;

3           (2) 52.5 million barrels of oil equivalent for  
4       leases in 400 to 800 meters of water; and

5           (3) 87.5 million barrels of oil equivalent for  
6       leases in water depths greater than 800 meters.

7   **SEC. 305. REGULATIONS.**

8       The Secretary shall promulgate such rules and regu-  
9       lations as are necessary to implement the provisions of this  
10      part within 180 days after the enactment of this Act.

11   **SEC. 306. SAVINGS CLAUSE.**

12      Nothing in this part shall be construed to affect any  
13      offshore pre-leasing, leasing, or development moratorium,  
14      including any moratorium applicable to the Eastern Plan-  
15      ning Area of the Gulf of Mexico located off the Gulf Coast  
16      of Florida.

17   **Subtitle B—Oil and Gas Royalties**  
18                                   **in Kind**

19   **SEC. 310. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.**

20      (a) **APPLICABILITY OF SECTION.**—Notwithstanding  
21      any other provision of law, the provisions of this section  
22      shall apply to all royalty in kind accepted by the Secretary  
23      of the Interior under any Federal oil or gas lease or permit  
24      under section 36 of the Mineral Leasing Act (30 U.S.C.  
25      192) or section 27 of the Outer Continental Shelf Lands

1 Act (43 U.S.C. 1353) or any other mineral leasing law  
2 from the date of enactment of this Act through September  
3 30, 2006.

4 (b) TERMS AND CONDITIONS.—All royalty accruing  
5 to the United States under any Federal oil or gas lease  
6 or permit under the Mineral Leasing Act (30 U.S.C. 181  
7 et seq.) or the Outer Continental Shelf Lands Act (43  
8 U.S.C. 1331 et seq.) or any other mineral leasing law on  
9 demand of the Secretary of the Interior shall be paid in  
10 oil or gas. If the Secretary of the Interior elects to accept  
11 the royalty in kind—

12 (1) Delivery by, or on behalf of, the lessee of  
13 the royalty amount and quality due at the lease sat-  
14 isfies the lessee's royalty obligation for the amount  
15 delivered, except that transportation and processing  
16 reimbursements paid to, or deductions claimed by,  
17 the lessee shall be subject to review and audit.

18 (2) Royalty production shall be placed in mar-  
19 ketable condition at no cost to the United States.

20 (3) The Secretary of the Interior may—

21 (A) sell or otherwise dispose of any royalty  
22 oil or gas taken in kind for not less than fair  
23 market value; and

24 (B) transport or process any oil or gas roy-  
25 alty taken in kind.



1           (4) The Secretary of the Interior may, notwith-  
2           standing section 3302 of title 31, United States  
3           Code, retain and use a portion of the revenues from  
4           the sale of oil and gas royalties taken in kind that  
5           otherwise would be deposited to miscellaneous re-  
6           ceipts, without regard to fiscal year limitation, or  
7           may use royalty production, to pay the cost of—

8                   (A) transporting the oil or gas,

9                   (B) processing the gas, or

10                  (C) disposing of the oil or gas.

11           (5) The Secretary may not use revenues from  
12           the sale of oil and gas royalties taken in kind to pay  
13           for personnel, travel or other administrative costs of  
14           the Federal Government.

15           (c) REIMBURSEMENT OF COST.—If the lessee, pursu-  
16           ant to an agreement with the United States or as provided  
17           in the lease, processes the gas or delivers the royalty oil  
18           or gas at a point not on or adjacent to the lease area,  
19           the Secretary of the Interior shall reimburse the lessee for  
20           the reasonable costs of transportation (not including gath-  
21           ering) from the lease to the point of delivery or for proc-  
22           essing costs, or, at the discretion of the Secretary of the  
23           Interior, allow the lessee to deduct such transportation or  
24           processing costs in reporting and paying royalties in value  
25           for other Federal oil and gas leases.

1 (d) BENEFIT TO THE UNITED STATES.—The Sec-  
2 retary shall administer any program taking royalty oil or  
3 gas in kind only if the Secretary determines that the pro-  
4 gram is providing benefits to the United States greater  
5 than or equal to those which would be realized under a  
6 comparable royalty in value program.

7 (e) REPORT TO CONGRESS.—For every fiscal year,  
8 beginning in 2002 through 2006, in which the United  
9 States takes oil or gas royalties within any State or from  
10 the Outer Continental Shelf in kind, excluding royalties  
11 taken in kind and sold to refineries under subsection (h)  
12 of this section, the Secretary of the Interior shall provide  
13 a report to Congress describing:

14 (1) the methodology or methodologies used by  
15 the Secretary to determine compliance with sub-  
16 section (d), including performance standards for  
17 comparing to amounts likely to have been received  
18 had royalties been taken in value;

19 (2) an explanation of the evaluation that led the  
20 Secretary to take royalties in kind from a lease or  
21 group of leases, including the expected revenue effect  
22 of taking royalties in kind;

23 (3) actual amounts realized from taking royal-  
24 ties in kind, and costs and savings associated with  
25 taking royalties in kind; and

1           (4) an evaluation of other relevant public bene-  
2       fits or detriments associated with taking royalties in  
3       kind.

4       (f) DEDUCTION OF EXPENSES.—

5           (1) Prior to making disbursements under sec-  
6       tion 35 of the Mineral Leasing Act (30 U.S.C. 191)  
7       or section 8(g) of the Outer Continental Shelf Lands  
8       Act (30 U.S.C. 1337(g)) or other applicable provi-  
9       sion of law, of revenues derived from the sale of roy-  
10      alty production taken in kind from a lease, the Sec-  
11      retary of the Interior shall deduct amounts paid or  
12      deducted under paragraphs (b)(3) and (c), and shall  
13      deposit such amounts to miscellaneous receipts.

14          (2) If the Secretary of the Interior allows the  
15      lessee to deduct transportation or processing costs  
16      under paragraph (c), the Secretary of the Interior  
17      may not reduce any payments to recipients of reve-  
18      nues derived from any other Federal oil and gas  
19      lease as a consequence of that deduction.

20      (g) CONSULTATION WITH STATES.—The Secretary  
21      of the Interior will consult with a State prior to conducting  
22      a royalty in kind program within the State and may dele-  
23      gate management of any portion of the Federal royalty  
24      in kind program to such State except as otherwise prohib-  
25      ited by Federal law. The Secretary shall also consult annu-

1 ally with any State from which Federal royalty oil or gas  
 2 is being taken in kind to ensure to the maximum extent  
 3 practicable that the royalty in kind program provides reve-  
 4 nues to the State greater than or equal to those which  
 5 would be realized under a comparable royalty in value pro-  
 6 gram.

7 (h) PROVISIONS FOR SMALL REFINERIES.—

8 (1) If the Secretary of the Interior determines  
 9 that sufficient supplies of crude oil are not available  
 10 in the open market to refineries not having their  
 11 own source of supply for crude oil, the Secretary  
 12 may grant preference to such refineries in the sale  
 13 of any royalty oil accruing or reserved to the United  
 14 States under Federal oil and gas leases issued under  
 15 any mineral leasing law, for processing or use in  
 16 such refineries at private sale at not less than fair  
 17 market value.

18 (2) In selling oil under this subsection, the Sec-  
 19 retary of the Interior may at his discretion prorate  
 20 such oil among such refineries in the area in which  
 21 the oil is produced.

22 (i) DISPOSITION TO FEDERAL AGENCIES.—

23 (1) Any royalty oil or gas taken in kind from  
 24 onshore oil and gas leases may be sold at not less

1       than the fair market value to any department or  
2       agency of the United States.

3           (2) Any royalty oil or gas taken in kind from  
4       Federal oil and gas leases on the Outer Continental  
5       Shelf may be disposed of under 43 U.S.C.  
6       1353(a)(3).

7       **Subtitle C—Use of Royalty In Kind**  
8       **Oil To Fill the Strategic Petro-**  
9       **leum Reserve**

10   **SEC. 320. USE OF ROYALTY IN KIND OIL TO FILL THE STRA-**  
11           **TEGIC PETROLEUM RESERVE.**

12       The Secretary of the Interior shall enter into an  
13       agreement with the Secretary of Energy to transfer title  
14       to the Federal share of crude oil production from Federal  
15       lands for use at the discretion of the Secretary of Energy  
16       in filling the Strategic Petroleum Reserve during periods  
17       of crude oil market stability. The Secretary of Energy may  
18       also use the Federal share of crude oil produced from Fed-  
19       eral lands for other disposal within the Federal Govern-  
20       ment, as he may determine, to carry out the energy policy  
21       of the United States.

1 **Subtitle D—Improvements to Fed-**  
 2 **eral Oil and Gas Lease Manage-**  
 3 **ment**

4 **SEC. 330. SHORT TITLE.**

5 This Part may be cited as the “Federal Oil and Gas  
 6 Lease Management Improvement Act of 2000”.

7 **SEC. 331. DEFINITIONS.**

8 In this Part—

9 (1) APPLICATION FOR A PERMIT TO DRILL.—

10 The term “application for a permit to drill” means  
 11 a drilling plan including design, mechanical, and en-  
 12 gineering aspects for drilling a well.

13 (2) FEDERAL LAND.—

14 (A) IN GENERAL.—The term “Federal  
 15 land” means all land and interests in land  
 16 owned by the United States that are subject to  
 17 the mineral leasing laws, including mineral re-  
 18 sources or mineral estates reserved to the  
 19 United States in the conveyance of a surface or  
 20 non-mineral estate.

21 (B) EXCLUSION.—The term “Federal  
 22 land” does not include—

23 (i) Indian land (as defined in section  
 24 3 of the Federal Oil and Gas Royalty Man-

1                   agement Act of 1982 (30 U.S.C. 1702));

2                   or

3                   (ii) submerged land on the Outer Con-  
4                   tinental Shelf (as defined in section 2 of  
5                   the Outer Continental Shelf Lands Act (43  
6                   U.S.C. 1331)).

7                   (3) OIL AND GAS CONSERVATION AUTHORITY.—

8                   The term “oil and gas conservation authority”  
9                   means the agency or agencies in each State respon-  
10                  sible for regulating for conservation purposes oper-  
11                  ations to explore for and produce oil and natural  
12                  gas.

13                  (4) PROJECT.—The term “project” means an  
14                  activity by a lessee, an operator, or an operating  
15                  rights owner to explore for, develop, produce, or  
16                  transport oil or gas resources.

17                  (5) SECRETARY.—The term “Secretary”  
18                  means—

19                         (A) the Secretary of the Interior, with re-  
20                         spect to land under the administrative jurisdic-  
21                         tion of the Department of the Interior; and

22                         (B) the Secretary of Agriculture, with re-  
23                         spect to land under the administrative jurisdic-  
24                         tion of the Department of Agriculture.

1           (6) SURFACE USE PLAN OF OPERATIONS.—The  
 2           term “surface use plan of operations” means a plan  
 3           for surface use, disturbance, and reclamation.

4   **SEC. 332. NO PROPERTY RIGHT.**

5           Nothing in this part gives a State a property right  
 6           or interest in any Federal lease or land.

7   **SEC. 333. TRANSFER OF AUTHORITY.**

8           (a) NOTIFICATION.—Not before the date that is 180  
 9           days after the date of enactment of this Act, a State may  
 10          notify the Secretary of its intent to accept authority for  
 11          regulation of operations, as described in subparagraphs  
 12          (A) through (K) of subsection (b)(2), under oil and gas  
 13          leases on Federal land within the State.

14          (b) TRANSFER OF AUTHORITY.—

15               (1) IN GENERAL.—Effective 180 days after the  
 16          Secretary receives the State’s notice, authority for  
 17          the regulation of oil and gas leasing operations is  
 18          transferred from the Secretary to the State.

19               (2) AUTHORITY INCLUDED.—The authority  
 20          transferred under paragraph (1) includes—

21                       (A) processing and approving applications  
 22                       for permits to drill, subject to surface use  
 23                       agreements and other terms and conditions de-  
 24                       termined by the Secretary;

25                       (B) production operations;



- 1 (C) well testing;
- 2 (D) well completion;
- 3 (E) well spacing;
- 4 (F) communization;
- 5 (G) conversion of a producing well to a
- 6 water well;
- 7 (H) well abandonment procedures;
- 8 (I) inspections;
- 9 (J) enforcement activities; and
- 10 (K) site security.

11 (c) RETAINED AUTHORITY.—The Secretary shall—

12 (1) retain authority over the issuance of leases  
 13 and the approval of surface use plans of operations  
 14 and project-level environmental analyses; and

15 (2) spend appropriated funds to ensure that  
 16 timely decisions are made respecting oil and gas  
 17 leasing, taking into consideration multiple uses of  
 18 Federal land, socioeconomic and environmental im-  
 19 pacts, and the results of consultations with State  
 20 and local government officials.

21 **SEC. 334. ACTIVITY FOLLOWING TRANSFER OF AUTHORITY.**

22 (a) FEDERAL AGENCIES.—Following the transfer of  
 23 authority, no Federal agency shall exercise the authority  
 24 formerly held by the Secretary as to oil and gas lease oper-  
 25 ations and related operations on Federal land.

1 (b) STATE AUTHORITY.—

2 (1) IN GENERAL.—Following the transfer of au-  
3 thority, each State shall enforce its own oil and gas  
4 conservation laws and requirements pertaining to  
5 transferred oil and gas lease operations and related  
6 operations with due regard to the national interest  
7 in the expedited, environmentally sound development  
8 of oil and gas resources in a manner consistent with  
9 oil and gas conservation principles.

10 (2) APPEALS.—Following a transfer of author-  
11 ity under section 333, an appeal of any decision  
12 made by a State oil and gas conservation authority  
13 shall be made in accordance with State administra-  
14 tive procedures.

15 (c) PENDING ENFORCEMENT ACTIONS.—The Sec-  
16 retary may continue to enforce any pending actions re-  
17 specting acts committed before the date on which author-  
18 ity is transferred to a State under section 333 until those  
19 proceedings are concluded.

20 (d) PENDING APPLICATIONS.—

21 (1) TRANSFER TO STATE.—All applications re-  
22 specting oil and gas lease operations and related op-  
23 erations on Federal land pending before the Sec-  
24 retary on the date on which authority is transferred  
25 under section 333 shall be immediately transferred

1 to the oil and gas conservation authority of the  
2 State in which the lease is located.

3 (2) ACTION BY THE STATE.—The oil and gas  
4 conservation authority shall act on the application in  
5 accordance with State laws (including regulations)  
6 and requirements.

7 **SEC. 335. COMPENSATION FOR COSTS.**

8 (a) IN GENERAL.—Subject to the availability of ap-  
9 propriations, the Secretary shall compensate any State for  
10 costs incurred to carry out the authorities transferred  
11 under section 333.

12 (b) PAYMENT SCHEDULE.—Payments shall be made  
13 not less frequently than every quarter.

14 (c) COST BREAKDOWN REPORT.—Each State seek-  
15 ing compensation shall report to the Secretary a cost  
16 breakdown for the authorities transferred.

17 **SEC. 336. APPLICATIONS.**

18 (a) LIMITATION ON COST RECOVERY.—Notwith-  
19 standing sections 304 and 504 of the Federal Land Policy  
20 and Management Act of 1976 (43 U.S.C. 1734, 1764) and  
21 section 9701 of Title 31, United States Code, the Sec-  
22 retary shall not recover the Secretary's costs with respect  
23 to applications and other documents relating to oil and  
24 gas leases.

1 (b) COMPLETION OF PLANNING DOCUMENTS AND  
2 ANALYSES.—

3 (1) IN GENERAL.—The Secretary shall complete  
4 any resource management planning documents and  
5 analyses not later than 90 days after receiving any  
6 offer, application, or request for which a planning  
7 document or analysis is required to be prepared.

8 (2) PREPARATION BY APPLICANT OR LESSEE.—  
9 If the Secretary is unable to complete the document  
10 or analysis within the time prescribed by paragraph  
11 (1), the Secretary shall notify the applicant or lessee  
12 of the opportunity to prepare the required document  
13 or analysis for the agency's review and use in deci-  
14 sionmaking.

15 (c) REIMBURSEMENT FOR COSTS OF NEPA ANAL-  
16 YSES, DOCUMENTATION, AND STUDIES.—If—

17 (1) adequate funding to enable the Secretary to  
18 timely prepare a project-level analysis required  
19 under the National Environmental Policy Act of  
20 1969 (42 U.S.C. 4321 et seq.) with respect to an oil  
21 or gas lease is not appropriated; and

22 (2) the lessee, operator, or operating rights  
23 owner voluntarily pays for the cost of the required  
24 analysis, documentation, or related study;

1 the Secretary shall reimburse the lessee, operator, or oper-  
2 ating rights owner for its costs through royalty credits at-  
3 tributable to the lease, unit agreement, or project area.

4 **SEC. 337. TIMELY ISSUANCE OF DECISIONS.**

5 (a) IN GENERAL.—The Secretary shall ensure the  
6 timely issuance of Federal agency decisions respecting oil  
7 and gas leasing and operations on Federal land.

8 (b) OFFER TO LEASE.—

9 (1) DEADLINE.—The Secretary shall accept or  
10 reject an offer to lease not later than 90 days after  
11 the filing of the offer.

12 (2) FAILURE TO MEET DEADLINE.—If an offer  
13 is not acted upon within that time, the offer shall be  
14 deemed to have been accepted.

15 (c) APPLICATION FOR PERMIT TO DRILL.—

16 (1) DEADLINE.—The Secretary and a State  
17 that has accepted a transfer of authority under sec-  
18 tion 610 shall approve or disapprove an application  
19 for permit to drill not later than 30 days after re-  
20 ceiving a complete application.

21 (2) FAILURE TO MEET DEADLINE.—If the ap-  
22 plication is not acted on within the time prescribed  
23 by paragraph (1), the application shall be deemed to  
24 have been approved.

1 (d) SURFACE USE PLAN OF OPERATIONS.—The Sec-  
 2 retary shall approve or disapprove a surface use plan of  
 3 operations not later than 30 days after receipt of a com-  
 4 plete plan.

5 (e) ADMINISTRATIVE APPEALS.—

6 (1) DEADLINE.—From the time that a Federal  
 7 oil and gas lessee or operator files a notice of admin-  
 8 istrative appeal of a decision or order of an officer  
 9 or employee of the Department of the Interior or the  
 10 Forest Service respecting a Federal oil and gas Fed-  
 11 eral lease, the Secretary shall have 2 years in which  
 12 to issue a final decision in the appeal.

13 (2) FAILURE TO MEET DEADLINE.—If no final  
 14 decision has been issued within the time prescribed  
 15 by paragraph (1), the appeal shall be deemed to  
 16 have been granted.

17 **SEC. 338. ELIMINATION OF UNWARRANTED DENIALS AND**  
 18 **STAYS.**

19 (a) IN GENERAL.—The Secretary shall ensure that  
 20 unwarranted denials and stays of lease issuance and un-  
 21 warranted restrictions on lease operations are eliminated  
 22 from the administration of oil and gas leasing on Federal  
 23 land.

24 (b) LAND DESIGNATED FOR MULTIPLE USE.—

1           (1) IN GENERAL.—Land designated as available  
2           for multiple use under Bureau of Land Management  
3           resource management plans and Forest Service leas-  
4           ing analyses shall be available for oil and gas leasing  
5           without lease stipulations more stringent than re-  
6           strictions on surface use and operations imposed  
7           under the laws (including regulations) of the State  
8           oil and gas conservation authority unless the Sec-  
9           retary includes in the decision approving the man-  
10          agement plan or leasing analysis a written expla-  
11          nation why more stringent stipulations are war-  
12          ranted.

13          (2) APPEAL.—Any decision to require a more  
14          stringent stipulation shall be administratively ap-  
15          pealable and, following a final agency decision, shall  
16          be subject to judicial review.

17          (c) REJECTION OF OFFER TO LEASE.—

18               (1) IN GENERAL.—If the Secretary rejects an  
19               offer to lease on the ground that the land is unavail-  
20               able for leasing, the Secretary shall provide a writ-  
21               ten, detailed explanation of the reasons the land is  
22               unavailable for leasing.

23               (2) PREVIOUS RESOURCE MANAGEMENT DECI-  
24               SION.—If the determination of unavailability is  
25               based on a previous resource management decision,

1 the explanation shall include a careful assessment of  
2 whether the reasons underlying the previous decision  
3 are still persuasive.

4 (3) SEGREGATION OF AVAILABLE LAND FROM  
5 UNAVAILABLE LAND.—The Secretary may not reject  
6 an offer to lease land available for leasing on the  
7 ground that the offer includes land unavailable for  
8 leasing, and the Secretary shall segregate available  
9 land from unavailable land, on the offeror's request  
10 following notice by the Secretary, before acting on  
11 the offer to lease.

12 (d) DISAPPROVAL OR REQUIRED MODIFICATION OF  
13 SURFACE USE PLANS OF OPERATIONS AND APPLICATION  
14 FOR PERMIT TO DRILL.—The Secretary shall provide a  
15 written, detailed explanation of the reasons for dis-  
16 approving or requiring modifications of any surface use  
17 plan of operations or application for permit to drill.

18 (e) EFFECTIVENESS OF DECISION.—A decision of the  
19 Secretary respecting an oil and gas lease shall be effective  
20 pending administrative appeal to the appropriate office  
21 within the Department of the Interior or the Department  
22 of Agriculture unless that office grants a stay in response  
23 to a petition satisfying the criteria for a stay established  
24 by section 4.21(b) of title 43, Code of Federal Regulations  
25 (or any successor regulation).



1 **SEC. 339. REPORTS.**

2 (a) IN GENERAL.—Not later than March 31, 2002,  
3 the Secretaries shall jointly submit to the Congress a re-  
4 port explaining the most efficient means of eliminating  
5 overlapping jurisdiction, duplication of effort, and incon-  
6 sistent policymaking and policy implementation as be-  
7 tween the Bureau of Land Management and the Forest  
8 Service.

9 (b) RECOMMENDATIONS.—The report shall include  
10 recommendations on statutory changes needed to imple-  
11 ment the report's conclusions.

12 **Subtitle E—Royalty Reinvestment**  
13 **in America**

14 **SEC. 351. ROYALTY INCENTIVE PROGRAM.**

15 (a) IN GENERAL.—To encourage exploration and de-  
16 velopment expenditures on Federal land and the Outer  
17 Continental Shelf for the development of oil and gas re-  
18 sources when the cash price of West Texas Intermediate  
19 crude oil, as posted on the Dow Jones Commodities Index  
20 chart is less than \$18 per barrel for 90 consecutive pricing  
21 days or when natural gas prices as delivered at Henry  
22 Hub, Louisiana, are less than \$2.30 per million British  
23 thermal units for 90 consecutive days, the Secretary shall  
24 allow a credit against the payment of royalties on Federal  
25 oil production and gas production, respectively, in an  
26 amount equal to 20 percent of the capital expenditures

1 made on exploration and development activities on Federal  
2 oil and gas leases.

3 (b) NO CREDITING AGAINST ONSHORE FEDERAL  
4 ROYALTY OBLIGATIONS.—In no case shall such capital ex-  
5 penditures made on Outer Continental Shelf leases be  
6 credited against onshore Federal royalty obligations.

7 **TITLE IV—NUCLEAR**  
8 **Subtitle A—Price-Anderson**  
9 **Amendments**

10 **SEC. 401. SHORT TITLE.**

11 This Subtitle may be cited as the “Price-Anderson  
12 Amendments Act of 2001”.

13 **SEC. 402. INDEMNIFICATION AUTHORITY.**

14 (a) INDEMNIFICATION OF NRC LICENSEES.—Section  
15 170 c. of the Atomic Energy Act of 1954 (42 U.S.C.  
16 2210(c)) is amended by striking “August 1, 2002” each  
17 place it appears and inserting “August 1, 2012”.

18 (b) INDEMNIFICATION OF DOE CONTRACTORS.—  
19 Section 170 d.(1)(A) of the Atomic Energy Act of 1954  
20 (42 U.S.C. 2210(d)(1)(A)) is amended by striking “, until  
21 August 1, 2002,”.

22 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL  
23 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act  
24 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-

1 gust 1, 2002” each place it appears and inserting “August  
2 1, 2012”.

3 **SEC. 403. MAXIMUM ASSESSMENT.**

4 Section 170 b.(1) of the Atomic Energy Act of 1954  
5 (42 U.S.C. 2210(b)(1)) is amended by striking  
6 “\$10,000,000” and inserting “\$20,000,000”.

7 **SEC. 404. DOE LIABILITY LIMIT.**

8 (a) AGGREGATE LIABILITY LIMIT.—Section 170 d.  
9 of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d))  
10 is amended by striking subsection (2) and inserting the  
11 following:

12 “(2) In agreements of indemnification entered  
13 into under paragraph (1), the Secretary—

14 “(A) may require the contractor to provide  
15 and maintain financial protection of such a type  
16 and in such amounts as the Secretary shall de-  
17 termine to be appropriate to cover public liabil-  
18 ity arising out of or in connection with the con-  
19 tractual activity, and

20 “(B) shall indemnify the persons indem-  
21 nified against such claims above the amount of  
22 the financial protection required, in the amount  
23 of \$10,000,000,000 (subject to adjustment for  
24 inflation under subsection t.), in the aggregate,  
25 for all persons indemnified in connection with

1           such contract and for each nuclear incident, in-  
2           cluding such legal costs of the contractor as are  
3           approved by the Secretary.”.

4           (b) CONTRACT AMENDMENTS.—Section 170 d. of the  
5   Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further  
6   amended by striking subsection (3) and inserting the fol-  
7   lowing:

8           “(3) All agreements of indemnification under  
9   which the Department of Energy (or its predecessor  
10   agencies) may be required to indemnify any person,  
11   shall be deemed to be amended, on the date of the  
12   enactment of the Price-Anderson Amendments Act  
13   of 2001, to reflect the amount of indemnity for pub-  
14   lic liability and any applicable financial protection  
15   required of the contractor under this subsection on  
16   such date.”.

17   **SEC. 405. INCIDENTS OUTSIDE THE UNITED STATES.**

18           (a) AMOUNT OF INDEMNIFICATION.—Section 170  
19   d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.  
20   2210(d)(5)) is amended by striking “\$100,000,000” and  
21   inserting “\$500,000,000”.

22           (b) LIABILITY LIMIT.—Section 170 e.(4) of the  
23   Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is  
24   amended by striking “\$100,000,000” and inserting  
25   “\$500,000,000”.

1 **SEC. 406. REPORTS.**

2 Section 170 p. of the Atomic Energy Act of 1954 (42  
3 U.S.C. 2210(p)) is amended by striking “August 1, 1998”  
4 and inserting “August 1, 2008”.

5 **SEC. 407. INFLATION ADJUSTMENT.**

6 Section 170 t. of the Atomic Energy Act of 1954 (42  
7 U.S.C. 2210(t)) is amended—

8 (1) by renumbering paragraph (2) as paragraph  
9 (3); and

10 (2) by adding after paragraph (1) the following  
11 new paragraph:

12 “(2) The Secretary shall adjust the amount of  
13 indemnification provided under an agreement of in-  
14 demnification under subsection d. not less than once  
15 during each 5-year period following the date of the  
16 enactment of the Price-Anderson Amendments Act  
17 of 2001, in accordance with the aggregate percent-  
18 age change in the Consumer Price Index since—

19 “(A) such date of enactment, in the case  
20 of the first adjustment under this subsection; or

21 “(B) the previous adjustment under this  
22 subsection.”.

23 **SEC. 408. CIVIL PENALTIES.**

24 (a) **REPEAL OF AUTOMATIC REMISSION.**—Section  
25 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C.  
26 2282a(b)(2)) is amended by striking the last sentence.

1 (b) LIMITATION FOR NONPROFIT INSTITUTIONS.—  
2 Section 234A of the Atomic Energy Act of 1954 (42  
3 U.S.C. 2282a) is further amended by striking subsection  
4 d. and inserting the following:

5 “d. Notwithstanding subsection a., no con-  
6 tractor, subcontractor, or supplier considered to be  
7 nonprofit under the Internal Revenue Code of 1954  
8 shall be subject to a civil penalty under this section  
9 in excess of the amount of any performance fee paid  
10 by the Secretary to such contractor, subcontractor,  
11 or supplier under the contract under which the viola-  
12 tion or violations; occur.”.

13 **SEC. 409. EFFECTIVE DATE.**

14 (a) IN GENERAL.—The amendments made by this  
15 subtitle shall become effective on the date of the enact-  
16 ment of this subtitle.

17 (b) INDEMNIFICATION PROVISIONS.—The amend-  
18 ments made by sections 703, 704, and 705 shall not apply  
19 to any nuclear incident occurring before the date of the  
20 enactment of this subtitle.

21 (c) CIVIL PENALTY PROVISIONS.—The amendments  
22 made by section 708 to section 234A of the Atomic En-  
23 ergy Act of 1954 (42 U.S.C. 2282a(b)(2)) shall not apply  
24 to any violation occurring under a contract entered into  
25 before the date of the enactment of this subtitle.

1       **Subtitle B—Funding From the**  
2               **Department of Energy**

3   **SEC. 410. NUCLEAR ENERGY RESEARCH INITIATIVE.**

4       There are authorized to be appropriated \$60,000,000  
5 for fiscal year 2002 and such sums as are necessary for  
6 each fiscal year thereafter for a Nuclear Energy Research  
7 Initiative to be managed by the Director of the Office of  
8 Nuclear Energy, for grants to be competitively awarded  
9 and subject to peer review for research relating to nuclear  
10 energy. The Secretary of Energy shall submit to the Com-  
11 mittee on Science and the Committee on Appropriations  
12 in the House of Representatives, and to the Committee  
13 on Energy and Natural Resources and the Committee on  
14 Appropriations of the Senate, an annual report on the ac-  
15 tivities of the Nuclear Energy Research Initiative.

16   **SEC. 411. NUCLEAR ENERGY PLANT OPTIMIZATION PRO-**  
17               **GRAM.**

18       There are authorized to be appropriated \$10,000,000  
19 for fiscal year 2002 and such sums as are necessary for  
20 each fiscal year thereafter for a Nuclear Energy Plant Op-  
21 timization Program to be managed by the Director of the  
22 Office of Nuclear Energy, for a joint program with indus-  
23 try cost-shared by at least 50 percent and subject to an-  
24 nual review by the Secretary of Energy's Nuclear Energy  
25 Research Advisory Council. The Secretary of Energy shall

1 submit to the Committee on Science and the Committee  
2 on Appropriations in the House of Representatives, and  
3 to the Committee on Energy and Natural Resources and  
4 the Committee on Appropriations of the Senate, an annual  
5 report on the activities of the Nuclear Energy Plant Opti-  
6 mization Program.

7 **SEC. 412. NUCLEAR ENERGY TECHNOLOGY DEVELOPMENT**  
8 **PROGRAM.**

9       There are authorized to be appropriated \$25,000,000  
10 for fiscal year 2002 and such sums as are necessary for  
11 each fiscal year thereafter for a Nuclear Energy Tech-  
12 nology Development Program to be managed by the Direc-  
13 tor of the Office of Nuclear Energy, for a roadmap to de-  
14 sign and develop a new nuclear energy facility in the  
15 United States and subject to annual review by the Sec-  
16 retary of Energy's Nuclear Energy Research Advisory  
17 Council. The Secretary of Energy shall submit to the Com-  
18 mittee on Science and the Committee on Appropriations  
19 in the House of Representatives, and to the Committee  
20 on Energy and Natural Resources and the Committee on  
21 Appropriations of the Senate, an annual report on the ac-  
22 tivities of the Nuclear Technology Development Program.



1 **Subtitle C—Grants for Incentive**  
 2 **Payments for Capital Improve-**  
 3 **ments To Increase Efficiency**

4 **SEC. 420. NUCLEAR ENERGY PRODUCTION INCENTIVES.**

5 (a) INCENTIVE PAYMENTS.—For electric energy gen-  
 6 erated and sold by an existing nuclear energy facility dur-  
 7 ing the incentive period, the Secretary of Energy shall  
 8 make, subject to the availability of appropriations, incen-  
 9 tive payments to the owner or operator of such facility.  
 10 The amount of such payment made to any such owner or  
 11 operator shall be as determined under subsection (e) of  
 12 this section. Payments under this section may only be  
 13 made upon receipt by the Secretary of an incentive pay-  
 14 ment application, which establishes that the applicant is  
 15 eligible to receive such payment and which satisfies such  
 16 other requirements as the Secretary deems necessary.  
 17 Such application shall be in such form, and shall be sub-  
 18 mitted at such time, as the Secretary shall establish.

19 (b) DEFINITIONS.—For purposes of this section:

20 (1) QUALIFIED NUCLEAR ENERGY FACILITY.—

21 The term “qualified nuclear energy facility” means  
 22 an existing reactor used to generate electricity for  
 23 sale.

24 (2) EXISTING REACTOR.—The term “existing  
 25 reactor” means any nuclear reactor the construction

1 of which was completed and licensed by the Nuclear  
2 Regulatory Commission before the date of enactment  
3 of this section.

4 (c) INCENTIVE PERIOD.—A qualified nuclear energy  
5 facility may receive payments under this section for a pe-  
6 riod of 15 years (referred to in this section as the “incen-  
7 tive period”).

8 (d) AMOUNT OF PAYMENT.—

9 (1) Payments made by the Secretary under this  
10 section to the owner or operator of a nuclear energy  
11 facility shall be based on the increased volume of kil-  
12 owatt hours of electricity generated by the qualified  
13 nuclear energy facility during the incentive period.  
14 The amount of such payment shall be 1 mill for each  
15 kilowatt-hour produced in excess of the total genera-  
16 tion produced over the most recent calendar year  
17 prior to the first fiscal year in which payment is  
18 sought. Such payment is subject to the availability  
19 of appropriations under subsection (g), except that  
20 no facility may receive more than \$2,000,000 in one  
21 calendar year.

22 (2) The amount of the payment made to any  
23 person under this section as provided in paragraph  
24 (1) shall be adjusted for inflation for each fiscal year  
25 beginning after calendar year 2001 in the same

1 manner as provided in the provisions of section  
 2 29(d)(2)(B) of the Internal Revenue Code of 1986,  
 3 except that in applying such provisions, the calendar  
 4 year 2001 shall be substituted for the calendar year  
 5 1979.

6 (e) SUNSET.—No payment may be made under this  
 7 section to any nuclear energy facility after the expiration  
 8 of the period of 20 fiscal years beginning with fiscal year  
 9 2001, and no payment may be made under this section  
 10 to any such facility after a payment has been made with  
 11 respect to such facility for a period of 15 fiscal years.

12 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
 13 are authorized to be appropriated to the Secretary to carry  
 14 out the purposes of this section \$50,000,000 for each of  
 15 the fiscal years 2001 through 2015.

16 **SEC. 421. NUCLEAR ENERGY EFFICIENCY IMPROVEMENT.**

17 (a) INCENTIVE PAYMENTS.—The Secretary of En-  
 18 ergy shall make incentive payments to the owners or oper-  
 19 ators of qualified nuclear energy facilities to be used to  
 20 make capital improvements in the facilities that are di-  
 21 rectly related to improving the electrical output efficiency  
 22 of such facilities by at least 1 percent.

23 (b) LIMITATIONS.—

24 (1) Incentive payments under this section shall  
 25 not exceed 10 percent of the costs of the capital im-

1       provement concerned and not more than one pay-  
 2       ment may be made with respect to improvements at  
 3       a single facility.

4           (2) No payments in excess of \$1,000,000 may  
 5       be made with respect to improvements at a single fa-  
 6       cility.

7           (3) Payments may be made by the Department  
 8       or used by a facility to offset the costs of NRC per-  
 9       mitting fees for a capital improvement.

10          (4) Payments made by the Department to the  
 11       Nuclear Regulatory Commission for permitting an  
 12       improvement that can impact multiple facilities are  
 13       not subject to the limitation in (b)(2).

14       (c) AUTHORIZATION.—There is authorized to be ap-  
 15       propriated to carry out this section not more than  
 16       \$20,000,000 in each fiscal year after the fiscal year 2001.

17       **TITLE       V—ARCTIC       COASTAL**  
 18       **PLAIN DOMESTIC ENERGY SE-**  
 19       **CURITY ACT OF 2001**

20       **SEC. 501. SHORT TITLE.**

21       This title may be cited as the “Arctic Coastal Plain  
 22       Domestic Energy Security Act of 2001”.

23       **SEC. 502. DEFINITIONS.**

24       When used in this title the term—

1           (1) “1002 Area” means that area identified as  
2           “Coastal Plain” in the map entitled “Arctic National  
3           Wildlife Refuge”, dated August 1980, as referenced  
4           in section 1002(b) of the Alaska National Interest  
5           Lands Conservation Act of 1980 (16 U.S.C.  
6           3142(b)(1)) comprising approximately 1,549,000  
7           acres; and

8           (2) “Secretary”, except as otherwise provided,  
9           means the Secretary of the Interior or the Sec-  
10          retary’s designee.

11 **SEC. 503. LEASING PROGRAM FOR LANDS WITHIN THE**  
12 **ANWR 1002 AREA.**

13          (a) AUTHORIZATION.—The Congress hereby author-  
14 izes and directs the Secretary, acting through the Bureau  
15 of Land Management in consultation with the Fish and  
16 Wildlife Service and other appropriate Federal offices and  
17 agencies, to take such actions as are necessary to establish  
18 and implement a competitive oil and gas leasing program  
19 that will result in an environmentally sound program for  
20 the exploration, development, and production of the oil  
21 and gas resources of the 1002 Area and to administer the  
22 provisions of this title through regulations, lease terms,  
23 conditions, restrictions, prohibitions, stipulations and  
24 other provisions that ensure the oil and gas exploration,  
25 development, and production activities on the 1002 Area

1 will result in no significant adverse effect on fish and wild-  
2 life, their habitat, subsistence resources, and the environ-  
3 ment, and shall require the application of the best com-  
4 mercially available technology for oil and gas exploration,  
5 development, and production, on all new exploration, de-  
6 velopment, and production operations, and whenever prac-  
7 ticable, on existing operations, and in a manner to ensure  
8 the receipt of fair market value by the public for the min-  
9 eral resources to be leased.

10 (b) REPEAL.—The prohibitions and limitations con-  
11 tained in section 1003 of the Alaska National Interest  
12 Lands Conservation Act of 1980 (16 U.S.C. 3143) are  
13 hereby repealed.

14 (c) COMPATIBILITY.—Congress hereby determines  
15 that the oil and gas leasing program and activities author-  
16 ized by this section in the 1002 Area are compatible with  
17 the purposes for which the Arctic National Wildlife Refuge  
18 was established, and that no further findings or decisions  
19 are required to implement this determination.

20 (d) SOLE AUTHORITY.—This title shall be the sole  
21 authority for leasing on the 1002 Area: *Provided*, That  
22 nothing in this title shall be deemed to expand or limit  
23 State and local regulatory authority.

1 (e) FEDERAL LAND.—The 1002 Area shall be consid-  
2 ered “Federal land” for the purposes of the Federal Oil  
3 and Gas Royalty Management Act of 1982.

4 (f) SPECIAL AREAS.—The Secretary, after consulta-  
5 tion with the State of Alaska, City of Kaktovik, and the  
6 North Slope Borough, is authorized to designate up to a  
7 total of 45,000 acres of the 1002 Area as Special Areas  
8 and close such areas to leasing if the Secretary determines  
9 that these Special Areas are of such unique character and  
10 interest so as to require special management and regu-  
11 latory protection. The Secretary may, however, permit  
12 leasing of all or portions of any Special Areas within the  
13 1002 Area by setting lease terms that limit or condition  
14 surface use and occupancy by lessees of such lands but  
15 permit the use of horizontal drilling technology from sites  
16 on leases located outside the designated Special Areas.

17 (g) LIMITATION ON CLOSED AREAS.—The Sec-  
18 retary’s sole authority to close lands within the 1002 Area  
19 to oil and gas leasing and to exploration, development, and  
20 production is that set forth in this title.

21 (h) CONVEYANCE.—In order to maximize Federal  
22 revenues by removing clouds on title of lands and clari-  
23 fying land ownership patterns within the 1002 Area, the  
24 Secretary, notwithstanding the provisions of section  
25 1302(h)(2) of the Alaska National Interest Lands Con-

1 servation Act (16 U.S.C. 3192(h)(2)), is authorized and  
2 directed to convey (1) to the Kaktovik Inupiat Corporation  
3 the surface estate of the lands described in paragraph 2  
4 of Public Land Order 6959, to the extent necessary to  
5 fulfill the Corporation's entitlement under section 12 of  
6 the Alaska Native Claims Settlement Act (43 U.S.C.  
7 1611), and (2) to the Arctic Slope Regional Corporation  
8 the subsurface estate beneath such surface estate pursu-  
9 ant to the August 9, 1983, agreement between the Arctic  
10 Slope Regional Corporation and the United States of  
11 America.

12 **SEC. 504. RULES AND REGULATIONS.**

13 (a) PROMULGATION.—The Secretary shall prescribe  
14 such rules and regulations as may be necessary to carry  
15 out the purposes and provisions of this title, including  
16 rules and regulations relating to protection of the fish and  
17 wildlife, their habitat, subsistence resources, and the envi-  
18 ronment of the 1002 Area. Such rules and regulations  
19 shall be promulgated no later than fourteen months after  
20 the date of enactment of this title and shall, as of their  
21 effective date, apply to all operations conducted under a  
22 lease issued or maintained under the provisions of this  
23 title and all operations on the 1002 Area related to the  
24 leasing, exploration, development and production of oil  
25 and gas.



1 (b) REVISION OF REGULATIONS.—The Secretary  
2 shall periodically review and, if appropriate, revise the  
3 rules and regulations issued under subsection (a) of this  
4 section to reflect any significant biological, environmental,  
5 or engineering data which come to the Secretary’s atten-  
6 tion.

7 **SEC. 505 ADEQUACY OF THE DEPARTMENT OF THE INTE-**  
8 **RIOR’S LEGISLATIVE ENVIRONMENTAL IM-**  
9 **PACT STATEMENT.**

10 The “Final Legislative Environmental Impact State-  
11 ment” (April 1987) prepared pursuant to section 1002 of  
12 the Alaska National Interest Lands Conservation Act of  
13 1980 (16 U.S.C. 3142) and section 102(2)(C) of the Na-  
14 tional Environmental Policy Act of 1969 (42 U.S.C.  
15 4332(2)(C)) is hereby found by the Congress to be ade-  
16 quate to satisfy the legal and procedural requirements of  
17 the National Environmental Policy Act of 1969 with re-  
18 spect to actions authorized to be taken by the Secretary  
19 to develop and promulgate the regulations for the estab-  
20 lishment of the leasing program authorized by this title,  
21 to conduct the first lease sale and any subsequent lease  
22 sale authorized by this title, and to grant rights-of-way  
23 and easements to carry out the purposes of this title.

1 **SEC. 506. LEASE SALES.**

2 (a) LEASE SALES.—Lands may be leased pursuant  
3 to the provisions of this title to any person qualified to  
4 obtain a lease for deposits of oil and gas under the Mineral  
5 Leasing Act, as amended (30 U.S.C. 181).

6 (b) PROCEDURES.—The Secretary shall, by regula-  
7 tion, establish procedures for—

8 (1) receipt and consideration of sealed nomina-  
9 tions for any area in the 1002 Area for inclusion in,  
10 or exclusion (as provided in subsection (c)) from, a  
11 lease sale; and

12 (2) public notice of and comment on designa-  
13 tion of areas to be included in, or excluded from, a  
14 lease sale.

15 (c) LEASE SALES ON 1002 AREA.—The Secretary  
16 shall, by regulation, provide for lease sales of lands on the  
17 1002 Area. When lease sales are to be held, they shall  
18 occur after the nomination process provided for in sub-  
19 section (b) of this section. For the first lease sale, the Sec-  
20 retary shall offer for lease those acres receiving the great-  
21 est number of nominations, but no less than two hundred  
22 thousand acres and no more than three hundred thousand  
23 acres shall be offered. If the total acreage nominated is  
24 less than two hundred thousand acres, the Secretary shall  
25 include in such sales any other acreage which he believes  
26 has the highest resource potential, but in no event shall

1 more than three hundred thousand acres be offered in  
2 such sale. With respect to subsequent lease sales, the Sec-  
3 retary shall offer for lease no less than two hundred thou-  
4 sand acres of the 1002 Area. The initial lease sale shall  
5 be held within twenty months of the date of enactment  
6 of this title. The second lease sale shall be held no later  
7 than twenty-four months after the initial sale, with addi-  
8 tional sales conducted no later than twelve months there-  
9 after so long as sufficient interest in development exists  
10 to warrant, in the Secretary's judgment, the conduct of  
11 such sales.

12 **SEC. 507. GRANT OF LEASES BY THE SECRETARY.**

13 (a) IN GENERAL.—The Secretary is authorized to  
14 grant to the highest responsible qualified bidder by sealed  
15 competitive cash bonus bid any lands to be leased on the  
16 1002 Area upon payment by the lessee of such bonus as  
17 may be accepted by the Secretary and of such royalty as  
18 may be fixed in the lease, which shall be not less than  
19 12½ per centum in amount or value of the production  
20 removed or sold from the lease.

21 (b) ANTITRUST REVIEW.—Following each notice of  
22 a proposed lease sale and before the acceptance of bids  
23 and the issuance of leases based on such bids, the Sec-  
24 retary shall allow the Attorney General, in consultation  
25 with the Federal Trade Commission, thirty days to per-

1 form an antitrust review of the results of such lease sale  
2 on the likely effects the issuance of such leases would have  
3 on competition and the Attorney General shall advise the  
4 Secretary with respect to such review, including any rec-  
5 ommendation for the nonacceptance of any bid or the im-  
6 position of terms or conditions on any lease, as may be  
7 appropriate to prevent any situation inconsistent with the  
8 antitrust laws.

9 (c) SUBSEQUENT TRANSFERS.—No lease issued  
10 under this title may be sold, exchanged, assigned, sublet,  
11 or otherwise transferred except with the approval of the  
12 Secretary. Prior to any such approval the Secretary shall  
13 consult with, and give due consideration to the views of,  
14 the Attorney General.

15 (d) IMMUNITY.—Nothing in this title shall be deemed  
16 to convey to any person, association, corporation, or other  
17 business organization immunity from civil or criminal li-  
18 ability, or to create defenses to actions, under any anti-  
19 trust law.

20 (e) DEFINITIONS.—As used in this section, the  
21 term—

22 (1) “antitrust review” shall be deemed an  
23 “antitrust investigation” for the purposes of the  
24 Antitrust Civil Process Act (15 U.S.C. 1311); and

1           (2) “antitrust laws” means those Acts set forth  
2           in section 1 of the Clayton Act (15 U.S.C. 12) as  
3           amended.

4   **SEC. 508. LEASE TERMS AND CONDITIONS.**

5           An oil or gas lease issued pursuant to this title  
6 shall—

7           (1) be for a tract consisting of a compact area  
8           not to exceed five thousand seven hundred sixty  
9           acres, or nine surveyed or protracted sections which  
10          shall be as compact in form as possible;

11          (2) be for an initial period of ten years and  
12          shall be extended for so long thereafter as oil or gas  
13          is produced in paying quantities from the lease or  
14          unit area to which the lease is committed or for so  
15          long as drilling or reworking operations, as approved  
16          by the Secretary, are conducted on the lease or unit  
17          area;

18          (3) require the payment of royalty as provided  
19          for in section 507 of this title;

20          (4) require that exploration activities pursuant  
21          to any lease issued or maintained under this title  
22          shall be conducted in accordance with an exploration  
23          plan or a revision of such plan approved by the Sec-  
24          retary;

1           (5) require that all development and production  
2           pursuant to a lease issued or maintained pursuant  
3           to this title shall be conducted in accordance with  
4           development and production plans approved by the  
5           Secretary;

6           (6) require posting of bond as required by sec-  
7           tion 509 of this title;

8           (7) provide that the Secretary may close, on a  
9           seasonal basis, portions of the 1002 Area to explor-  
10          atory drilling activities as necessary to protect car-  
11          ibou calving areas and other species of fish and wild-  
12          life;

13          (8) contain such provisions relating to rental  
14          and other fees as the Secretary may prescribe at the  
15          time of offering the area for lease;

16          (9) provide that the Secretary may direct or as-  
17          sent to the suspension of operations and production  
18          under any lease granted under the terms of this title  
19          in the interest of conservation of the resource or  
20          where there is no available system to transport the  
21          resource. If such a suspension is directed or as-  
22          sented to by the Secretary, any payment of rental  
23          prescribed by such lease shall be suspended during  
24          such period of suspension of operations and produc-

1       tion, and the term of the lease shall be extended by  
2       adding any such suspension period thereto;

3           (10) provide that whenever the owner of a non-  
4       producing lease fails to comply with any of the pro-  
5       visions of this Act, or of any applicable provision of  
6       Federal or State environmental law, or of the lease,  
7       or of any regulation issued under this title, such  
8       lease may be canceled by the Secretary if such de-  
9       fault continues for more than thirty days after mail-  
10      ing of notice by registered letter to the lease owner  
11      at the lease owner's post office address of record;

12          (11) provide that whenever the owner of any  
13      producing lease fails to comply with any of the pro-  
14      visions of this title, or of any applicable provision of  
15      Federal or State environmental law, or of the lease,  
16      or of any regulation issued under this title, such  
17      lease may be forfeited and canceled by any appro-  
18      priate proceeding brought by the Secretary in any  
19      United States district court having jurisdiction  
20      under the provisions of this title;

21          (12) provide that cancellation of a lease under  
22      this title shall in no way release the owner of the  
23      lease from the obligation to provide for reclamation  
24      of the lease site;

1           (13) allow the lessee, at the discretion of the  
2       Secretary, to make written relinquishment of all  
3       rights under any lease issued pursuant to this title.  
4       The Secretary shall accept such relinquishment by  
5       the lessee of any lease issued under this title where  
6       there has not been surface disturbance on the lands  
7       covered by the lease;

8           (14) provide that for the purpose of conserving  
9       the natural resources of any oil or gas pool, field, or  
10      like area, or any part thereof, and in order to avoid  
11      the unnecessary duplication of facilities, to protect  
12      the environment of the 1002 Area, and to protect  
13      correlative rights, the Secretary shall require that, to  
14      the greatest extent practicable, lessees unite with  
15      each other in collectively adopting and operating  
16      under a cooperative or unit plan of development for  
17      operation of such pool, field, or like area, or any  
18      part thereof, and the Secretary is also authorized  
19      and directed to enter into such agreements as are  
20      necessary or appropriate for the protection of the  
21      United States against drainage;

22          (15) require that the holder of a lease or leases  
23      on lands within the 1002 Area shall be fully respon-  
24      sible and liable for the reclamation of those lands  
25      within and any other Federal lands adversely af-



1        fected in connection with exploration, development,  
2        production or transportation activities on a lease  
3        within the 1002 Area by the holder of a lease or as  
4        a result of activities conducted on the lease by any  
5        of the leaseholder's subcontractors or agents;

6            (16) provide that the holder of a lease may not  
7        delegate or convey, by contract or otherwise, the rec-  
8        lamation responsibility and liability to another party  
9        without the express written approval of the Sec-  
10       retary;

11           (17) provide that the standard of reclamation  
12        for lands required to be reclaimed under this title  
13        be, as nearly as practicable, a condition capable of  
14        supporting the uses which the lands were capable of  
15        supporting prior to any exploration, development, or  
16        production activities, or upon application by the les-  
17        see, to a higher or better use as approved by the  
18        Secretary;

19           (18) contain the terms and conditions relating  
20        to protection of fish and wildlife, their habitat, and  
21        the environment, as required by section 503(a) of  
22        this title;

23           (19) provide that the holder of a lease, its  
24        agents, and contractors use best efforts to provide a  
25        fair share, as determined by the level of obligation

1 previously agreed to in the 1974 agreement imple-  
 2 menting section 29 of the Federal Agreement and  
 3 Grant of Right of Way for the Operation of the  
 4 Trans-Alaska Pipeline, of employment and con-  
 5 tracting for Alaska Natives and Alaska Native Cor-  
 6 porations from throughout the State;

7 (20) require project agreements to the extent  
 8 feasible that will ensure productivity and consistency  
 9 recognizing a national interest in both labor stability  
 10 and the ability of construction labor and manage-  
 11 ment to meet the particular needs and conditions of  
 12 projects to be developed under leases issued pursu-  
 13 ant to this Act; and

14 (21) contain such other provisions as the Sec-  
 15 retary determines necessary to ensure compliance  
 16 with the provisions of this title and the regulations  
 17 issued under this title.

18 **SEC. 509. BONDING REQUIREMENTS TO ENSURE FINANCIAL**  
 19 **RESPONSIBILITY OF LESSEE AND AVOID FED-**  
 20 **ERAL LIABILITY.**

21 (a) REQUIREMENT.—The Secretary shall, by rule or  
 22 regulation, establish such standards as may be necessary  
 23 to ensure that an adequate bond, surety, or other financial  
 24 arrangement will be established prior to the commence-  
 25 ment of surface disturbing activities on any lease, to en-

1 sure the complete and timely reclamation of the lease  
2 tract, and the restoration of any lands or surface waters  
3 adversely affected by lease operations after the abandon-  
4 ment or cessation of oil and gas operations on the lease.  
5 Such bond, surety, or financial arrangement is in addition  
6 to, and not in lieu of, any bond, surety, or financial ar-  
7 rangement required by any other regulatory authority or  
8 required by any other provision of law.

9 (b) AMOUNT.—The bond, surety, or financial ar-  
10 rangement shall be in an amount—

11 (1) to be determined by the Secretary to pro-  
12 vide for reclamation of the lease site in accordance  
13 with an approved or revised exploration or develop-  
14 ment and production plan; plus

15 (2) set by the Secretary consistent with the  
16 type of operations proposed, to provide the means  
17 for rapid and effective cleanup, and to minimize  
18 damages resulting from an oil spill, the escape of  
19 gas, refuse, domestic wastewater, hazardous or  
20 toxic substances, or fire caused by oil and gas activi-  
21 ties.

22 (c) ADJUSTMENT.—In the event that an approved ex-  
23 ploration or development and production plan is revised,  
24 the Secretary may adjust the amount of the bond, surety,

1 or other financial arrangement to conform to such modi-  
2 fied plan.

3 (d) DURATION.—The responsibility and liability of  
4 the lessee and its surety under the bond, surety, or other  
5 financial arrangement shall continue until such time as  
6 the Secretary determines that there has been compliance  
7 with the terms and conditions of the lease and all applica-  
8 ble laws.

9 (e) TERMINATION.—Within sixty days after deter-  
10 mining that there has been compliance with the terms and  
11 conditions of the lease and all applicable laws, the Sec-  
12 retary, after consultation with affected Federal and State  
13 agencies, shall notify the lessee that the period of liability  
14 under the bond, surety, or other financial arrangement has  
15 been terminated.

16 **SEC. 510. OIL AND GAS INFORMATION.**

17 (a) IN GENERAL.—(1) Any lessee or permittee con-  
18 ducting any exploration for, or development or production  
19 of, oil or gas pursuant to this title shall provide the Sec-  
20 retary access to all data and information from any lease  
21 granted pursuant to this title (including processed and  
22 analyzed) obtained from such activity and shall provide  
23 copies of such data and information as the Secretary may  
24 request. Such data and information shall be provided in

1 accordance with regulations which the Secretary shall pre-  
2 scribe.

3 (2) If processed and analyzed information provided  
4 pursuant to paragraph (1) is provided in good faith by  
5 the lessee or permittee, such lessee or permittee shall not  
6 be responsible for any consequence of the use or of reliance  
7 upon such processed and analyzed information.

8 (3) Whenever any data or information is provided to  
9 the Secretary, pursuant to paragraph (1)—

10 (A) by a lessee or permittee, in the form and  
11 manner of processing which is utilized by such lessee  
12 or permittee in the normal conduct of business, the  
13 Secretary shall pay the reasonable cost of reproduc-  
14 ing such data and information; or

15 (B) by a lessee or permittee, in such other form  
16 and manner of processing as the Secretary may re-  
17 quest, the Secretary shall pay the reasonable cost of  
18 processing and reproducing such data and informa-  
19 tion.

20 (b) REGULATIONS.—The Secretary shall prescribe  
21 regulations to:

22 (1) assure that the confidentiality of privileged  
23 or proprietary information received by the Secretary  
24 under this section will be maintained; and

1           (2) set forth the time periods and conditions  
2           which shall be applicable to the release of such infor-  
3           mation.

4 **SEC. 511. EXPEDITED JUDICIAL REVIEW.**

5           (a) Any complaint seeking judicial review of any pro-  
6 vision in this title, or any other action of the Secretary  
7 under this title may be filed in any appropriate district  
8 court of the United States, and such complaint must be  
9 filed within ninety days from the date of the action being  
10 challenged, or after such date if such complaint is based  
11 solely on grounds arising after such ninetieth day, in  
12 which case the complaint must be filed within ninety days  
13 after the complainant knew or reasonably should have  
14 known of the grounds for the complaint: *Provided*, That  
15 any complaint seeking judicial review of an action of the  
16 Secretary in promulgating any regulation under this title  
17 may be filed only in the United States Court of Appeals  
18 for the District of Columbia.

19           (b) Actions of the Secretary with respect to which re-  
20 view could have been obtained under this section shall not  
21 be subject to judicial review in any civil or criminal pro-  
22 ceeding for enforcement.

23 **SEC. 512. RIGHTS-OF-WAY ACROSS THE 1002 AREA.**

24           Notwithstanding title XI of the Alaska National In-  
25 terest Lands Conservation Act of 1980 (16 U.S.C. 3161

1 et seq.), the Secretary is authorized and directed to grant,  
 2 in accordance with the provisions of section 28(c) through  
 3 (t) and (v) through (y) of the Mineral Leasing Act of 1920  
 4 (30 U.S.C. 185), rights-of-way and easements across the  
 5 1002 Area for the transportation of oil and gas under such  
 6 terms and conditions as may be necessary so as not to  
 7 result in a significant adverse effect on the fish and wild-  
 8 life, subsistence resources, their habitat, and the environ-  
 9 ment of the 1002 Area. Such terms and conditions shall  
 10 include requirements that facilities be sited or modified  
 11 so as to avoid unnecessary duplication of roads and pipe-  
 12 lines. The regulations issued as required by section 504  
 13 of this title shall include provisions granting rights-of-way  
 14 and easements across the 1002 area.

15 **SEC. 513. ENFORCEMENT OF SAFETY AND ENVIRON-**  
 16 **MENTAL REGULATIONS TO ENSURE COMPLI-**  
 17 **ANCE WITH TERMS AND CONDITIONS OF**  
 18 **LEASE.**

19 (a) RESPONSIBILITY OF THE SECRETARY.—The Sec-  
 20 retary shall diligently enforce all regulations, lease terms,  
 21 conditions, restrictions, prohibitions, and stipulations pro-  
 22 mulgated pursuant to this title.

23 (b) RESPONSIBILITY OF HOLDERS OF LEASE.—It  
 24 shall be the responsibility of any holder of a lease under  
 25 this title to—

1           (1) maintain all operations within such lease  
2           area in compliance with regulations intended to pro-  
3           tect persons and property on, and fish and wildlife,  
4           their habitat, subsistence resources, and the environ-  
5           ment of, the 1002 Area; and

6           (2) allow prompt access at the site of any oper-  
7           ations subject to regulation under this title to any  
8           appropriate Federal or State inspector, and to pro-  
9           vide such documents and records which are pertinent  
10          to occupational or public health, safety, or environ-  
11          mental protection, and may be requested.

12          (c) ON-SITE INSPECTION.—The Secretary shall pro-  
13          mulgate regulations to provide for—

14               (1) scheduled onsite inspection by the Sec-  
15               retary, at least twice a year, of each facility on the  
16               1002 Area which is subject to any environmental or  
17               safety regulation promulgated pursuant to this title  
18               or conditions contained in any lease issued pursuant  
19               to this title to assure compliance with such environ-  
20               mental or safety regulations or conditions; and

21               (2) periodic onsite inspection by the Secretary  
22               at least once a year without advance notice to the  
23               operator of such facility to assure compliance with  
24               all environmental or safety regulations.



1 **SEC. 514. NEW REVENUES.**

2 (a) DEPOSIT INTO TREASURY.—Notwithstanding  
3 any other provision of law, all revenues received by the  
4 Federal Government from competitive bids, sales, bonuses,  
5 royalties, rents, fees, or interest derived from the leasing  
6 of oil and gas within the 1002 Area shall be deposited  
7 into the Treasury of the United States, solely as provided  
8 in this section. The Secretary of the Treasury shall pay  
9 to the State of Alaska the same percentage of such reve-  
10 nues as is set forth under the heading “EXPLORATION  
11 OF NATIONAL PETROLEUM RESERVE IN ALAS-  
12 KA” in Public Law 96–514 (94 Stat. 2957, 2964) semi-  
13 annually to the State of Alaska, on March 30 and Sep-  
14 tember 30 of each year and shall deposit the balance of  
15 all such revenues as miscellaneous receipts in the Treas-  
16 ury. Notwithstanding any other provision of law, the Sec-  
17 retary of the Treasury shall monitor the total revenue de-  
18 posited into the Treasury as miscellaneous receipts from  
19 oil and gas leases issued under the authority of this sub-  
20 title and shall deposit amounts received as bonus bids into  
21 a special fund established in the Treasury of the United  
22 States known as the Renewable Energy Research and De-  
23 velopment Fund (in this section referred to as the “Re-  
24 newable Energy Fund”).

25 (b) USE OF RENEWABLE ENERGY FUND.—Of the  
26 amounts in the Renewable Energy Fund, an amount equal

1 to ten percent of the total deposits shall be made available  
2 to the Secretary of Energy, without further appropriation,  
3 at the beginning of each fiscal year in which amounts are  
4 available, and may be expended by the Secretary of En-  
5 ergy for research and development of renewable domestic  
6 energy resources of wind, solar, biomass, geothermal and  
7 hydroelectric. Such amounts shall remain available until  
8 expended and shall be in addition to funds appropriated  
9 in the preceding fiscal year to the Secretary of Energy  
10 for renewable energy research, development and dem-  
11 onstration programs authorized by section 103 of the En-  
12 ergy Reorganization Act of 1974 (42 U.S.C. 5813). The  
13 Secretary of Energy shall develop procedures for the use  
14 of the Renewable Energy Fund that ensure accountability  
15 and demonstrated results. Beginning the first full fiscal  
16 year after deposits are made into the Renewable Energy  
17 Fund, the Secretary of Energy shall submit an annual re-  
18 port to the Committee on Energy and Natural Resources  
19 of the United States Senate and the appropriate Commit-  
20 tees of the United States House of Representatives detail-  
21 ing the use of any expenditures.

1 **TITLE VI—ENERGY EFFICIENCY,**  
2 **CONSERVATION, AND ASSIST-**  
3 **ANCE TO LOW-INCOME FAMI-**  
4 **LIES**

5 **SEC. 601. EXTENSION OF LOW INCOME HOME ENERGY AS-**  
6 **SISTANCE PROGRAM.**

7 (a) AUTHORIZATION OF APPROPRIATIONS.—Section  
8 2602(b) of the Omnibus Budget Reconciliation Act of  
9 1981 (42 U.S.C. 8621), is amended by striking “such  
10 sums as may be necessary for each of fiscal years 2000  
11 and 2001, and \$2,000,000,000 for each of fiscal years  
12 2002 through 2004” and inserting “\$3,000,000,000 for  
13 each of fiscal years 2000 through 2010”.

14 (b) PAYMENTS TO STATES.—Section 2602(d)(2) of  
15 the Omnibus Budget Reconciliation Act of 1981 (42  
16 U.S.C. 8621) is amended by striking “2004” and insert-  
17 ing “2010”.

18 (c) EMERGENCY FUNDS.—Section 2602(e) of the  
19 Omnibus Budget Reconciliation Act of 1981 (42 U.S.C.  
20 8621), is amended by striking “\$600,000,000” and insert-  
21 ing “\$1,000,000,000”.

22 **SEC. 602. ENERGY EFFICIENT SCHOOLS PROGRAM.**

23 (a) ESTABLISHMENT.—There is established in the  
24 Department of Energy the Energy Efficient Schools Pro-

1 gram (hereafter in this section referred to as the “Pro-  
2 gram”).

3 (b) IN GENERAL.—The Secretary of Energy may,  
4 through the Program, make grants to—

5 (1) be provided to school districts to implement  
6 the purpose of this section;

7 (2) administer the program of assistance to  
8 school districts pursuant to this section; and,

9 (3) promote participation by school districts in  
10 the program established by this section.

11 (c) GRANTS TO ASSIST SCHOOL DISTRICTS.—Grants  
12 under paragraph (b)(1) shall be used to achieve energy  
13 efficiency performance not less than 30 percent beyond the  
14 levels prescribed in the 1998 International Energy Con-  
15 servation Code as it is in effect for new construction and  
16 existing buildings. Grants under such subsection shall be  
17 made to school districts that have—

18 (1) demonstrated a need for such grants in  
19 order to respond appropriately to increasing elemen-  
20 tary and secondary school enrollments or to make  
21 major investments in renovation of school facilities;

22 (2) demonstrated that the districts do not have  
23 adequate funds to respond appropriately to such en-  
24 rollments or achieve such investments without assist-  
25 ance; and

1           (3) made a commitment to use the grant funds  
2           to develop energy efficient school buildings in ac-  
3           cordance with the plan developed and approved pur-  
4           suant to paragraph (e)(1).

5           (d) OTHER GRANTS.—

6           (1) GRANTS FOR ADMINISTRATION.—Grants  
7           under paragraph (b)(2) shall be used to evaluate  
8           compliance by school districts with the requirements  
9           of this section and in addition may be used for—

10           (A) distributing information and materials  
11           to clearly define and promote the development  
12           of energy efficient school buildings for both new  
13           and existing facilities;

14           (B) organizing and conducting programs  
15           for school board members, school district per-  
16           sonnel, architects, engineers, and others to ad-  
17           vance the concepts of energy efficient school  
18           buildings;

19           (C) obtaining technical services and assist-  
20           ance in planning and designing energy efficient  
21           school buildings; and

22           (D) collecting and monitoring data and in-  
23           formation pertaining to the energy efficient  
24           school building projects.

1           (2) GRANTS TO PROMOTE PARTICIPATION.—

2           Grants under paragraph (b)(3) may be used for pro-  
3           motional and marketing activities, including facili-  
4           tating private and public financing, promoting the  
5           use of energy service companies, working with school  
6           administrations, students, and communities, and co-  
7           ordinating public benefit programs.

8           (e) IMPLEMENTATION.—

9           (1) PLANS.—Grants under subsection (b) shall  
10          be provided only to school districts that, in consulta-  
11          tion with State offices of energy and education, have  
12          developed plans that the State energy office deter-  
13          mines to be feasible and appropriate in order to  
14          achieve the purposes for which such grants were  
15          made.

16          (2) SUPPLEMENTING GRANT FUNDS.—The  
17          State agency referred to in paragraph (1) shall en-  
18          courage qualifying school districts to supplement  
19          their grant funds with funds from other sources in  
20          the implementation of their plans.

21          (f) ALLOCATION OF FUNDS.—

22          (1) IN GENERAL.—Except as provided in sub-  
23          section (c), funds appropriated for the implementa-  
24          tion of this section shall be provided to State energy

1 offices to administer the program of assistance to  
2 school districts under this section.

3 (g) PURPOSES.—Except as provided in subsection  
4 (c), funds appropriated under this section shall be allo-  
5 cated as follows:

6 (1) Seventy percent shall be used to make  
7 grants under paragraph (b)(1).

8 (2) Fifteen percent shall be used to make  
9 grants under paragraph (b)(2).

10 (3) Fifteen percent shall be used to make  
11 grants under paragraph (b)(3).

12 (h) OTHER FUNDS.—The Secretary of Energy may,  
13 through the Program established under subsection (a), re-  
14 tain an amount, not exceed \$300,000 per year, to assist  
15 State energy offices in coordinating and implementing  
16 such Program. Such funds may be used to develop ref-  
17 erence materials to further define the principles and cri-  
18 teria to achieve energy efficient school buildings.

19 (i) AUTHORIZATION OF APPROPRIATIONS.—For this  
20 section, there are authorized to be appropriated  
21 \$200,000,000 for each of fiscal years 2002 through 2005,  
22 and such sums as may be necessary for each of fiscal years  
23 2006 through 2011.

24 (j) DEFINITIONS.—

1 (1) ELEMENTARY AND SECONDARY SCHOOL.—

2 The terms “elementary school” and “secondary  
3 school” shall have the same meaning given such  
4 terms in paragraphs (14) and (25) of section 14101  
5 of the Elementary and Secondary Education Act of  
6 1965 (20 U.S.C. 8801(14),(25)).

7 (2) ENERGY EFFICIENT SCHOOL BUILDING.—

8 The term “energy efficient school building” refers to  
9 a school building which, in its design, construction,  
10 operation, and maintenance maximizes use of renew-  
11 able energy and efficient energy practices, is cost-ef-  
12 fective on a life-cycle basis, uses affordable, environ-  
13 mentally preferable, durable materials, enhances in-  
14 door environmental quality, protects and conserves  
15 water, and optimizes site potential.

16 (3) RENEWABLE ENERGY.—The term “renew-  
17 able energy” means energy produced by solar, wind,  
18 geothermal, hydroelectric power, and biomass power.

19 **SEC. 603. AMENDMENTS TO WEATHERIZATION ASSISTANCE**  
20 **PROGRAM.**

21 (a) ELIGIBILITY.—Section 412 of the Energy Con-  
22 servation and Production Act (42 U.S.C. 6862) is amend-  
23 ed by—

24 (1) in definition (7)(A), striking “125” and in-  
25 serting “150”, and



1           (2) in definition (7)(C), striking “125” and in-  
2       serting “150”.

3       (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
4       422(a) of the Energy Conservation and Production Act  
5       (42 U.S.C. 6872) is amended by—

6           (1) striking “\$200,000,000” and inserting  
7       “\$250,000,000”;

8           (2) striking “1991” and inserting “2002,  
9       \$325,000,000 for fiscal year 2003, \$400,000,000 for  
10      fiscal year 2004, \$500,000,000 for fiscal year  
11      2005”; and

12          (3) striking “1992, 1993 and 1994” and insert-  
13      ing “for each fiscal year thereafter”.

14   **SEC. 604. AMENDMENTS TO STATE ENERGY PROGRAM.**

15       (a) STATE ENERGY CONSERVATION PLANS.—Section  
16       362 of the Energy Policy and Conservation Act (42 U.S.C.  
17       6322) is amended by—

18           (1) redesignating subsection (f) as subsection  
19       (g), and

20           (2) inserting after subsection (e) the following  
21       new subsection (f)—

22       “(f) The Secretary shall, at least once every three  
23       years, invite the Governor of each State to review and,  
24       if necessary, revise the energy conservation plan of such  
25       State submitted under section 362(b) or (e). Such reviews

1 should consider the energy conservation plans of other  
 2 States within the region, and identify opportunities and  
 3 actions carried out in pursuit of common energy conserva-  
 4 tion goals.”.

5 (b) STATE ENERGY EFFICIENCY GOALS.—Section  
 6 364 of the Energy Policy and Conservation Act (42 U.S.C.  
 7 6324) is amended by—

8 (1) striking “October 1, 1991” and inserting  
 9 “January 1, 2001”,

10 (2) striking “10” and inserting “25”, and

11 (3) striking “2000” and inserting “2010”.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
 13 365(f)(1) of the Energy Policy and Conservation Act (42  
 14 U.S.C. 6325) is amended by—

15 (1) striking “and”,

16 (2) striking the period and inserting  
 17 “\$75,000,000 for fiscal year 2002, \$100,000,000 for  
 18 fiscal years 2003 and 2004, \$125,000,000 for fiscal  
 19 year 2005 and such sums as are necessary for each  
 20 fiscal year thereafter.”.

21 **SEC. 605. ENHANCEMENT AND EXTENSION OF AUTHORITY**  
 22 **RELATING TO FEDERAL ENERGY SAVINGS**  
 23 **PERFORMANCE CONTRACTS.**

24 (a) ENERGY SAVINGS THROUGH CONSTRUCTION OF  
 25 REPLACEMENT FACILITIES.—Section 804 of the National

1 Energy Conservation Policy Act (42 U.S.C. 8287c) is  
 2 amended—

3 (1) in paragraph (2)—

4 (A) by redesignating subparagraphs (A)  
 5 and (B) as clauses (i) and (ii), respectively;

6 (B) by inserting “(A)” and “(2)”; and

7 (C) by adding at the end the following new  
 8 subparagraph:

9 “(B) The term “energy savings” also  
 10 means a reduction in the cost of energy, from  
 11 such a base cost established through a method-  
 12 ology set forth in the contract, that would oth-  
 13 erwise be utilized in one or more existing feder-  
 14 ally owned buildings or other federally owned  
 15 facilities by reason of the construction and op-  
 16 eration of one or more new buildings or facili-  
 17 ties.”; and

18 (2) in paragraph (3), by inserting after the first  
 19 sentence of the following new sentence: “The terms  
 20 also mean a contract that provides for energy sav-  
 21 ings through the construction and/or operation of  
 22 one or more new buildings or facilities.”.

23 (b) COST SAVINGS FROM OPERATION AND MAINTENANCE  
 24 EFFICIENCIES IN REPLACEMENT FACILITIES.—

25 Section 801(a) of the National Energy Conservation Pol-

1 icy Act (42 U.S.C. 8287(a)) is amended by adding at the  
2 end the following new paragraph:

3           “(3)(A) In the case of an energy savings con-  
4 tract or energy savings performance contract pro-  
5 viding for energy savings through the construction  
6 and operation of one or more buildings or facilities  
7 to replace one or more existing buildings or facilities,  
8 benefits ancillary to the purpose of such contract  
9 under paragraph (1) may include savings resulting  
10 from reduced costs of operation and maintenance at  
11 new and/or additional buildings or facilities, from a  
12 base cost of operation and maintenance established  
13 through a methodology set forth in the contract.

14           “(B) Notwithstanding paragraph (2)(B), aggre-  
15 gate annual payments by an agency under an energy  
16 savings contract or energy savings performance con-  
17 tract referred to in subparagraph (A) may take into  
18 account (through the procedures developed pursuant  
19 to this section) savings resulting from reduced costs  
20 of operation and maintenance as described in that  
21 subparagraph.”.

22       (c) FIVE-YEAR EXTENSION OF AUTHORITY.—Section  
23 801(c) of the National Energy Conservation Policy Act  
24 (42 U.S.C. 8287(c)) is amended by striking “October 1,  
25 2003” and inserting “October 1, 2008”.

1 (d) UTILITY INCENTIVE PROGRAMS.—Section 546 of  
2 the National Energy Conservation Policy Act (42 U.S.C.  
3 8256(c)) is amended by—

4 (1) in paragraph (3) by adding at the end the  
5 following two new sentences: “Such a utility incen-  
6 tive program may include a contract or contract  
7 term designed to provide for cost-effective electricity  
8 demand management, energy efficiency, and/or  
9 water conservation. Notwithstanding section  
10 201(a)(3) of 63 Stat. 383 (40 U.S.C. 481(a)(3)),  
11 such contracts or contract terms may be made for  
12 periods not exceeding 25 years.”.

13 (2) by adding at the end the following new  
14 paragraph:

15 “(6) A utility incentive program may include a  
16 contract or contract term for a reduction in the cost  
17 of energy, from a base cost established through a  
18 methodology set forth in such a contract, that would  
19 otherwise be utilized in one or more federally owned  
20 buildings or other federally owned facilities by rea-  
21 son of the construction and/or operation of one or  
22 more buildings or facilities, as well as benefits ancil-  
23 lary to the purpose of such contract or contract  
24 term, including savings resulting from reduced costs  
25 of operation and maintenance at new and/or addi-

1 tional buildings or facilities when compared with the  
2 costs of operation and maintenance at existing build-  
3 ings or facilities.”.

4 **SEC. 606. FEDERAL ENERGY EFFICIENCY REQUIREMENT.**

5 (a) IN GENERAL.—Through cost-effective measures,  
6 each agency shall reduce energy consumption per gross  
7 square foot of its facilities by 30 percent by 2010 and 50  
8 percent by 2020 relative to 1990.

9 (b) IMPLEMENTATION PLAN.—Not later than one  
10 year after date of enactment of this section, each agency  
11 shall develop and submit to Congress and the President  
12 an implementation plan for fulfilling the requirements of  
13 this section.

14 (c) ANNUAL REPORT.—

15 (1) IN GENERAL.—Each agency shall measure  
16 and report annually to Congress and the President  
17 its progress in meeting the requirements of this sec-  
18 tion.

19 (2) GUIDELINES.—The Secretary of Energy, in  
20 consultation with the Administrator of the Energy  
21 Information Administration, shall develop and issue  
22 guidelines for agencies’ preparation of their annual  
23 report, including guidance on how to measure energy  
24 consumption in federal facilities.

1 (d) EXEMPTION OF CERTAIN FACILITIES.—A facility  
2 may be deemed exempt when the Secretary determines  
3 that compliance with the Energy Policy Act of 1992 is  
4 not practical for that particular facility. No later than one  
5 year from date of enactment, the Secretary shall, in con-  
6 sultation with the Administrator of the Energy Informa-  
7 tion Administration, set guidelines for agencies to use in  
8 excluding certain kinds of facilities to meet the require-  
9 ments of this section.

10 (e) APPLICABILITY.—The Department of Defense  
11 (DOD) is subject to this order only to the extent that it  
12 does not impair or adversely affect military operations and  
13 training (including tactical aircraft, ships, weapons sys-  
14 tems, combat training, and border security).

15 (f) DEFINITIONS.—For the purposes of this section.

16 (1) “agency” means an executive agency as de-  
17 fined in 5 U.S.C. 105. Military departments, as de-  
18 fined in 5 U.S.C. 102, are covered under the aus-  
19 pices of the Department of Defense.

20 (2) “facility” means any individual building or  
21 collection of buildings, grounds, or structure, as well  
22 as any fixture or part thereof, including the associ-  
23 ated energy or water-consuming support systems,  
24 which is constructed, renovated, or purchased in  
25 whole or in part for use by the Federal Government.

1       It includes leased facilities where the Federal Gov-  
2       ernment has a purchase option or facilities planned  
3       for purchase. In any provision of this order, the  
4       term “facility” also includes any building 100 per-  
5       cent leased for use by the Federal Government  
6       where the Federal Government pays directly or indi-  
7       rectly for the utility costs associated with its leased  
8       space, and Government-owned contractor-operated  
9       facilities.

10   **SEC. 607. ENERGY EFFICIENCY SCIENCE INITIATIVE.**

11       There are authorized to be appropriated \$25,000,000  
12   for fiscal year 2001 and such sums as are necessary for  
13   each fiscal year thereafter, but not to exceed \$50,000,000  
14   in any fiscal year, for an Energy Efficiency Science Initia-  
15   tive to be managed by the Assistant Secretary for Energy  
16   Efficiency and Renewable Energy in consultation with the  
17   Director of the Office of Science, for grants to be competi-  
18   tively awarded and subject to peer review for research re-  
19   lating to energy efficiency. The Secretary of Energy shall  
20   submit to the Committee on Science and the Committee  
21   on Appropriations of the United States House of Rep-  
22   resentatives, and to the Committee on Energy and Nat-  
23   ural Resources and the Committee on Appropriations of  
24   the United States Senate, an annual report on the activi-  
25   ties of the Energy Efficiency Science Initiative, including



1 a description of the process used to award the funds and  
2 an explanation of how the research relates to energy effi-  
3 ciency.

4 **TITLE VII—ALTERNATIVE FUELS**  
5 **AND RENEWABLE ENERGY**  
6 **Subtitle A—Alternative Fuels**

7 **SEC. 701. EXCEPTION TO HOV PASSENGER REQUIREMENTS**  
8 **FOR ALTERNATIVE FUEL VEHICLES.**

9 Section 102(a) of title 23, United States Code, is  
10 amended by inserting “(unless, at the discretion of the  
11 State highway department, the vehicle operates on, or is  
12 fueled by, an alternative fuel (as defined in section 301  
13 of Public Law 102–486 (42 U.S.C. 13211(2)))” after “re-  
14 quired”.

15 **SEC. 702. ALTERNATIVE FUEL VEHICLE CREDITS FOR IN-**  
16 **STALLATION OF QUALIFYING INFRASTRUC-**  
17 **TURE.**

18 Section 508 of the Energy Policy Act of 1992 (42  
19 U.S.C. 13258) is amended by adding the following at the  
20 end:

21 “(e) CREDIT FOR ACQUISITION OR INSTALLATION OF  
22 QUALIFYING INFRASTRUCTURE.—The Secretary shall al-  
23 locate an infrastructure credit to a fleet or covered person  
24 that is required to acquire an alternative fueled vehicle  
25 under this title, or to a Federal fleet as defined by section

1 303(b)(3) of Title III of this Act, for the acquisition or  
2 installation of the fuel or the needed infrastructure, in-  
3 cluding the supply and delivery systems, necessary to oper-  
4 ate or maintain the alternative fueled vehicle. Such nec-  
5 essary infrastructure shall include, but is not limited to,  
6 the following:

7           “(A) equipment required to refuel or recharge  
8 the alternative fueled vehicle;

9           “(B) facilities or equipment required to main-  
10 tain, repair or operate the alternative fueled vehicle;

11           “(C) training programs, educational materials  
12 or other activities necessary to provide information  
13 regarding the operation, maintenance or benefits as-  
14 sociated with the alternative fueled vehicle; and

15           “(D) such other activity as the Secretary deems  
16 an appropriate expenditure in support of the oper-  
17 ation, maintenance or further wide spread adoption  
18 or utilization of the alternative fueled vehicle.

19           “(f) QUALIFYING INFRASTRUCTURE CREDIT.—The  
20 term ‘infrastructure credit’ shall mean—

21           “(A) that equipment or activity defined in sub-  
22 section (e) above; and

23           “(B) be equivalent in cost to the acquisition of  
24 an alternative fueled vehicle for which the expendi-  
25 ture on the infrastructure is made.

1       “(g) LIMITATION ON NUMBER OF INFRASTRUCTURE  
 2 CREDITS ISSUED.—Each fleet or covered person that is  
 3 required to acquire an alternative fueled vehicle under this  
 4 title, or each Federal fleet as defined by section 303(b)(3)  
 5 of title III of this Act, shall be limited in the number of  
 6 infrastructure credits that may be acquired and used to  
 7 meet the alternative fueled vehicle requirements of this  
 8 Act to no more than the equivalent of one half of the alter-  
 9 native fueled vehicles required per annum.”.

10 **SEC. 703. STATE AND LOCAL GOVERNMENT USE OF FED-**  
 11 **ERAL ALTERNATIVE FUEL REFUELING FA-**  
 12 **CILITIES.**

13       Section 304 of the Energy Policy Act of 1992 (42  
 14 U.S.C. 13213) is amended by adding the following at the  
 15 end:

16       “(c) STATE AND LOCAL GOVERNMENT OWNED VEHI-  
 17 CLES.—Federal agencies may include any alternative fuel  
 18 vehicles owned by States or local governments in any com-  
 19 mercial arrangements for the purpose of fueling Federal  
 20 alternative fueled vehicles as authorized under subsection  
 21 (a) of this section. The Secretary may allocate equivalent  
 22 infrastructure credits to a Federal fleet as defined by sec-  
 23 tion 303(b)(3) of title III of this Act, for the inclusion  
 24 of such vehicles in any such commercial fueling arrange-  
 25 ments.”.

1 **SEC. 704. FEDERAL FLEET FUEL ECONOMY AND USE OF AL-**  
2 **TERNATIVE FUELS.**

3 (a) FUEL ECONOMY.—Through cost-effective meas-  
4 ures, each agency shall increase the average EPA fuel  
5 economy rating of passenger cars and light trucks ac-  
6 quired by at least 3 miles per gallon (mpg) by the end  
7 of fiscal year 2005 compared to acquisitions in fiscal year  
8 2000.

9 (b) USE OF ALTERNATIVE FUELS.—Through cost-ef-  
10 fective measures, each agency shall, by the end of fiscal  
11 year 2005, use alternative fuels for at least 50 percent  
12 of the total annual volume of fuel used by the agency. No  
13 more than 25 percent of fuel purchased by State and local  
14 governments at federally-owned refueling facilities as de-  
15 scribed under section 403 may be included by an agency  
16 in meeting the requirement of this section.

17 (c) IMPLEMENTATION PLAN.—No later than one year  
18 after date of enactment of this section, each agency shall  
19 develop and submit to Congress and the President an im-  
20 plementation plan for fulfilling the requirements of this  
21 section. Each agency should develop an implementation  
22 plan that meets its unique fleet configuration and fleet re-  
23 quirements.

24 (d) ANNUAL REPORT.—

25 (1) IN GENERAL.—Each agency shall measure  
26 and report annually to Congress and the President

1 its progress in meeting the requirements of this sec-  
2 tion.

3 (2) GUIDELINES.—The Secretary of Energy,  
4 through the Federal Energy Management Program  
5 and in consultation with the Administrator of the  
6 Energy Information Administration, shall develop  
7 and issue guidelines for agencies' preparation of  
8 their annual report, including guidance on how to  
9 measure fuel economy for the collection and annual  
10 reporting of data to demonstrate compliance with  
11 the requirements of this section.

12 (e) APPLICABILITY.—This order applies to each fed-  
13 eral agency operating 20 or more motor vehicles within  
14 the United States.

15 (f) EXEMPTION OF CERTAIN VEHICLES.—Depart-  
16 ment of Defense military tactical vehicles are exempt from  
17 this order. Law enforcement, emergency, and any other  
18 vehicle class or type determined by the Secretary, in con-  
19 sultation with the Federal Energy Management Program,  
20 are exempted from the requirements of this section. No  
21 later than one year from date of enactment, the Secretary  
22 shall, in consultation with the Federal Energy Manage-  
23 ment Program, set guidelines for agencies to use in the  
24 determination of exemptions.

1 (g) DEFINITIONS.—For the purposes of this  
2 section—

3 (1) “agency” means an executive agency as de-  
4 fined in 5 U.S.C. 105. Military departments, as de-  
5 fined in 5 U.S.C. 102, are covered under the aus-  
6 pices of the Department of Defense.

7 (2) “alternative fuel” means any fuel defined as  
8 an alternative fuel pursuant to section 301 of the  
9 Energy Policy Act of 1992 (Public Law 102–486).

10 (h) CONFORMING AMENDMENTS.—Section 400AA of  
11 the Energy Policy and Conservation Act (42 U.S.C. 6374)  
12 is amended as follows:

13 (1) in subsection (a)(3)(E), insert the following  
14 sentence at the end, “Except that, no later than fis-  
15 cal year 2005 at least 50 percent of the total annual  
16 volume of fuel used must be from alternative fuels.”,  
17 and

18 (2) in subsection (g)(4)(B), after the words,  
19 “solely on alternative fuel”, insert the words “, in-  
20 cluding a three wheeled enclosed electric vehicle hav-  
21 ing a VIN number”.

22 **SEC. 705. LOCAL GOVERNMENT GRANT PROGRAM.**

23 (a) ESTABLISHMENT.—Within one year of date of en-  
24 actment of this section, the Secretary of Energy shall es-  
25 tablish a program for making grants to local governments

1 for covering the incremental cost of qualified alternative  
2 fuel motor vehicles.

3 (b) CRITERIA.—In deciding to whom grants shall be  
4 made under this subsection, the Secretary of Energy shall  
5 consider the goal of assisting the greatest number of appli-  
6 cants, provided that no grant award shall exceed  
7 \$1,000,000.

8 (c) PRIORITIES.—Priority shall be given under this  
9 section to those local government fleets where the use of  
10 alternative fuels would have a significant beneficial effect  
11 on energy security and the environment.

12 (d) QUALIFIED ALTERNATIVE FUEL MOTOR VEHI-  
13 CLE DEFINED.—For purposes of this section, the term  
14 “qualified motor vehicle” means any motor vehicle which  
15 is capable of operating only on an alternative fuel.

16 (e) INCREMENTAL COST.—For purposes of this sec-  
17 tion, the incremental cost of any qualified alternative fuel  
18 motor vehicle is equal to the amount of the excess of the  
19 manufacturer’s suggested retail price for such vehicle over  
20 such price for a gasoline or diesel motor vehicle of the  
21 same model.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—For the  
23 purposes of this section, there are authorized to be appro-  
24 priated \$100,000,000 annually for each of the fiscal years  
25 2002 through 2006.

1       **Subtitle B—Renewable Energy**

2       **SEC. 710. RESIDENTIAL RENEWABLE ENERGY GRANT PRO-**  
3               **GRAM.**

4           (a) IN GENERAL.—The Secretary of Energy shall de-  
5       velop and implement a grant program that to offset a por-  
6       tion of the total cost of certain eligible residential renew-  
7       able energy systems.

8           (b) ELIGIBILITY.—Grants may be awarded for any  
9       of the following:

10           (1) new installation of an eligible residential re-  
11       newable energy system for an existing dwelling unit,

12           (2) purchase of an existing dwelling unit with  
13       an eligible residential renewable energy system that  
14       was installed prior to the date of enactment of this  
15       section,

16           (3) addition to or augmentation of an existing  
17       eligible residential renewable energy system installed  
18       on a dwelling unit prior to the date of enactment of  
19       this section, provided that any such addition or aug-  
20       mentation results in additional electricity, heat, or  
21       other useful energy, or

22           (4) construction of a new home or rental prop-  
23       erty which includes an eligible residential renewable  
24       energy system.

25       (c) TOTAL COST.—



1 (1) IN GENERAL.—For purposes of this section,  
2 “total cost” means expenditure of funds for the fol-  
3 lowing:

4 (A) any equipment whose primary purpose  
5 is to provide for the collection, conversion,  
6 transfer, distribution, storage or control of elec-  
7 tricity or heat generated from renewable energy,

8 (B) installation charges,

9 (C) labor costs properly allocable to the on-  
10 site preparation, assembly, or original installa-  
11 tion of the system, and

12 (D) piping or wiring to interconnect such  
13 system to the dwelling unit.

14 (2) LEASED SYSTEMS.—In the case of a system  
15 that is leased, “total cost” means the principle re-  
16 covery portion of all lease payments scheduled to be  
17 made during the full term of the lease, excluding in-  
18 terest charges and maintenance expenses.

19 (3) EXISTING SYSTEMS.—In the case of addi-  
20 tion to or augmentation of an existing system, “total  
21 cost” shall include only those expenditures related to  
22 the incremental cost of the addition or augmenta-  
23 tion, and not the full cost of the system.

24 (d) COST BUY-DOWN.—Grants provided under this  
25 section shall not exceed \$3,000 per eligible residential re-

1 newable energy system, and shall be limited further as fol-  
2 lows:

3 (1) For fiscal years 2002 and 2003, grants pro-  
4 vided under this section shall be limited to the small-  
5 er of—

6 (A) 50 percent of the total cost of the en-  
7 ergy system, or

8 (B) \$3.00 per watt of system electricity  
9 output or equivalent.

10 (2) For fiscal years 2004 and 2005, grants pro-  
11 vided under this section shall be limited to the small-  
12 er of—

13 (A) 40 percent of the total cost of the en-  
14 ergy system, or

15 (B) \$2.50 per watt of system electricity  
16 output.

17 (3) For fiscal years 2006 and 2007, grants pro-  
18 vided under this section shall be limited to the small-  
19 er of—

20 (A) 30 percent of the total cost of the en-  
21 ergy system, or

22 (B) \$2.00 per watt of system electricity  
23 output.

1           (4) For fiscal years 2008 and 2009, grants pro-  
2       vided under this section shall be limited to the small-  
3       er of—

4                   (A) 20 percent of the total cost of the en-  
5       ergy system, or

6                   (B) \$1.50 per watt of system electricity  
7       output.

8           (5) For fiscal years 2010 and 2011, grants pro-  
9       vided under this section shall be limited to the small-  
10      er of—

11                   (A) 10 percent of the total cost of the en-  
12      ergy system, or

13                   (B) \$1.00 per watt of system electricity  
14      output.

15      (e) LIMITATIONS.—No grant shall be allowed under  
16      this section for an eligible residential renewable energy  
17      system unless—

18           (1) such expenditure is made for property in-  
19      stalled on or in connection with a dwelling unit  
20      which is located in the United States and which is  
21      used as a residence,

22           (2) in the case of solar water heating equip-  
23      ment, such equipment is certified for performance  
24      and safety by the non-profit Solar Rating Certifi-  
25      cation Corporation or a comparable entity endorsed

1 by the government of the State in which such prop-  
 2 erty is installed, and

3 (3) such system meets appropriate fire and  
 4 electric code requirements.

5 (f) DEFINITIONS.—For purposes of this section.—

6 (1) RENEWABLE ENERGY SYSTEM.—The term  
 7 “renewable energy system” means property that  
 8 uses any of the following renewable energy forms to  
 9 create electricity, heat, or other forms of useful en-  
 10 ergy:

11 (A) solar thermal,

12 (B) solar photovoltaic,

13 (C) wind,

14 (D) biomass,

15 (E) hydroelectric, or

16 (F) geothermal.

17 (2) SOLAR PANELS.—No expenditure relating  
 18 to a solar panel or other property installed as a roof  
 19 (or portion thereof) shall fail to be treated as prop-  
 20 erty described in paragraph (1) solely because it  
 21 constitutes a structural component of the structure  
 22 on which it is installed.

23 (3) ENERGY STORAGE MEDIUM.—Expenditures  
 24 which are properly allocable to a swimming pool, hot  
 25 tub, or any other energy storage medium which has

1 a function other than the function of such storage  
 2 shall not be taken into account for purposes of this  
 3 section.

4 (g) SPECIAL RULES.—For purposes of this section—

5 (1) TENANT-STOCKHOLDER IN COOPERATIVE  
 6 HOUSING CORPORATION.—In the case of an indi-  
 7 vidual who is a tenant-stockholder (as defined in 26  
 8 U.S.C. 216) in a cooperative housing corporation (as  
 9 defined in such section), such individual shall be  
 10 treated as having made his tenant-stockholder’s pro-  
 11 portionate share (as defined in 26 U.S.C. 216(b)(3))  
 12 of any expenditures of such corporation.

13 (2) CONDOMINIUMS.—

14 (A) IN GENERAL.—In the case of an indi-  
 15 vidual who is a member of a condominium man-  
 16 agement association with respect to a condo-  
 17 minium which he owns, such individual shall be  
 18 treated as having made his proportionate share  
 19 of any expenditures of such association.

20 (B) CONDOMINIUM MANAGEMENT ASSOCIA-  
 21 TION.—For purposes of this paragraph, the  
 22 term “condominium management association”  
 23 means an organization which meets the require-  
 24 ments of paragraph (1) of 26 U.S.C. 528(c)  
 25 (other than subparagraph (E) thereof) with re-

1 spect to a condominium project substantially all  
2 of the units of which are used as residences.

3 (3) RENEWABLE ENERGY SYSTEMS FOR MUL-  
4 TIPLE DWELLINGS.—

5 (A) IN GENERAL.—Any expenditure other-  
6 wise qualifying as an expenditure described in  
7 paragraph (1) of subsection (c) shall not be  
8 treated as failing to so qualify merely because  
9 such expenditure was made with respect to 2 or  
10 more dwelling units.

11 (B) LIMITS APPLIED SEPARATELY.—In the  
12 case of any expenditure described in subpara-  
13 graph (A), the amount of the grant available  
14 under subsection (d) shall be computed sepa-  
15 rately with respect to the amount of the ex-  
16 penditure made for each dwelling unit.

17 (h) ANNUAL REPORT.—The Secretary shall submit  
18 to Congress and the President an annual report on grants  
19 distributed pursuant to this section. The report shall in-  
20 clude, at minimum, the following:

21 (1) a summary of the eligible residential renew-  
22 able energy systems receiving grants in the year just  
23 concluded,

24 (2) an estimate of new renewable energy gen-  
25 eration installed as a result of grants awarded, and

1 its distribution by renewable energy source and geo-  
2 graphic location,

3 (3) evidence that the program is contributing to  
4 declining costs for renewable energy technologies,  
5 and

6 (4) description of the methods used to award  
7 such grants.

8 (i) AUTHORIZATION OF APPROPRIATIONS.—For the  
9 purposes of this section, there are authorized to be appro-  
10 priated \$30,000,000 for fiscal 2002 and such sums as are  
11 necessary for each fiscal year thereafter, but not to exceed  
12 \$150,000,000 in any fiscal year.

13 **SEC. 711. ASSESSMENT OF RENEWABLE ENERGY RE-**  
14 **SOURCES.**

15 (a) IN GENERAL.—No later than twelve months after  
16 the date of enactment of this section, the Secretary of En-  
17 ergy shall submit to the Congress an assessment of all  
18 renewable energy resources available within the United  
19 States.

20 (b) RESOURCE ASSESSMENT.—Such report shall in-  
21 clude a detailed inventory describing the available amount  
22 and characteristics of solar, wind, biomass, geothermal,  
23 hydroelectric and other renewable energy sources, and an  
24 estimate of the costs needed to develop each resource. The  
25 report shall also include such other information as the

1 Secretary of Energy believes would be useful in siting re-  
 2 newable energy generation, such as appropriate terrain,  
 3 population and load centers, nearby energy infrastructure,  
 4 and location of energy and water resources.

5 (c) AVAILABILITY.—The information and cost esti-  
 6 mates in this report shall be updated annually and made  
 7 available to the public, along with the data used to create  
 8 the report.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—For the  
 10 purposes of carrying out this section, there are authorized  
 11 to be appropriated \$10,000,000 for fiscal years 2002  
 12 through 2006.

## 13 **Subtitle C—Hydroelectric** 14 **Licensing Reform**

### 15 **SEC. 721. SHORT TITLE.**

16 This Act may be cited as the “Hydroelectric Licens-  
 17 ing Process Improvement Act of 2001”.

### 18 **SEC. 722. FINDINGS.**

19 Congress finds that—

20 (1) hydroelectric power is an irreplaceable  
 21 source of clean, economic, renewable energy with the  
 22 unique capability of supporting reliable electric serv-  
 23 ice while maintaining environmental quality;

24 (2) hydroelectric power is the leading renewable  
 25 energy resource of the United States;



1           (3) hydroelectric power projects provide mul-  
2           tiple benefits to the United States, including recre-  
3           ation, irrigation, flood control, water supply, and  
4           fish and wildlife benefits;

5           (4) in the next 15 years, the bulk of all non-  
6           Federal hydroelectric power capacity in the United  
7           States is due to be relicensed by the Federal Energy  
8           Regulatory Commission;

9           (5) the process of licensing hydroelectric  
10          projects by the Commission—

11                (A) does not produce optimal decisions, be-  
12                cause the agencies that participate in the proc-  
13                ess are not required to consider the full effects  
14                of their mandatory and recommended condi-  
15                tions on a license;

16                (B) is inefficient, in part because agencies  
17                do not always submit their mandatory and rec-  
18                ommended conditions by a time certain;

19                (C) is burdened by uncoordinated environ-  
20                mental reviews and duplicative permitting au-  
21                thority; and

22                (D) is burdensome for all participants and  
23                too often results in litigation; and

24           (6) while the alternative licensing procedures  
25          available to applicants for hydroelectric project li-

1       censes provide important opportunities for the col-  
2       laborative resolution of many of the issues in hydro-  
3       electric project licensing, those procedures are not  
4       appropriate in every case and cannot substitute for  
5       statutory reforms of the hydroelectric licensing proc-  
6       ess.

7   **SEC. 723. PURPOSE.**

8       The purpose of this Act is to achieve the objective  
9       of relicensing hydroelectric power projects to maintain  
10      high environmental standards while preserving low cost  
11      power by—

12           (1) requiring agencies to consider the full ef-  
13           fects of their mandatory and recommended condi-  
14           tions on a hydroelectric power license and to docu-  
15           ment the consideration of a broad range of factors;

16           (2) requiring the Federal Energy Regulatory  
17           Commission to impose deadlines by which Federal  
18           agencies must submit proposed mandatory and rec-  
19           ommended conditions to a license; and

20           (3) making other improvements in the licensing  
21      process.

1 **SEC. 724. PROCESS FOR CONSIDERATION BY FEDERAL**  
 2 **AGENCIES OF CONDITIONS TO LICENSES.**

3 (a) IN GENERAL.—Part I of the Federal Power Act  
 4 (16 U.S.C. 791a et seq.) is amended by adding at the end  
 5 the following:

6 **“SEC. 32. PROCESS FOR CONSIDERATION BY FEDERAL**  
 7 **AGENCIES OF CONDITIONS TO LICENSES.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) CONDITION.—The term ‘condition’  
 10 means—

11 “(A) a condition to a license or a project  
 12 on a Federal reservation determined by a con-  
 13 sulting agency for the purpose of the first pro-  
 14 viso of section 4(e); and

15 “(B) a prescription relating to the con-  
 16 struction, maintenance, or operation of a  
 17 fishway determined by a consulting agency for  
 18 the purpose of the first sentence of section 18.

19 “(2) CONSULTING AGENCY.—The term ‘con-  
 20 sulting agency’ means—

21 “(A) in relation to a condition described in  
 22 paragraph (1)(A), the Federal agency with re-  
 23 sponsibility for supervising the reservation; and

24 “(B) in relation to a condition described in  
 25 paragraph (1)(B), the Secretary of the Interior  
 26 or the Secretary of Commerce, as appropriate.

1 “(b) FACTORS TO BE CONSIDERED.—

2 “(1) IN GENERAL.—In determining a condition,  
3 a consulting agency shall take into consideration—

4 “(A) the impacts of the condition on—

5 “(i) economic and power values;

6 “(ii) electric generation capacity and  
7 system reliability;

8 “(iii) air quality (including consider-  
9 ation of the impacts on greenhouse gas  
10 emissions); and

11 “(iv) drinking, flood control, irriga-  
12 tion, navigation, or recreation water sup-  
13 ply;

14 “(B) compatibility with other conditions to  
15 be included in the license, including mandatory  
16 conditions of other agencies, when available;  
17 and

18 “(C) means to ensure that the condition  
19 addresses only direct project environmental im-  
20 pacts, and does so at the lowest project cost.

21 “(2) DOCUMENTATION.—

22 “(A) IN GENERAL.—In the course of the  
23 consideration of factors under paragraph (1)  
24 and before any review under subsection (e), a  
25 consulting agency shall create written docu-

1           mentation detailing, among other pertinent  
 2           matters, all proposals made, comments received,  
 3           facts considered, and analyses made regarding  
 4           each of those factors sufficient to demonstrate  
 5           that each of the factors was given full consider-  
 6           ation in determining the condition to be sub-  
 7           mitted to the Commission.

8           “(B) SUBMISSION TO THE COMMISSION.—

9           A consulting agency shall include the docu-  
 10          mentation under subparagraph (A) in its sub-  
 11          mission of a condition to the Commission.

12       “(c) SCIENTIFIC REVIEW.—

13           “(1) IN GENERAL.—Each condition determined  
 14          by a consulting agency shall be subjected to appro-  
 15          priately substantiated scientific review.

16           “(2) DATA.—For the purpose of paragraph (1),  
 17          a condition shall be considered to have been sub-  
 18          jected to appropriately substantiated scientific review  
 19          if the review—

20           “(A) was based on current empirical data  
 21          or field-tested data; and

22           “(B) was subjected to peer review.

23       “(d) RELATIONSHIP TO IMPACTS ON FEDERAL RES-  
 24      ERVATION.—In the case of a condition for the purpose of  
 25      the first proviso of section 4(e), each condition determined

1 by a consulting agency shall be directly and reasonably  
 2 related to the impacts of the project within the Federal  
 3 reservation.

4 “(e) ADMINISTRATIVE REVIEW.—

5 “(1) OPPORTUNITY FOR REVIEW.—Before sub-  
 6 mitting to the Commission a proposed condition, and  
 7 at least 90 days before a license applicant is re-  
 8 quired to file a license application with the Commis-  
 9 sion, a consulting agency shall provide the proposed  
 10 condition to the license applicant and offer the li-  
 11 cense applicant an opportunity to obtain expedited  
 12 review before an administrative law judge or other  
 13 independent reviewing body of—

14 “(A) the reasonableness of the proposed  
 15 condition in light of the effect that implementa-  
 16 tion of the condition will have on the energy  
 17 and economic values of a project; and

18 “(B) compliance by the consulting agency  
 19 with the requirements of this section, including  
 20 the requirement to consider the factors de-  
 21 scribed in subsection (b)(1).

22 “(2) COMPLETION OF REVIEW.—

23 “(A) IN GENERAL.—A review under para-  
 24 graph (1) shall be completed not more than 180

1 days after the license applicant notifies the con-  
 2 sulting agency of the request for review.

3 “(B) FAILURE TO MAKE TIMELY COMPLE-  
 4 TION OF REVIEW.—If review of a proposed con-  
 5 dition is not completed within the time specified  
 6 by subparagraph (A), the Commission may  
 7 treat a condition submitted by the consulting  
 8 agency as a recommendation is treated under  
 9 section 10(j).

10 “(3) REMAND.—If the administrative law judge  
 11 or reviewing body finds that a proposed condition is  
 12 unreasonable or that the consulting agency failed to  
 13 comply with any of the requirements of this section,  
 14 the administrative law judge or reviewing body  
 15 shall—

16 “(A) render a decision that—

17 “(i) explains the reasons for a finding  
 18 that the condition is unreasonable and may  
 19 make recommendations that the adminis-  
 20 trative law judge or reviewing body may  
 21 have for the formulation of a condition  
 22 that would not be found unreasonable; or

23 “(ii) explains the reasons for a finding  
 24 that a requirement was not met and may  
 25 describe any action that the consulting

1           agency should take to meet the require-  
2           ment; and

3           “(B) remand the matter to the consulting  
4           agency for further action.

5           “(4) SUBMISSION TO THE COMMISSION.—Fol-  
6           lowing administrative review under this subsection, a  
7           consulting agency shall—

8           “(A) take such action as is necessary to—

9           “(i) withdraw the condition;

10           “(ii) formulate a condition that fol-  
11           lows the recommendation of the adminis-  
12           trative law judge or reviewing body; or

13           “(iii) otherwise comply with this sec-  
14           tion; and

15           “(B) include with its submission to the  
16           Commission of a proposed condition—

17           “(i) the record on administrative re-  
18           view; and

19           “(ii) documentation of any action  
20           taken following administrative review.

21           “(f) SUBMISSION OF FINAL CONDITION.—

22           “(1) IN GENERAL.—After an applicant files  
23           with the Commission an application for a license, the  
24           Commission shall set a date by which a consulting



1       agency shall submit to the Commission a final condi-  
2       tion.

3               “(2) LIMITATION.—Except as provided in para-  
4       graph (3), the date for submission of a final condi-  
5       tion shall be not later than 1 year after the date on  
6       which the Commission gives the consulting agency  
7       notice that a license application is ready for environ-  
8       mental review.

9               “(3) DEFAULT.—If a consulting agency does  
10      not submit a final condition to a license by the date  
11      set under paragraph (1)—

12              “(A) the consulting agency shall not there-  
13      after have authority to recommend or establish  
14      a condition to the license; and

15              “(B) the Commission may, but shall not be  
16      required to, recommend or establish an appro-  
17      priate condition to the license that—

18              “(i) furthers the interest sought to be  
19      protected by the provision of law that au-  
20      thorizes the consulting agency to propose  
21      or establish a condition to the license; and

22              “(ii) conforms to the requirements of  
23      this Act.

1           “(4) EXTENSION.—The Commission may make  
2           1 extension, of not more than 30 days, of a deadline  
3           set under paragraph (1).

4           “(g) ANALYSIS BY THE COMMISSION.—

5           “(1) ECONOMIC ANALYSIS.—The Commission  
6           shall conduct an economic analysis of each condition  
7           submitted by a consulting agency to determine  
8           whether the condition would render the project un-  
9           economic.

10          “(2) CONSISTENCY WITH THIS SECTION.—In  
11          exercising authority under section 10(j)(2), the Com-  
12          mission shall consider whether any recommendation  
13          submitted under section 10(j)(1) is consistent with  
14          the purposes and requirements of subsections (b)  
15          and (c) of this section.

16          “(h) COMMISSION DETERMINATION ON EFFECT OF  
17          CONDITIONS.—When requested by a license applicant in  
18          a request for rehearing, the Commission shall make a writ-  
19          ten determination on whether a condition submitted by a  
20          consulting agency—

21                 “(1) is in the public interest, as measured by  
22                 the impact of the condition on the factors described  
23                 in subsection (b)(1);

24                 “(2) was subjected to scientific review in ac-  
25                 cordance with subsection (c);

1 “(3) relates to direct project impacts within the  
 2 reservation, in the case of a condition for the first  
 3 proviso of section 4(e);

4 “(4) is reasonable;

5 “(5) is supported by substantial evidence; and

6 “(6) is consistent with this Act and other terms  
 7 and conditions to be included in the license.”.

8 (b) CONFORMING AND TECHNICAL AMENDMENTS.—

9 (1) SECTION 4.—Section 4(e) of the Federal  
 10 Power Act (16 U.S.C. 797(e)) is amended—

11 (A) in the first proviso of the first sentence  
 12 by inserting after “conditions” the following: “,  
 13 determined in accordance with section 32,”; and

14 (B) in the last sentence, by striking the pe-  
 15 riod and inserting ‘(including consideration of  
 16 the impacts on greenhouse gas emissions)’.

17 (2) SECTION 18.—Section 18 of the Federal  
 18 Power Act (16 U.S.C. 811) is amended in the first  
 19 sentence by striking “prescribed by the Secretary of  
 20 Commerce” and inserting “prescribed, in accordance  
 21 with section 32, by the Secretary of the Interior or  
 22 the Secretary of Commerce, as appropriate.”

1 **SEC. 725. COORDINATED ENVIRONMENTAL REVIEW PROC-**  
2 **ESS.**

3 Part I of the Federal Power Act (16 U.S.C. 791a  
4 et seq.) (as amended by section 4) is amended by adding  
5 at the end the following:

6 **“SEC. 33. COORDINATED ENVIRONMENTAL REVIEW PROC-**  
7 **ESS.**

8 “(a) LEAD AGENCY RESPONSIBILITY.—The Commis-  
9 sion, as the lead agency for environmental reviews under  
10 the National Environmental Policy Act of 1969 (42 U.S.C.  
11 4321 et seq.) for projects licensed under this part, shall  
12 conduct a single consolidated environmental review—

13 “(1) for each such project; or

14 “(2) if appropriate, for multiple projects located  
15 in the same area.

16 “(b) CONSULTING AGENCIES.—In connection with  
17 the formulation of a condition in accordance with section  
18 32, a consulting agency shall not perform any environ-  
19 mental review in addition to any environmental review per-  
20 formed by the Commission in connection with the action  
21 to which the condition relates.

22 “(c) DEADLINES.—

23 “(1) IN GENERAL.—The Commission shall set a  
24 deadline for the submission of comments by Federal,  
25 State, and local government agencies in connection  
26 with the preparation of any environmental impact

1 statement or environmental assessment required for  
2 a project.

3 “(2) CONSIDERATIONS.—In setting a deadline  
4 under paragraph (1), the Commission shall take into  
5 consideration—

6 “(A) the need of the license applicant for  
7 a prompt and reasonable decision;

8 “(B) the resources of interested Federal,  
9 State, and local government agencies; and

10 “(C) applicable statutory requirements.”.

11 **SEC. 726. STUDY OF SMALL HYDROELECTRIC PROJECTS.**

12 (a) IN GENERAL.—Not later than 18 months after  
13 the date of enactment of this Act, the Federal Energy  
14 Regulatory Commission shall submit to the Committee on  
15 Energy and Natural Resources of the Senate and the  
16 Committee on Commerce of the House of Representatives  
17 a study of the feasibility of establishing a separate licens-  
18 ing procedure for small hydroelectric projects.

19 (b) DEFINITION OF SMALL HYDROELECTRIC  
20 PROJECT.—The Commission may by regulation define the  
21 term “small hydroelectric project” for the purpose of sub-  
22 section (a), except that the term shall include at a min-  
23 imum a hydroelectric project that has a generating capac-  
24 ity of 5 megawatts or less.

1 **TITLE VIII—ELECTRIC SUPPLY**  
 2 **RELIABILITY; PURPA REPEAL;**  
 3 **PUHCA REPEAL**

4 **Subtitle A—Electric Energy**  
 5 **Transmission Reliability**

6 **SEC. 801. SHORT TITLE.**

7 The subtitle may be cited as the “National Electric  
 8 Reliability Act”.

9 **SEC. 802. ELECTRIC ENERGY TRANSMISSION RELIABILITY.**

10 (a) ELECTRIC RELIABILITY ORGANIZATION AND  
 11 OVERSIGHT.—

12 (1) IN GENERAL.—The Federal Power Act is  
 13 amended by adding the following new section after  
 14 section 214:

15 **“SEC. 215. ELECTRIC RELIABILITY ORGANIZATION AND**  
 16 **OVERSIGHT.**

17 “(a) DEFINITIONS.—As used in this section:

18 “(1) AFFILIATED REGIONAL RELIABILITY ENTI-  
 19 TY.—The term ‘affiliated regional reliability entity’  
 20 means an entity delegated authority under the provi-  
 21 sions of subsection (h).

22 “(2) BULK POWER SYSTEM.—The term ‘bulk  
 23 power system’ means all facilities and control sys-  
 24 tems necessary for operating an interconnected  
 25 transmission grid (or any portion thereof), including

1 high-voltage transmission lines; substations; control  
2 centers; communications; data, and operations plan-  
3 ning facilities; and the output of generating units  
4 necessary to maintain transmission system reli-  
5 ability.

6 “(3) ELECTRIC RELIABILITY ORGANIZATION, OR  
7 ORGANIZATION.—The term ‘Electric Reliability Or-  
8 ganization’ or ‘Organization’ means the organization  
9 approved by the Commission under subsection  
10 (d)(4).

11 “(4) ENTITY RULE.—The term ‘entity rule’  
12 means a rule adopted by an affiliated regional reli-  
13 ability entity for a specific region and designed to  
14 implement or enforce one or more Organization  
15 Standards. An entity rule shall be approved by the  
16 organization and once approved, shall be treated as  
17 an Organization Standard.

18 “(5) INDUSTRY SECTOR.—The term ‘industry  
19 sector’ means a group of users of the bulk power  
20 system with substantially similar commercial inter-  
21 ests, as determined by the Board of the Electric Re-  
22 liability Organization.

23 “(6) INTERCONNECTION.—The term ‘inter-  
24 connection’ means a geographic area in which the  
25 operation of bulk power system components is syn-

1       chronized such that the failure of one or more such  
2       components may adversely affect the ability of the  
3       operators of other components within the inter-  
4       connection to maintain safe and reliable operation of  
5       the facilities within their control.

6               “(7) ORGANIZATION STANDARD.—The term  
7       ‘Organization Standard’ means a policy or standard  
8       duly adopted by the Electric Reliability Organization  
9       to provide for the reliable operation of a bulk power  
10      system.

11              “(8) PUBLIC INTEREST GROUP.—The term  
12      ‘public interest group’ means any nonprofit private  
13      or public organization that has an interest in the ac-  
14      tivities of the Electric Reliability Organization, in-  
15      cluding, but not limited to, ratepayer advocates, en-  
16      vironmental groups, and State and local government  
17      organizations that regulate market participants and  
18      promulgate government policy.

19              “(9) VARIANCE.—The term ‘variance’ means an  
20      exception or variance from the requirements of an  
21      Organization Standard (including a proposal for an  
22      Organization Standard where there is no Organiza-  
23      tion Standard) that is adopted by an affiliated re-  
24      gional reliability entity and applicable to all or a  
25      part of the region for which the affiliated regional



1 reliability entity is responsible. A variance shall be  
2 approved by the organization and once approved,  
3 shall be treated as an Organization Standard.

4 “(10) SYSTEM OPERATOR.—The term ‘system  
5 operator’ means any entity that operates or is re-  
6 sponsible for the operation of a bulk power system,  
7 including but not limited to a control area operator,  
8 an independent system operator, a regional trans-  
9 mission organization, a transmission company, a  
10 transmission system operator, or a regional security  
11 coordinator.

12 “(11) USER OF THE BULK POWER SYSTEM.—  
13 The term ‘user of the bulk power system’ means any  
14 entity that sells, purchases, or transmits electric  
15 power over a bulk power system, or that owns, oper-  
16 ates, or maintains facilities or control systems that  
17 are part of a bulk power system, or that is a system  
18 operator.

19 “(b) COMMISSION AUTHORITY.—

20 “(1) Within the United States, the Commission  
21 shall have jurisdiction over the Electric Reliability  
22 Organization, all affiliated regional reliability entities,  
23 all system operators, and all users of the bulk-power  
24 system, for purposes of approving and enforcing  
25 compliance with the requirements of this section.

1           “(2) The Commission may, by rule, define any  
2           other term used in this section, provided such defini-  
3           tion is consistent with the definitions in, and the  
4           purpose and intent of, this Act.

5           “(3) Not later than 90 days after the date of  
6           enactment of this section, the Commission shall  
7           issue a proposed rule for implementing the require-  
8           ments of this section. The Commission shall provide  
9           notice and opportunity for comment on the proposed  
10          rule. The Commission shall issue a final rule under  
11          this subsection within 180 days after the date of en-  
12          actment of this section.

13          “(4) Nothing in this section shall be construed  
14          as limiting or impairing any authority of the Com-  
15          mission under any other provision of this Act, in-  
16          cluding its exclusive authority to determine rates,  
17          terms, and conditions of transmission services sub-  
18          ject to its jurisdiction.

19          “(c) EXISTING RELIABILITY STANDARDS.—Fol-  
20          lowing enactment of this section, and prior to the approval  
21          of an organization under subsection (d), any entity, in-  
22          cluding the North American Electric Reliability Council  
23          and its member regional reliability councils, may file any  
24          reliability standard, guidance, or practice that such entity  
25          would propose to be made mandatory and enforceable. The

1 Commission, after allowing an opportunity to submit com-  
2 ments, may approve any such proposed mandatory stand-  
3 ard, guidance, or practice, or any amendment thereto, if  
4 it finds that the standard, guidance, or practice, or  
5 amendment is just, reasonable, not unduly discriminatory  
6 or preferential, and in the public interest. The Commission  
7 may, without further proceeding or finding, grant its ap-  
8 proval to any standard, guidance, or practice for which  
9 no substantive objections are filed in the comment period.  
10 Filed standards, guidances, or practices, including any  
11 amendments thereto, shall be mandatory and applicable  
12 according to their terms following approval by the Com-  
13 mission and shall remain in effect until—

14           “(1) withdrawn, disapproved, or superseded by  
15           an Organization Standard, issued or approved by the  
16           Electric Reliability Organization and made effective  
17           by the Commission under subsection (e); or

18           “(2) disapproved by the Commission if, upon  
19           complaint or upon its own motion and after notice  
20           and an opportunity for comment, the Commission  
21           finds the standard, guidance, or practice unjust, un-  
22           reasonable, unduly discriminatory, or preferential or  
23           not in the public interest.

1 Standards, guidances, or practices in effect pursuant to  
2 the provisions of this subsection shall be enforceable by  
3 the Commission.

4 “(d) ORGANIZATION APPROVAL.—

5 “(1) Following the issuance of a final Commis-  
6 sion rule under subsection (b)(3), an entity may sub-  
7 mit an application to the Commission for approval  
8 as the Electric Reliability Organization. The appli-  
9 cant shall specify in its application its governance  
10 and procedures, as well as its funding mechanism  
11 and initial funding requirements.

12 “(2) The Commission shall provide public no-  
13 tice of the application and afford interested parties  
14 an opportunity to comment.

15 “(3) The Commission shall approve the applica-  
16 tion if the Commission determines that the  
17 applicant—

18 “(A) has the ability to develop, implement,  
19 and enforce standards that provide for an ade-  
20 quate level of reliability of the bulk power sys-  
21 tem;

22 “(B) permits voluntary membership to any  
23 user of the bulk power system or public interest  
24 group;

1           “(C) assures fair representation of its  
2           members in the selection of its directors and  
3           fair management of its affairs, taking into ac-  
4           count the need for efficiency and effectiveness  
5           in decisionmaking and operations and the re-  
6           quirements for technical competency in the de-  
7           velopment of Organization Standards and the  
8           exercise of oversight of bulk power system reli-  
9           ability;

10           “(D) assures that no two industry sectors  
11           have the ability to control, and no one industry  
12           sector has the ability to veto, the Electric Reli-  
13           ability Organization’s discharge of its respon-  
14           sibilities (including actions by committees rec-  
15           ommending standards to the board or other  
16           board actions to implement and enforce stand-  
17           ards);

18           “(E) provides for governance by a board  
19           wholly comprised of independent directors;

20           “(F) provides a funding mechanism and  
21           requirements that are just, reasonable, and not  
22           unduly discriminatory or preferential and are in  
23           the public interest, and which satisfy the re-  
24           quirements of subsection (I);

1 “(G) establishes procedures for develop-  
2 ment of Organization Standards that provide  
3 reasonable notice and opportunity for public  
4 comment, taking into account the need for effi-  
5 ciency and effectiveness in decisionmaking and  
6 operations and the requirements for technical  
7 competency in the development of Organization  
8 Standards, and which standards development  
9 process has the following attributes:

10 “(i) openness,

11 “(ii) balance of interests, and

12 “(iii) due process, except that the pro-  
13 cedures may include alternative procedures  
14 for emergencies;

15 “(H) establishes fair and impartial proce-  
16 dures for implementation and enforcement of  
17 Organization Standards, either directly or  
18 through delegation to an affiliated regional reli-  
19 ability entity, including the imposition of pen-  
20 alties, limitations on activities, functions, or op-  
21 erations, or other appropriate sanctions;

22 “(I) establishes procedures for notice and  
23 opportunity for public observation of all meet-  
24 ings, except that the procedures for public ob-  
25 servation may include alternative procedures for

1 emergencies or for the discussion of information  
2 the directors determine should take place in  
3 closed session, such as litigation, personnel ac-  
4 tions, or commercially sensitive information;

5 “(J) provides for the consideration of rec-  
6 ommendations of States and State commissions;  
7 and

8 “(K) addresses other matters that the  
9 Commission may deem necessary or appropriate  
10 to ensure that the procedures, governance, and  
11 funding of the Electric Reliability Organization  
12 are just, reasonable, not unduly discriminatory  
13 or preferential, and are in the public interest.

14 “(4) The Commission shall approve only one  
15 Electric Reliability Organization. If the Commission  
16 receives two or more timely applications that satisfy  
17 the requirements of this subsection, the Commission  
18 shall approve only the application it concludes will  
19 best implement the provisions of this section.

20 “(e) ESTABLISHMENT OF AND MODIFICATIONS TO  
21 ORGANIZATION STANDARDS.—

22 “(1) The Electric Reliability Organization shall  
23 file with the Commission any new or modified orga-  
24 nization standards, including any variances or entity

1 rules, and the Commission shall follow the proce-  
2 dures under paragraph (2) for review of that filing.

3 “(2) Submissions under paragraph (1) shall in-  
4 clude:

5 “(A) a concise statement of the purpose of  
6 the proposal, and

7 “(B) a record of any proceedings con-  
8 ducted with respect to such proposal.

9 The Commission shall provide notice of the filing of  
10 such proposal and afford interested entities 30 days  
11 to submit comments. The Commission, after taking  
12 into consideration any submitted comments, shall  
13 approve or disapprove such proposal not later than  
14 60 days after the deadline for the submission of  
15 comments, except that the Commission may extend  
16 the 60 day period for an additional 90 days for good  
17 cause, and except further that if the Commission  
18 does not act to approve or disapprove a proposal  
19 within the foregoing periods, the proposal shall go  
20 into effect subject to its terms, without prejudice to  
21 the authority of the Commission thereafter to modify  
22 the proposal in accordance with the standards and  
23 requirements of this section. Proposals approved by  
24 the Commission shall take effect according to their  
25 terms but not earlier than 30 days after the effective



1 date of the Commission's order, except as provided  
2 in paragraph (3) of this subsection.

3 “(3)(A) In the exercise of its review responsibil-  
4 ities under this subsection, the Commission shall  
5 give due weight to the technical expertise of the  
6 Electric Reliability Organization with respect to the  
7 content of a new or modified organization standard,  
8 but shall not defer to the organization with respect  
9 to the effect of the standard on competition. The  
10 Commission shall approve a proposed new or modi-  
11 fied organization standard if it determines the pro-  
12 posal to be just, reasonable, not unduly discrimina-  
13 tory or preferential, and in the public interest.

14 “(B) An existing or proposed organization  
15 standard which is disapproved in whole or in part by  
16 the Commission shall be remanded to the Electric  
17 Reliability Organization for further consideration.

18 “(C) The Commission, on its own motion or  
19 upon complaint, may direct the Electric Reliability  
20 Organization to develop an organization standard,  
21 including modification to an existing organization  
22 standard, addressing a specific matter by a date cer-  
23 tain if the Commission considers such new or modi-  
24 fied organization standard necessary or appropriate  
25 to further the purposes of this section. The Electric

1 Reliability Organization shall file any such new or  
2 modified organization standard in accordance with  
3 this subsection.

4 “(D) An affiliated regional reliability entity  
5 may propose a variance or entity rule to the Electric  
6 Reliability Organization. The affiliated regional reli-  
7 ability entity may request that the Electric Reli-  
8 ability Organization expedite consideration of the  
9 proposal, and may file a notice of such request with  
10 the Commission, if expedited consideration is nec-  
11 essary to provide for bulk-power system reliability. If  
12 the Electric Reliability Organization fails to adopt  
13 the variance or entity rule, either in whole or in  
14 part, the affiliated regional reliability entity may re-  
15 quest that the Commission review such action. If the  
16 Commission determines, after its review of such a  
17 request, that the action of the Electric Reliability  
18 Organization did not conform to the applicable  
19 standards and procedures approved by the Commis-  
20 sion, or if the Commission determines that the vari-  
21 ance or entity rule is just, reasonable, not unduly  
22 discriminatory or preferential, and in the public in-  
23 terest, and that the Electric Reliability Organization  
24 has unreasonably rejected the proposed variance or  
25 entity rule, then the Commission may remand the

1 proposed variance or entity rule for further consider-  
2 ation by the Electric Reliability Organization or may  
3 direct the Electric Reliability Organization or the af-  
4 filiated regional reliability entity to develop a vari-  
5 ance or entity rule consistent with that requested by  
6 the affiliated regional reliability entity. Any such  
7 variance or entity rule proposed by an affiliated re-  
8 gional reliability entity shall be submitted to the  
9 Electric Reliability Organization for review and fil-  
10 ing with the Commission in accordance with the pro-  
11 cedures specified in this subsection.

12 “(E) Notwithstanding any other provision of  
13 this subsection, a proposed organization standard or  
14 amendment shall take effect according to its terms  
15 if the Electric Reliability Organization determines  
16 that an emergency exists requiring that such pro-  
17 posed organization standard or amendment take ef-  
18 fect without notice or comment. The Electric Reli-  
19 ability Organization shall notify the Commission im-  
20 mediately following such determination and shall file  
21 such emergency organization standard or amend-  
22 ment with the Commission not later than 5 days fol-  
23 lowing such determination and shall include in such  
24 filing an explanation of the need for such emergency  
25 standard. Subsequently, the Commission shall pro-

1       vide notice of the organization standard or amend-  
2       ment for comment, and shall follow the procedures  
3       set out in paragraphs (2) and (3) for review of the  
4       new or modified organization standard. Any such or-  
5       ganization standard that has gone into effect shall  
6       remain in effect unless and until suspended or dis-  
7       approved by the Commission. If the Commission de-  
8       termines at any time that the emergency organiza-  
9       tion standard or amendment is not necessary, the  
10      Commission may suspend such emergency organiza-  
11      tion standard or amendment.

12           “(4) All users of the bulk power system shall  
13      comply with any organization standard that takes ef-  
14      fect under this section.

15      “(f) COORDINATION WITH CANADA AND MEXICO.—  
16      The Electric Reliability Organization shall take all appro-  
17      priate steps to gain recognition in Canada and Mexico.  
18      The United States shall use its best efforts to enter into  
19      international agreements with the appropriate govern-  
20      ments of Canada and Mexico to provide for effective com-  
21      pliance with organization standards and to provide for the  
22      effectiveness of the Electric Reliability Organization in  
23      carrying out its mission and responsibilities. All actions  
24      taken by the Electric Reliability Organization, any affili-  
25      ated regional reliability entity, and the Commission shall

1 be consistent with the provisions of such international  
2 agreements.

3 “(g) CHANGES IN PROCEDURES, GOVERNANCE, OR  
4 FUNDING.—

5 “(1) The Electric Reliability Organization shall  
6 file with the Commission any proposed change in its  
7 procedures, governance, or funding, or any changes  
8 in the affiliated regional reliability entity’s proce-  
9 dures, governance, or funding relating to delegated  
10 functions, and shall include with the filing an expla-  
11 nation of the basis and purpose for the change.

12 “(2) A proposed procedural change may take  
13 effect 90 days after filing with the Commission if  
14 the change constitutes a statement of policy, prac-  
15 tice, or interpretation with respect to the meaning or  
16 enforcement of an existing procedure. Otherwise, a  
17 proposed procedural change shall take effect only  
18 upon a finding by the Commission, after notice and  
19 opportunity for comments, that the change is just,  
20 reasonable, not unduly discriminatory or pref-  
21 erential, is in the public interest, and satisfies the  
22 requirements of subsection (d)(4).

23 “(3) A change in governance or funding shall  
24 not take effect unless the Commission finds that the  
25 change is just, reasonable, not unduly discriminatory

1 or preferential, in the public interest, and satisfies  
2 the requirements of subsection (d)(4).

3 “(4) The Commission, upon complaint or upon  
4 its own motion, may require the Electric Reliability  
5 Organization to amend the procedures, governance,  
6 or funding if the Commission determines that the  
7 amendment is necessary to meet the requirements of  
8 this section. The Electric Reliability Organization  
9 shall file the amendment in accordance with para-  
10 graph (1) of this subsection.

11 “(h) DELEGATIONS OF AUTHORITY.—

12 “(1) The Electric Reliability Organization shall,  
13 upon request by an entity, enter into an agreement  
14 with such entity for the delegation of authority to  
15 implement and enforce compliance with organization  
16 standards in a specified geographic area if the orga-  
17 nization finds that the entity requesting the delega-  
18 tion satisfies the requirements of subparagraphs (A),  
19 (B), (C), (D), (F), (J), and (K) of subsection (d)(4),  
20 and if the delegation promotes the effective and effi-  
21 cient implementation and administration of bulk  
22 power system reliability. The Electric Reliability Or-  
23 ganization may enter into an agreement to delegate  
24 to the entity any other authority, except that the  
25 Electric Reliability Organization shall reserve the

1 right to set and approve standards for bulk power  
2 system reliability.

3 “(2) The Electric Reliability Organization shall  
4 file with the Commission any agreement entered into  
5 under this subsection and any information the Com-  
6 mission requires with respect to the affiliated re-  
7 gional reliability entity to which authority is to be  
8 delegated. The Commission shall approve the agree-  
9 ment, following public notice and an opportunity for  
10 comment, if it finds that the agreement meets the  
11 requirements of paragraph (1), and is just, reason-  
12 able, not unduly discriminatory or preferential, and  
13 is in the public interest. A proposed delegation  
14 agreement with an affiliated regional reliability enti-  
15 ty organized on an interconnection-wide basis shall  
16 be rebuttably presumed by the Commission to pro-  
17 mote the effective and efficient implementation and  
18 administration of bulk power system reliability. No  
19 delegation by the Electric Reliability Organization  
20 shall be valid unless approved by the Commission.

21 “(3)(A) A delegation agreement entered into  
22 under this subsection shall specify the procedures for  
23 an affiliated regional reliability entity to propose en-  
24 tity rules or variances for review by the Electric Re-  
25 liability Organization. With respect to any such pro-

1        proposal that would apply on an interconnection-wide  
2        basis, the Electric Reliability Organization shall pre-  
3        sume such proposal valid if made by an interconnec-  
4        tion-wide affiliated regional reliability entity unless  
5        the Electric Reliability Organization makes a written  
6        finding that the proposal—

7                “(i) was not developed in a fair and open  
8                process that provided an opportunity for all in-  
9                terested parties to participate;

10               “(ii) has a significant adverse impact on  
11               reliability or commerce in other interconnec-  
12               tions;

13               “(iii) fails to provide a level of reliability of  
14               the bulk-power system within the interconnec-  
15               tion such that it would constitute a serious and  
16               substantial threat to public health, safety, wel-  
17               fare, or national security; or

18               “(iv) creates a serious and substantial bur-  
19               den on competitive markets within the inter-  
20               connection that is not necessary for reliability.

21               “(B) With respect to any such proposal that  
22        would apply only to part of an interconnection, the  
23        Electric Reliability Organization shall find such pro-  
24        posal valid if the affiliated regional reliability entity



1 or entities making the proposal demonstrate that  
2 it—

3 “(i) was developed in a fair and open proc-  
4 ess that provided an opportunity for all inter-  
5 ested parties to participate;

6 “(ii) would not have an adverse impact on  
7 commerce that is not necessary for reliability;

8 “(iii) provides a level of bulk power system  
9 reliability adequate to protect public health,  
10 safety, welfare, and national security, and  
11 would not have a significant adverse impact on  
12 reliability; and

13 “(iv) in the case of a variance, is based on  
14 legitimate differences between regions or be-  
15 tween subregions within the affiliated regional  
16 reliability entity’s geographic area.

17 The Electric Reliability Organization shall approve  
18 or disapprove such proposal within 120 days, or the  
19 proposal shall be deemed approved. Following ap-  
20 proval of any such proposal under this paragraph,  
21 the Electric Reliability Organization shall seek Com-  
22 mission approval pursuant to the procedures pre-  
23 scribed under subsection (e)(3). Affiliated regional  
24 reliability entities may not make requests for ap-

1       proval directly to the Commission except pursuant to  
2       subsection (e)(3)(D).

3           “(4) If an affiliated regional reliability entity  
4       requests, consistent with paragraph (1) of this sub-  
5       section, that the Electric Reliability Organization  
6       delegate authority to it, but is unable within 180  
7       days to reach agreement with the Electric Reliability  
8       Organization with respect to such requested delega-  
9       tion, such entity may seek relief from the Commis-  
10      sion. If, following notice and opportunity for com-  
11      ment, the Commission determines that a delegation  
12      to the entity would meet the requirements of para-  
13      graph (1) above, and that the delegation would be  
14      just, reasonable, not unduly discriminatory or pref-  
15      erential, and in the public interest, and that the  
16      Electric Reliability Organization has unreasonably  
17      withheld such delegation, the Commission may, by  
18      order, direct the Electric Reliability Organization to  
19      make such delegation.

20           “(5)(A) The Commission may, upon its own  
21      motion or upon complaint, and with notice to the ap-  
22      propriate affiliated regional reliability entity or enti-  
23      ties, direct the Electric Reliability Organization to  
24      propose a modification to an agreement entered into

1       under this subsection if the Commission determines  
2       that—

3               “(i) the affiliated regional reliability entity  
4               no longer has the capacity to carry out effec-  
5               tively or efficiently its implementation or en-  
6               forcement responsibilities under that agree-  
7               ment, has failed to meet its obligations under  
8               that agreement, or has violated any provision of  
9               this section;

10              “(ii) the rules, practices, or procedures of  
11              the affiliated regional reliability entity no longer  
12              provide for fair and impartial discharge of its  
13              implementation or enforcement responsibilities  
14              under the agreement;

15              “(iii) the geographic boundary of a trans-  
16              mission entity approved by the Commission is  
17              not wholly within the boundary of an affiliated  
18              regional reliability entity and such difference is  
19              inconsistent with the effective and efficient im-  
20              plementation and administration of bulk power  
21              system reliability; or

22              “(iv) the agreement is inconsistent with  
23              another delegation agreement as a result of ac-  
24              tions taken under paragraph (4) of this sub-  
25              section.

1           “(B) Following an order of the Commission  
2           issued under subparagraph (A), the Commission  
3           may suspend the affected agreement if the Electric  
4           Reliability Organization or the affiliated regional re-  
5           liability entity does not propose an appropriate and  
6           timely modification. If the agreement is suspended,  
7           the Electric Reliability Organization shall assume  
8           the previously delegated responsibilities. The Com-  
9           mission shall allow the Electric Reliability Organiza-  
10          tion and the affiliated regional reliability entity an  
11          opportunity to appeal the suspension.

12          “(i) ORGANIZATION MEMBERSHIP.—Every system  
13          operator shall be required to be a member of the electric  
14          Reliability Organization and shall be required also to be  
15          a member of any affiliated regional reliability entity oper-  
16          ating under an agreement effective pursuant to subsection  
17          (h) applicable to the region in which the system operator  
18          operates or is responsible for the operation of bulkpower  
19          system facilities.

20          “(j) INJUNCTIONS AND DISCIPLINARY ACTION.—

21                 “(1) Consistent with the range of actions ap-  
22                 proved by the Commission under subsection  
23                 (d)(4)(H), the Electric Reliability Organization may  
24                 impose a penalty, limitation of activities, functions,  
25                 operations, or other disciplinary action the Electric

1 Reliability Organization finds appropriate against a  
2 user of the bulk power system if the Electric Reli-  
3 ability Organization, after notice and an opportunity  
4 for interested parties to be heard, issues a finding  
5 in writing that the user of the bulk-power system  
6 has violated an organization standard. The Electric  
7 Reliability Organization shall immediately notify the  
8 Commission of any disciplinary action imposed with  
9 respect to an act or failure to act of a user of the  
10 bulk-power system that affected or threatened to af-  
11 fect bulk power system facilities located in the  
12 United States, and the sanctioned party shall have  
13 the right to seek modification or rescission of such  
14 disciplinary action by the Commission. If the organi-  
15 zation finds it necessary to prevent a serious threat  
16 to reliability, the organization may seek injunctive  
17 relief in a Federal court in the district in which the  
18 affected facilities are located.

19 “(2) A disciplinary action taken under para-  
20 graph (1) may take effect not earlier than the 30th  
21 day after the Electric Reliability Organization files  
22 with the Commission its written finding and record  
23 of proceedings before the Electric Reliability Organi-  
24 zation and the Commission posts its written finding,  
25 unless the Commission, on its own motion or upon

1 application by the user of the bulk power system  
2 which is the subject of the action, suspends the ac-  
3 tion. The action shall remain in effect or remain sus-  
4 pended unless and until the Commission, after notice  
5 and opportunity for hearing, affirms, sets aside,  
6 modifies, or reinstates the action, but the Commis-  
7 sion shall conduct such hearing under procedures es-  
8 tablished to ensure expedited consideration of the  
9 action taken.

10 “(3) The Commission, on its own motion or on  
11 complaint, may order compliance with an organiza-  
12 tion standard and may impose a penalty, limitation  
13 of activities, functions, or operations, or take such  
14 other disciplinary action as the Commission finds  
15 appropriate, against a user of the bulk power system  
16 with respect to actions affecting or threatening to  
17 affect bulk power system facilities located in the  
18 United States if the Commission finds, after notice  
19 and opportunity for a hearing, that the user of the  
20 bulk power system has violated or threatens to vio-  
21 late an organization standard.

22 “(4) The Commission may take such action as  
23 is necessary against the Electric Reliability Organi-  
24 zation or an affiliated regional reliability entity to  
25 assure compliance with an organization standard, or

1 any Commission order affecting the Electric Reli-  
2 ability Organization or an affiliated regional reli-  
3 ability entity.

4 “(k) RELIABILITY REPORTS.—The Electric Reli-  
5 ability Organization shall conduct periodic assessments of  
6 the reliability and adequacy of the interconnected bulk  
7 power system in North America and shall report annually  
8 to the Secretary of Energy and the Commission its find-  
9 ings and recommendations for monitoring or improving  
10 system reliability and adequacy.

11 “(l) ASSESSMENT AND RECOVERY OF CERTAIN  
12 COSTS.—The reasonable costs of the Electric Reliability  
13 Organization, and the reasonable costs of each affiliated  
14 regional reliability entity that are related to implementa-  
15 tion and enforcement of organization standards or other  
16 requirements contained in a delegation agreement ap-  
17 proved under subsection (h), shall be assessed by the Elec-  
18 tric Reliability Organization and each affiliated regional  
19 reliability entity, respectively, taking into account the rela-  
20 tionship of costs to reach region and based on an alloca-  
21 tion that reflects an equitable sharing of the costs among  
22 all end users. The Commission shall provide by rule for  
23 the review of such costs and allocations, pursuant to the  
24 standards in this subsection and subsection (d)(4)(F).

25 “(m) SAVINGS PROVISIONS.—

1           “(1) The Electric Reliability Organization shall  
2           have authority to develop, implement and enforce  
3           compliance with standards for the reliable operation  
4           of only the bulk power system.

5           “(2) This section does not provide the Electric  
6           Reliability Organization or the Commission with the  
7           authority to set and enforce compliance with stand-  
8           ards for adequacy or safety of electric facilities or  
9           services.

10          “(3) Nothing in this section shall be construed  
11          to preempt any authority of any State to take action  
12          to ensure the safety, adequacy, and reliability of  
13          electric service within that State, as long as such ac-  
14          tion is not inconsistent with any Organization  
15          Standard.

16          “(4) Within 90 days of the application of the  
17          Electric Reliability Organization or other affected  
18          party, the Commission shall issue a final order de-  
19          termining whether a state action is inconsistent with  
20          an Organization Standard, after notice and oppor-  
21          tunity for comment, taking into consideration any  
22          recommendations of the Electric Reliability Organi-  
23          zation.

24          “(5) The Commission, after consultation with  
25          the Electric Reliability Organization, may stay the



1 effectiveness of any state action, pending the Com-  
2 mission's issuance of a final order.

3 “(n) REGIONAL ADVISORY BODIES.—The Commis-  
4 sion shall establish a regional advisory body on the petition  
5 of at least two-thirds of the States within a region that  
6 have more than one-half of their electric load served within  
7 the region. A regional advisory body shall be composed of  
8 one member from each participating State in the region,  
9 appointed by the Governor of each State, and may include  
10 representatives of agencies, States, and provinces outside  
11 the United States, upon execution of an international  
12 agreement or agreements described in subsection (f). A  
13 regional advisory body may provide advice to the electric  
14 reliability organization, an affiliated regional reliability en-  
15 tity, or the Commission regarding the governance of an  
16 existing or proposed affiliated regional reliability entity  
17 within the same region, whether an organization standard,  
18 entity rule, or variance proposed to apply within the region  
19 is just, reasonable, not unduly discriminatory or pref-  
20 erential, and in the public interest, and whether fees pro-  
21 posed to be assessed within the region are just, reasonable,  
22 not unduly discriminatory or preferential, in the public in-  
23 terest, and consistent with the requirements of subsection  
24 (l). The Commission may give deference to the advice of

1 any such regional advisory body if that body is organized  
2 on an interconnection-wide basis.

3 “(o) COORDINATION WITH REGIONAL TRANSMISSION  
4 ORGANIZATIONS.—

5 “(1) Each regional transmission organization  
6 authorized by the Commission shall be responsible  
7 for maintaining the short-term reliability of the bulk  
8 power system that it operates, consistent with orga-  
9 nization standards.

10 “(2) Except as provided in paragraph (5), in  
11 connection with a proceeding under subsection (e) to  
12 consider a proposed organization standard, each re-  
13 gional transmission organization authorized by the  
14 Commission shall report to the Commission, and no-  
15 tify the electric reliability organization and any ap-  
16 plicable affiliated regional reliability entity, regard-  
17 ing whether the proposed organization standard  
18 hinders or conflicts with that regional transmission  
19 organization’s ability to fulfill the requirements of  
20 any rule, regulation, order, tariff, rate schedule, or  
21 agreement accepted, approved or ordered by the  
22 Commission. Where such hindrance or conflict is  
23 identified, the Commission shall address such hin-  
24 drance or conflict, and the need for any changes to  
25 such rule, order, tariff, rate schedule, or agreement

1       accepted, approved or ordered by the Commission in  
2       its order under subsection (e) regarding the pro-  
3       posed standard. Where such hindrance or conflict is  
4       identified between a proposed organization standard  
5       and a provision of any rule, order, tariff, rate sched-  
6       ule or agreement accepted, approved or ordered by  
7       the Commission applicable to a regional trans-  
8       mission organization, nothing in this section shall re-  
9       quire a change in the regional transmission organi-  
10      zation's obligation to comply with such provision un-  
11      less the Commission orders such a change and the  
12      change becomes effective. If the Commission finds  
13      that the tariff, rate schedule, or agreement needs to  
14      be changed, the regional transmission organization  
15      must expeditiously make a section 205 filing to re-  
16      flect the change. If the Commission finds that the  
17      proposed organization standard needs to be changed,  
18      it shall remand the proposed organization standard  
19      to the electric reliability organization under sub-  
20      section (e)(3)(B).

21           “(3) Except as provided in paragraph (5), to  
22      the extent hindrances and conflicts arise after ap-  
23      proval of a reliability standard under subsection (c)  
24      or organization standard under subsection (e), each  
25      regional transmission organization authorized by the

1 Commission shall report to the Commission, and no-  
2 tify the electric reliability organization and any ap-  
3 plicable affiliated regional reliability entity, regard-  
4 ing any reliability standard approved under sub-  
5 section (c) or organization standard that hinders or  
6 conflicts with that regional transmission organiza-  
7 tion's ability to fulfill the requirements of any rule,  
8 regulation, order tariff, rate schedule, or agreement  
9 accepted, approved or ordered by the Commission.  
10 The Commission shall seek to assure that such hin-  
11 drances or conflicts are resolved promptly. Where a  
12 hindrance or conflict is identified between a reli-  
13 ability standard or an organization standard and a  
14 provision of any rule, order, tariff, rate schedule or  
15 agreement accepted, approved or ordered by the  
16 Commission applicable to a regional reliability orga-  
17 nization, nothing in this section shall require a  
18 change in the regional transmission organization's  
19 obligation to comply with such provision unless the  
20 Commission orders such a change and the change  
21 becomes effective. If the Commission finds that the  
22 tariff, rate schedule or agreement needs to be  
23 changed, the regional transmission organization  
24 must expeditiously make a section 205 filing to re-  
25 flect the change. If the Commission finds that an or-

1 organization standard needs to be changed, it shall  
2 order the electric reliability organization to develop  
3 and submit a modified organization standard under  
4 subsection (e)(3)(C).

5 “(4) An affiliated regional reliability entity and  
6 a regional transmission organization operating in the  
7 same geographic area shall cooperate to avoid con-  
8 flicts between implementation and enforcement of  
9 organization standards by the affiliated regional reli-  
10 ability entity and implementation and enforcement  
11 by the regional transmission organization of tariffs,  
12 rate schedules, and agreements accepted, approved  
13 or ordered by the Commission. In areas without an  
14 affiliated regional reliability entity, the electric reli-  
15 ability organization shall act as the affiliated re-  
16 gional reliability entity for purposes of this para-  
17 graph.

18 “(5) Until 6 months after approval of applica-  
19 ble subsection (h)(3) procedures, any reliability  
20 standard, guidance, or practice contained in Com-  
21 mission-accepted tariffs, rate schedules, or agree-  
22 ments in effect of any Commission-authorized inde-  
23 pendent system operator or regional transmission or-  
24 ganization shall continue to apply unless the Com-  
25 mission accepts an amendment thereto by the appli-

1 cable operator or organization, or upon complaint  
 2 finds them to be unjust, unreasonable, unduly dis-  
 3 criminatory or preferential, or not in the public in-  
 4 terest. At the conclusion of such transition period,  
 5 any such reliability standard, guidance, practice, or  
 6 amendment thereto that the Commission determines  
 7 is inconsistent with organization standards shall no  
 8 longer apply.”.

9 (2) ENFORCEMENT.—Sections 316 and 316A of  
 10 the Federal Power Act are each amended by striking  
 11 “or 214” each place it appears and inserting “214,  
 12 or 215”.

13 (b) APPLICATION OF ANTITRUST LAWS.—Notwith-  
 14 standing any other provision of law, each of the following  
 15 activities are rebuttably presumed to be in compliance with  
 16 the antitrust laws of the United States:

17 (1) Activities undertaken by the Electric Reli-  
 18 ability Organization under section 215 of the Fed-  
 19 eral Power Act or affiliated regional reliability entity  
 20 operating under an agreement in effect under sec-  
 21 tion 215(h) of such Act.

22 (2) Activities of a member of the Electric Reli-  
 23 ability Organization or affiliated regional reliability  
 24 entity in pursuit of organization objectives under

1 section 215 of the Federal Power Act undertaken in  
 2 good faith under the rules of the organization.  
 3 Primary jurisdiction, and immunities and other affirma-  
 4 tive defenses, shall be available to the extent otherwise ap-  
 5 plicable.

6 **Subtitle B—PURPA Mandatory**  
 7 **Purchase and Sale Requirements**

8 **SEC. 803. PURPA MANDATORY PURCHASE AND SALE RE-**  
 9 **QUIREMENTS.**

10 Section 210 of the Public Utility Regulatory Policies  
 11 Act of 1978 is amended by adding the following:

12 “(m) TERMINATION OF MANDATORY PURCHASE AND  
 13 SALE REQUIREMENTS.—

14 “(1) IN GENERAL.—After the date of the enact-  
 15 ment of this subsection, no electric utility shall be  
 16 required to enter into a new contract or obligation  
 17 to purchase electric energy from, or sell electric en-  
 18 ergy under this section.

19 “(2) NO EFFECT ON EXISTING RIGHTS AND  
 20 REMEDIES.—Nothing in this subsection affects the  
 21 rights or remedies of any party with respect to the  
 22 purchase or sale of electric energy or capacity from  
 23 or to a facility under this section under any contract  
 24 or obligation to purchase or to sell electric energy or

1 capacity on the date of enactment of this subsection,  
2 including—

3 “(A) the right to recover costs of pur-  
4 chasing such electric energy or capacity; and

5 “(B) in States without competition for re-  
6 tail electric supply, the obligation of a utility to  
7 provide, at just and reasonable rates for con-  
8 sumption by a qualifying small power produc-  
9 tion facility or a qualifying cogeneration facility,  
10 backup, standby, and maintenance power.

11 “(3) RECOVERY OF COSTS.—

12 “(A) REGULATION.—To ensure recovery,  
13 by an electric utility that purchases electricity  
14 or capacity from a qualifying facility pursuant  
15 to any legally enforceable obligation entered  
16 into or imposed under this section before the  
17 date of enactment of this subsection, of all costs  
18 associated with the purchases, the Commission  
19 shall issue and enforce such regulations as are  
20 required to ensure that no electric utility shall  
21 be required directly or indirectly to absorb the  
22 costs associated with such purchases.

23 “(B) ENFORCEMENT.—A regulation under  
24 subparagraph (A) shall be enforceable in ac-  
25 cordance with the provisions of law applicable



1 to enforcement of regulations under the Federal  
2 Power Act.”.

3 **Subtitle C—Repeal of the Public**  
4 **Utility Holding Company Act of**  
5 **1935 and Enactment of the Pub-**  
6 **lic Utility Holding Company Act**  
7 **of 2001**

8 **SEC. 810. SHORT TITLE.**

9 This subtitle may be cited as the “Public Utility  
10 Holding Company Act of 2001”.

11 **SEC. 811. FINDINGS AND PURPOSES.**

12 (a) FINDINGS.—The Congress finds that—

13 (1) the Public Utility Holding Company Act of  
14 1935 was intended to facilitate the work of Federal  
15 and State regulators by placing certain constraints  
16 on the activities of holding company systems;

17 (2) developments since 1935, including changes  
18 in other regulation and in the electric and gas indus-  
19 tries, have called into question the continued rel-  
20 evance of the model of regulation established by that  
21 Act;

22 (3) there is a continuing need for State regula-  
23 tion in order to ensure the rate protection of utility  
24 customers; and

1 (4) limited Federal regulation is necessary to  
2 supplement the work of State commissions for the  
3 continued rate protection of electric and gas utility  
4 customers.

5 (b) PURPOSES.—The purposes of this title are—

6 (1) to eliminate unnecessary regulation, yet  
7 continue to provide for consumer protection by facili-  
8 tating existing rate regulatory authority through im-  
9 proved Federal and State commission access to  
10 books and records of all companies in a holding com-  
11 pany system, to the extent that such information is  
12 relevant to rates paid by utility customers, while af-  
13 fording companies the flexibility required to compete  
14 in the energy markets; and

15 (2) to address protection of electric and gas  
16 utility customers by providing for Federal and State  
17 access to books and records of all companies in a  
18 holding company system that are relevant to utility  
19 rates.

20 **SEC. 812. DEFINITIONS.**

21 For the purposes of this subtitle—

22 (1) the term “affiliate” of a company means  
23 any company 5 percent or more of the outstanding  
24 voting securities of which are owned, controlled, or

1 held with power to vote, directly or indirectly, by  
2 such company;

3 (2) the term “associate company” of a company  
4 means any company in the same holding company  
5 system with such company;

6 (3) the term “Commission” means the Federal  
7 Energy Regulatory Commission;

8 (4) the term “company” means a corporation,  
9 partnership, association, joint stock company, busi-  
10 ness trust, or any organized group of persons,  
11 whether incorporated or not, or a receiver, trustee,  
12 or other liquidating agent of any of the foregoing;

13 (5) the term “electric utility company” means  
14 any company that owns or operates facilities used  
15 for the generation, transmission, or distribution of  
16 electric energy for sale;

17 (6) the terms “exempt wholesale generator”  
18 and “foreign utility company” have the same mean-  
19 ings as in sections 32 and 33, respectively, of the  
20 Public Utility Holding Company Act of 1935, as  
21 those sections existed on the day before the effective  
22 date of this Act;

23 (7) the term “gas utility company” means any  
24 company that owns or operates facilities used for  
25 distribution at retail (other than the distribution

1       only in enclosed portable containers or distribution  
2       to tenants or employees of the company operating  
3       such facilities for their own use and not for resale)  
4       of natural or manufactured gas for heat, light, or  
5       power;

6           (8) the term “holding company” means—

7               (A) any company that directly or indirectly  
8               owns, controls, or holds with power to vote, 10  
9               percent or more of the outstanding voting secu-  
10              rities of a public utility company or of a holding  
11              company of any public utility company; and

12              (B) any person, determined by the Com-  
13              mission, after notice and opportunity for hear-  
14              ing, to exercise directly or indirectly (either  
15              alone or pursuant to an arrangement or under-  
16              standing with one or more persons) such a con-  
17              trolling influence over the management or poli-  
18              cies of any public utility company or holding  
19              company as to make it necessary or appropriate  
20              for the rate protection of utility customers with  
21              respect to rates that such person be subject to  
22              the obligations, duties, and liabilities imposed  
23              by this Title upon holding companies;

1           (9) the term “holding company system” means  
2           a holding company, together with its subsidiary com-  
3           panies;

4           (10) the term “jurisdiction rates” means rates  
5           established by the Commission for the transmission  
6           of electric energy in interstate commerce, the sale of  
7           electric energy at wholesale in interstate commerce,  
8           the transportation of natural gas in interstate com-  
9           merce, and the sale in interstate commerce of nat-  
10          ural gas for resale for ultimate public consumption  
11          for domestic, commercial, industrial, or any other  
12          use;

13          (11) the term “natural gas company” means a  
14          person engaged in the transportation of natural gas  
15          in interstate commerce or the sale of such gas in  
16          interstate commerce for resale;

17          (12) the term “person” means an individual or  
18          company;

19          (13) the term “public utility” means any person  
20          who owns or operates facilities used for transmission  
21          of electric energy in interstate commerce or sales of  
22          electric energy at wholesale in interstate commerce;

23          (14) the term “public utility company” means  
24          an electric utility company or a gas utility company;

1           (15) the term “State commission” means any  
2           commission, board, agency, or officer, by whatever  
3           name designated, of a State, municipality, or other  
4           political subdivision of a State that, under the laws  
5           of such State, has jurisdiction to regulate public util-  
6           ity companies;

7           (16) the term “subsidiary company” of a hold-  
8           ing company means—

9                   (A) any company, 10 percent or more of  
10                  the outstanding voting securities of which are  
11                  directly or indirectly owned, controlled, or held  
12                  with power to vote, by such holding company;  
13                  and

14                   (B) any person, the management or poli-  
15                  cies of which the Commission, after notice and  
16                  opportunity for hearing, determines to be sub-  
17                  ject to a controlling influence, directly or indi-  
18                  rectly, by such holding company (either alone or  
19                  pursuant to an arrangement or understanding  
20                  with one or more other persons) so as to make  
21                  it necessary for the rate protection of utility  
22                  customers with respect to rates that such per-  
23                  son be subject to the obligations, duties, and li-  
24                  abilities imposed by this Title upon subsidiary  
25                  companies of holding companies; and

1           (17) the term “voting security” means any se-  
2           curity presently entitling the owner or holder thereof  
3           to vote in the direction or management of the affairs  
4           of a company.

5   **SEC. 813. REPEAL OF THE PUBLIC UTILITY HOLDING COM-**  
6                           **PANY ACT OF 1935.**

7           The Public Utility Holding Company Act of 1935 (15  
8   U.S.C. 79a et seq.) is repealed, effective one year after  
9   the date of enactment of this subtitle.

10   **SEC. 814. FEDERAL ACCESS TO BOOKS AND RECORDS.**

11           (a) IN GENERAL.—Each holding company and each  
12   associate company thereof shall maintain, and shall make  
13   available to the Commission, such books, accounts, memo-  
14   randa, and other records as the Commission deems to be  
15   relevant to costs incurred by a public utility or natural  
16   gas company that is an associate company of such holding  
17   company and necessary or appropriate for the protection  
18   of utility customers with respect to jurisdictional rates for  
19   the transmission of electric energy in interstate commerce,  
20   the sale of electric energy at wholesale in interstate com-  
21   merce, the transportation of natural gas in interstate com-  
22   merce, and the sale in interstate commerce of natural gas  
23   for resale for ultimate public consumption for domestic,  
24   commercial, industrial, or any other use.

1       (b) AFFILIATE COMPANIES.—Each affiliate of a hold-  
2 ing company or of any subsidiary company of a holding  
3 company shall maintain, and make available to the Com-  
4 mission, such books, accounts, memoranda, and other  
5 records with respect to any transaction with another affil-  
6 iate, as the Commission deems to be relevant to costs in-  
7 curred by a public utility or natural gas company that is  
8 an associate company of such holding company and nec-  
9 essary or appropriate for the protection of utility cus-  
10 tomers with respect to jurisdictional rates.

11       (c) HOLDING COMPANY SYSTEMS.—The Commission  
12 may examine the books, accounts, memoranda, and other  
13 records of any company in a holding company system, or  
14 any affiliate thereof, as the Commission deems to be rel-  
15 evant to costs incurred by a public utility or natural gas  
16 company within such holding company system and nec-  
17 essary or appropriate for the protection of utility cus-  
18 tomers with respect to jurisdictional rates.

19       (d) CONFIDENTIALITY.—No member, officer, or em-  
20 ployee of the Commission shall divulge any fact or infor-  
21 mation that may come to his or her knowledge during the  
22 course of examination of books, accounts, memoranda, or  
23 other records as provided in this section, except as may  
24 be directed by the Commission or by a court of competent  
25 jurisdiction.



1 **SEC. 815. STATE ACCESS TO BOOKS AND RECORDS.**

2 (a) IN GENERAL.—Upon the written request of a  
3 State commission having jurisdiction to regulate a public  
4 utility company in a holding company system, the holding  
5 company or any associate company or affiliate thereof,  
6 other than such public utility company, wherever located,  
7 shall produce for inspection books, accounts, memoranda,  
8 and other records that—

9 (1) have been identified in reasonable detail in  
10 a proceeding before the State commission;

11 (2) the State commission deems are relevant to  
12 costs incurred by such public utility company; and

13 (3) are necessary for the effective discharge of  
14 the responsibilities of the State commission with re-  
15 spect to such proceeding.

16 (b) LIMITATION.—Subsection (a) does not apply to  
17 any person that is a holding company solely by reason of  
18 ownership of one or more qualifying facilities under the  
19 Public Utility Regulatory Policies Act.

20 (c) CONFIDENTIALITY OF INFORMATION.—The pro-  
21 duction of books, accounts, memoranda, and other records  
22 under subsection (a) shall be subject to such terms and  
23 conditions as may be necessary and appropriate to safe-  
24 guard against unwarranted disclosure to the public of any  
25 trade secrets or sensitive commercial information.

1 (d) EFFECT ON STATE LAW.—Nothing in this sec-  
 2 tion shall preempt applicable State law concerning the pro-  
 3 vision of books, records, or any other information, or in  
 4 any way limit the rights of any State to obtain books,  
 5 records, or any other information under any other Federal  
 6 law, contract, or otherwise.

7 (e) COURT JURISDICTION.—Any United States dis-  
 8 trict court located in the State in which the State commis-  
 9 sion referred to in subsection (a) is located shall have ju-  
 10 risdiction to enforce compliance with this section.

11 **SEC. 816. EXEMPTION AUTHORITY.**

12 (a) RULEMAKING.—Not later than 90 days after the  
 13 effective date of this subtitle, the Commission shall pro-  
 14 mulgate a final rule to exempt from the requirements of  
 15 section 815 any person that is a holding company, solely  
 16 with respect to one or more—

17 (1) qualifying facilities under the Public Utility  
 18 Regulatory Policies Act of 1978;

19 (2) exempt wholesale generators; or

20 (3) foreign utility companies.

21 (b) OTHER AUTHORITY.—If, upon application or  
 22 upon its own motion, the Commission finds that the books,  
 23 records, accounts, memoranda, and other records of any  
 24 person are not relevant to the jurisdictional rates of a pub-  
 25 lic utility or natural gas company, or if the Commission

1 finds that any class of transactions is not relevant to the  
2 jurisdictional rates of a public utility or natural gas com-  
3 pany, the Commission shall exempt such person or trans-  
4 action from the requirements of section 815.

5 **SEC. 817. AFFILIATE TRANSACTION.**

6 Nothing in this subtitle shall preclude the Commis-  
7 sion or a State commission from exercising its jurisdiction  
8 under otherwise applicable law to determine whether a  
9 public utility company, public utility, or natural gas com-  
10 pany may recover in rates any costs of an activity per-  
11 formed by an associate company, or any costs of goods  
12 or services acquired by such public utility company from  
13 an associate company.

14 **SEC. 818. APPLICABILITY.**

15 No provision of this subtitle shall apply to, or be  
16 deemed to include—

17 (1) the United States;

18 (2) a State or any political subdivision of a  
19 State;

20 (3) any foreign governmental authority not op-  
21 erating in the United States;

22 (4) any agency, authority, or instrumentality of  
23 any entity referred to in paragraph (1), (2), or (3);  
24 or

1           (5) any officer, agent, or employee of any entity  
2       referred to in paragraph (1), (2), or (3) acting as  
3       such in the course of his or her official duty.

4   **SEC. 819. EFFECT ON OTHER REGULATIONS.**

5       Nothing in this subtitle precludes the Commission or  
6   a State commission from exercising its jurisdiction under  
7   otherwise applicable law to protect utility customers.

8   **SEC. 820. ENFORCEMENT.**

9       The Commission shall have the same powers as set  
10   forth in sections 306 through 317 of the Federal Power  
11   Act (16 U.S.C. 825d–825p) to enforce the provisions of  
12   this subtitle.

13   **SEC. 821. SAVINGS PROVISIONS.**

14       (a) IN GENERAL.—Nothing in this subtitle prohibits  
15   a person from engaging in or continuing to engage in ac-  
16   tivities or transactions in which it is legally engaged or  
17   authorized to engage on the effective date of this subtitle.

18       (b) EFFECT ON OTHER COMMISSION AUTHORITY.—  
19   Nothing in this subtitle limits the authority of the Com-  
20   mission under the Federal Power Act (16 U.S.C. 791a et  
21   seq.) (including section 301 of that Act) or the Natural  
22   Gas Act (15 U.S.C. 717 et seq.) (including section 8 of  
23   that Act).

1 **SEC. 822. IMPLEMENTATION.**

2 Not later than 6 months after the date of enactment  
3 of this subtitle, the Commission shall—

4 (1) promulgate such regulations as may be nec-  
5 essary or appropriate to implement this title (other  
6 than section 815); and

7 (2) submit to Congress detailed recommenda-  
8 tions on technical and conforming amendments to  
9 Federal law necessary to carry out this subtitle and  
10 the amendments made by this subtitle.

11 **SEC. 823. TRANSFER OF RESOURCES.**

12 All books and records that relate primarily to the  
13 functions transferred to the Commission under this sub-  
14 title shall be transferred from the Securities and Exchange  
15 Commission to the Commission.

16 **SEC. 824. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such funds  
18 as may be necessary to carry out this subtitle.

19 **SEC. 825. CONFORMING AMENDMENT TO THE FEDERAL**  
20 **POWER ACT.**

21 Section 318 of the Federal Power Act (16 U.S.C.  
22 825q) is repealed.

1 **Subtitle D—Emission-Free Control**  
 2 **Measures Under State Imple-**  
 3 **mentation Plans**

4 **SEC. 830. EMISSION-FREE CONTROL MEASURES UNDER A**  
 5 **STATE IMPLEMENTATION PLAN.**

6 Actions taken by a State to support the continued  
 7 operation of existing emission-free electricity sources, or  
 8 the construction or operation of new emission-free elec-  
 9 tricity sources, shall be considered control measures nec-  
 10 essary or appropriate to meet applicable requirements  
 11 under section 110(a) of the Clean Air Act (42 U.S.C.  
 12 7410(a)) and shall be included in a State Implementation  
 13 Plan.

14 **TITLE IX—TAX INCENTIVES FOR**  
 15 **ENERGY PRODUCTION AND**  
 16 **CONSERVATION**

17 **SEC. 900. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE**  
 18 **OF CONTENTS.**

19 (a) **SHORT TITLE.**—This title may be cited as the  
 20 “Energy Security Tax Policy Act of 2001”.

21 (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
 22 wise expressly provided, whenever in this title an amend-  
 23 ment or repeal is expressed in terms of an amendment  
 24 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents of  
 4 this title is as follows:

#### TITLE IX—TAX INCENTIVES FOR ENERGY PRODUCTION AND CONSERVATION

Sec. 900. Short title; amendment of 1986 Code; table of contents.

##### Subtitle A—Enhancement of Domestic Oil and Gas Production

###### PART I—TAX CREDITS

Sec. 901. Tax credit for marginal domestic oil and natural gas well production.

Sec. 902. Enhanced oil recovery credit extended to certain nontertiary recovery methods.

Sec. 903. Extension of credit for producing fuel from a nonconventional source.

###### PART II—PERCENTAGE DEPLETION

Sec. 911. 10-year carryback for percentage depletion for oil and gas property.

Sec. 912. Net income limitation on percentage depletion repealed for oil and gas properties.

Sec. 913. Determination of small refiner exception to oil depletion deduction.

###### PART III—EXPENSING

Sec. 916. Election to expense geological and geophysical expenditures and delay rental payments.

###### PART IV—DEPRECIATION

Sec. 921. Oil and gas pipelines treated as 7-year property.

Sec. 922. Class life for petroleum storage facilities.

Sec. 923. Class life for petroleum refineries.

##### PART V—OFFSHORE OIL AND GAS VESSELS AND STRUCTURES

Sec. 931. Accelerated depreciation.

Sec. 932. Tax credit.

Sec. 933. Capital construction funds for United States-built drilling vessels.

##### Subtitle B—Provisions Relating to Coal

###### PART I—CREDIT FOR EMISSION REDUCTIONS AND EFFICIENCY IMPROVEMENTS IN EXISTING COAL-BASED ELECTRICITY GENERATION FACILITIES

Sec. 941. Credit for investment in qualifying clean coal technology.

Sec. 942. Credit for production from a qualifying clean coal technology unit.

###### PART II—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

Sec. 946. Credit for investment in qualifying advanced clean coal technology.

Sec. 947. Credit for production from qualifying advanced clean coal technology.

Subtitle C—Provisions Relating to Natural Gas

Sec. 951. Arbitrage rules not to apply to prepayments for natural gas and other commodities.

Sec. 952. Private loan financing test not to apply to prepayments for natural gas and other commodities.

Subtitle D—Provisions Relating to Electric Power

Sec. 956. Depreciation of property used in the generation or transmission of electricity.

Sec. 957. Tax-exempt bond financing of certain electric facilities.

Sec. 958. Independent transmission companies.

Sec. 959. Certain amounts received by energy, natural gas, or steam utilities excluded from gross income as contributions to capital.

Subtitle E—Provisions Relating to Nuclear Energy

Sec. 961. Expensing of costs incurred for temporary storage of spent nuclear fuel.

Sec. 962. Nuclear decommissioning reserve fund.

Subtitle F—Tax Incentives for Energy Efficiency

Sec. 971. Credit for certain distributed power and combined heat and power system property used in business.

Sec. 972. Credit for energy efficiency improvements to existing homes.

Sec. 973. Business credit for construction of new energy efficient home.

Sec. 974. Tax credit for energy efficient appliances.

Sec. 975. Credit for certain energy efficient motor vehicles.

Subtitle G—Alternative Fuels

Sec. 981. Credit for alternative fuel vehicles.

Sec. 982. Modification of credit for qualified electric vehicles.

Sec. 983. Credit for retail sale of alternative fuels as motor vehicle fuel.

Sec. 984. Extension of deduction for certain refueling property.

Sec. 985. Additional deduction for cost of installation of alternative fueling stations.

Subtitle H—Renewable Energy

Sec. 991. Modifications to credit for electricity produced from renewable resources and extension to waste energy.

Sec. 992. Credit for residential solar and wind energy property.

Sec. 993. Treatment of facilities using bagasse to produce energy as solid waste disposal facilities eligible for tax-exempt financing.



1           **Subtitle A—Enhancement of**  
 2           **Domestic Oil and Gas Production**

3                           **PART I—TAX CREDITS**

4   **SEC. 901. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND**  
 5                           **NATURAL GAS WELL PRODUCTION.**

6           (a) **PURPOSE.**—The purpose of this section is to pre-  
 7 vent the abandonment of marginal oil and gas wells re-  
 8 sponsible for half of the domestic production of oil and  
 9 gas in the United States.

10          (b) **CREDIT FOR PRODUCING OIL AND GAS FROM**  
 11 **MARGINAL WELLS.**—Subpart D of part IV of subchapter  
 12 A of chapter 1 (relating to business credits) is amended  
 13 by adding at the end the following new section:

14   **“SEC. 45E. CREDIT FOR PRODUCING OIL AND GAS FROM**  
 15                           **MARGINAL WELLS.**

16          “(a) **GENERAL RULE.**—For purposes of section 38,  
 17 the marginal well production credit for any taxable year  
 18 is an amount equal to the product of—

19                   “(1) the credit amount, and

20                   “(2) the qualified crude oil production and the  
 21 qualified natural gas production which is attrib-  
 22 utable to the taxpayer.

23          “(b) **CREDIT AMOUNT.**—For purposes of this  
 24 section—

25                   “(1) **IN GENERAL.**—The credit amount is—

1           “(A) \$3 per barrel of qualified crude oil  
2           production, and

3           “(B) 50 cents per 1,000 cubic feet of  
4           qualified natural gas production.

5           “(2) REDUCTION AS OIL AND GAS PRICES IN-  
6           CREASE.—

7           “(A) IN GENERAL.—The \$3 and 50 cents  
8           amounts under paragraph (1) shall each be re-  
9           duced (but not below zero) by an amount which  
10          bears the same ratio to such amount (deter-  
11          mined without regard to this paragraph) as—

12                   “(i) the excess (if any) of the applica-  
13                   ble reference price over \$15 (\$1.67 for  
14                   qualified natural gas production), bears to

15                   “(ii) \$3 (\$0.33 for qualified natural  
16                   gas production).

17          The applicable reference price for a taxable  
18          year is the reference price for the calendar year  
19          preceding the calendar year in which the tax-  
20          able year begins.

21          “(B) INFLATION ADJUSTMENT.—In the  
22          case of any taxable year beginning in a calendar  
23          year after 2001, each of the dollar amounts  
24          contained in subparagraph (A) shall be in-  
25          creased to an amount equal to such dollar

amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting ‘2000’ for ‘1990’).

“(C) REFERENCE PRICE.—For purposes of this paragraph, the term ‘reference price’ means, with respect to any calendar year—

“(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

“(ii) in the case of qualified natural gas production, the Secretary’s estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

“(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

“(1) IN GENERAL.—The terms ‘qualified crude oil production’ and ‘qualified natural gas production’ mean domestic crude oil or natural gas which is produced from a marginal well.

“(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

“(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any

1 well shall not be treated as qualified crude oil  
2 production or qualified natural gas production  
3 to the extent production from the well during  
4 the taxable year exceeds 1,095 barrels or barrel  
5 equivalents.

6 “(B) PROPORTIONATE REDUCTIONS.—

7 “(i) SHORT TAXABLE YEARS.—In the  
8 case of a short taxable year, the limitations  
9 under this paragraph shall be proportion-  
10 ately reduced to reflect the ratio which the  
11 number of days in such taxable year bears  
12 to 365.

13 “(ii) WELLS NOT IN PRODUCTION EN-  
14 TIRE YEAR.—In the case of a well which is  
15 not capable of production during each day  
16 of a taxable year, the limitations under  
17 this paragraph applicable to the well shall  
18 be proportionately reduced to reflect the  
19 ratio which the number of days of produc-  
20 tion bears to the total number of days in  
21 the taxable year.

22 “(3) DEFINITIONS.—

23 “(A) MARGINAL WELL.—The term ‘mar-  
24 ginal well’ means a domestic well—

1 “(i) the production from which during  
2 the taxable year is treated as marginal  
3 production under section 613A(c)(6), ex-  
4 cept that ‘22 degrees’ shall be substituted  
5 for ‘20 degrees’ in applying subparagraph  
6 (F) thereof, or

7 “(ii) which, during the taxable year—

8 “(I) has average daily production  
9 of not more than 25 barrel equiva-  
10 lents, and

11 “(II) produces water at a rate  
12 not less than 95 percent of total well  
13 effluent.

14 “(B) CRUDE OIL, ETC.—The terms ‘crude  
15 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have  
16 the meanings given such terms by section  
17 613A(e).

18 “(C) BARREL EQUIVALENT.—The term  
19 ‘barrel equivalent’ means, with respect to nat-  
20 ural gas, a conversion ratio of 6,000 cubic feet  
21 of natural gas to 1 barrel of crude oil.

22 “(d) OTHER RULES.—

23 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-  
24 PAYER.—In the case of a marginal well in which  
25 there is more than one owner of operating interests

1 in the well and the crude oil or natural gas produc-  
 2 tion exceeds the limitation under subsection (c)(2),  
 3 qualifying crude oil production or qualifying natural  
 4 gas production attributable to the taxpayer shall be  
 5 determined on the basis of the ratio which the tax-  
 6 payer's revenue interest in the production bears to  
 7 the aggregate of the revenue interests of all oper-  
 8 ating interest owners in the production.

9 “(2) OPERATING INTEREST REQUIRED.—Any  
 10 credit under this section may be claimed only on  
 11 production which is attributable to the holder of an  
 12 operating interest.

13 “(3) PRODUCTION FROM NONCONVENTIONAL  
 14 SOURCES EXCLUDED.—In the case of production  
 15 from a marginal well which is eligible for the credit  
 16 allowed under section 29 for the taxable year, no  
 17 credit shall be allowable under this section unless  
 18 the taxpayer elects not to claim the credit under sec-  
 19 tion 29 with respect to the well.”.

20 (c) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
 21 tion 38(b) is amended by striking “plus” at the end of  
 22 paragraph (12), by striking the period at the end of para-  
 23 graph (13) and inserting “, plus”, and by adding at the  
 24 end the following new paragraph:

1           “(14) the marginal oil and gas well production  
2           credit determined under section 45E(a).”

3           (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-  
4           IMUM TAX.—

5           (1) IN GENERAL.—Subsection (c) of section 38  
6           (relating to limitation based on amount of tax) is  
7           amended by redesignating paragraph (3) as para-  
8           graph (4) and by inserting after paragraph (2) the  
9           following new paragraph:

10           “(3) SPECIAL RULES FOR MARGINAL OIL AND  
11           GAS WELL PRODUCTION CREDIT.—

12           “(A) IN GENERAL.—In the case of the  
13           marginal oil and gas well production credit—

14           “(i) this section and section 39 shall  
15           be applied separately with respect to the  
16           credit, and

17           “(ii) in applying paragraph (1) to the  
18           credit—

19           “(I) subparagraphs (A) and (B)  
20           thereof shall not apply, and

21           “(II) the limitation under para-  
22           graph (1) (as modified by subclause  
23           (I)) shall be reduced by the credit al-  
24           lowed under subsection (a) for the

1 taxable year (other than the marginal  
2 oil and gas well production credit).

3 “(B) MARGINAL OIL AND GAS WELL PRO-  
4 Duction CREDIT.—For purposes of this sub-  
5 section, the term ‘marginal oil and gas well pro-  
6 duction credit’ means the credit allowable under  
7 subsection (a) by reason of section 45E(a).”

8 (2) CONFORMING AMENDMENT.—Subclause (II)  
9 of section 38(c)(2)(A)(ii) is amended by inserting  
10 “or the marginal oil and gas well production credit”  
11 after “employment credit”.

12 (e) CARRYBACK.—Subsection (a) of section 39 (relat-  
13 ing to carryback and carryforward of unused credits gen-  
14 erally) is amended by adding at the end the following new  
15 paragraph:

16 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL  
17 AND GAS WELL PRODUCTION CREDIT.—In the case  
18 of the marginal oil and gas well production credit  
19 (as defined in section 38(c)(3))—

20 “(A) this section shall be applied sepa-  
21 rately from the business credit (other than the  
22 marginal oil and gas well production credit),

23 “(B) paragraph (1) shall be applied by  
24 substituting ‘10 taxable years’ for ‘1 taxable  
25 years’ in subparagraph (A) thereof, and



1 “(C) paragraph (2) shall be applied—

2 “(i) by substituting ‘31 taxable years’  
3 for ‘21 taxable years’ in subparagraph (A)  
4 thereof, and

5 “(ii) by substituting ‘30 taxable years’  
6 for ‘20 taxable years’ in subparagraph (B)  
7 thereof.”.

8 (f) COORDINATION WITH SECTION 29.—Section  
9 29(a) is amended by striking “There” and inserting “At  
10 the election of the taxpayer, there”.

11 (g) CLERICAL AMENDMENT.—The table of sections  
12 for subpart D of part IV of subchapter A of chapter 1  
13 is amended by adding at the end the following item:

“45E. Credit for producing oil and gas from marginal wells.”

14 (h) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to production in taxable years be-  
16 ginning after December 31, 2000.

17 **SEC. 902. ENHANCED OIL RECOVERY CREDIT EXTENDED TO**  
18 **CERTAIN NONTERTIARY RECOVERY**  
19 **METHODS.**

20 (a) PURPOSE.—The purpose of this section is to ex-  
21 tend the productive lives of existing domestic oil and gas  
22 wells in order to recover the 75 percent of the oil and gas  
23 that is not recoverable using primary oil and gas recovery  
24 techniques.

1 (b) QUALIFIED PROJECTS.—Clause (i) of section  
 2 43(c)(2)(A) (defining qualified enhanced oil recovery  
 3 project) is amended to read as follows:

4 “(i) which involves the application (in  
 5 accordance with sound engineering prin-  
 6 ciples) of—

7 “(I) one or more tertiary recov-  
 8 ery methods (as defined in section  
 9 193(b)(3)) which can reasonably be  
 10 expected to result in more than an in-  
 11 significant increase in the amount of  
 12 crude oil which will ultimately be re-  
 13 covered, or

14 “(II) one or more qualified non-  
 15 tertiary recovery methods which are  
 16 required to recover oil with tradition-  
 17 ally immobile characteristics or from  
 18 formations which have proven to be  
 19 uneconomical or noncommercial under  
 20 conventional recovery methods,”

21 (c) QUALIFIED NONTERTIARY RECOVERY METH-  
 22 ODS.—Section 43(c)(2) is amended by adding at the end  
 23 the following new subparagraphs:

24 “(C) QUALIFIED NONTERTIARY RECOVERY  
 25 METHOD.—For purposes of this paragraph—

1                   “(i) IN GENERAL.—The term ‘quali-  
2                   fied nontertiary recovery method’ means  
3                   any recovery method described in clause  
4                   (ii), (iii), or (iv), or any combination there-  
5                   of.

6                   “(ii) ENHANCED GRAVITY DRAINAGE  
7                   (EGD) METHODS.—The methods described  
8                   in this clause are as follows:

9                   “(I) HORIZONTAL DRILLING.—  
10                  The drilling of horizontal, rather than  
11                  vertical, wells to penetrate any hydro-  
12                  carbon-bearing formation which has  
13                  an average in situ calculated perme-  
14                  ability to fluid flow of less than or  
15                  equal to 12 or less millidarcies and  
16                  which has been demonstrated by use  
17                  of a vertical wellbore to be uneco-  
18                  nomical unless drilled with lateral hor-  
19                  izontal lengths in excess of 1,000 feet.

20                  “(II) GRAVITY DRAINAGE.—The  
21                  production of oil by gravity flow from  
22                  drainholes which are drilled from a  
23                  shaft or tunnel dug within or below  
24                  the oil-bearing zone.

1                   “(iii) MARGINALLY ECONOMIC RES-  
2                   ERVOIR REPRESSURIZATION (MERR) METH-  
3                   ODS.—The methods described in this  
4                   clause are as follows, except that this  
5                   clause shall only apply to the first  
6                   1,000,000 barrels produced in any project:

7                   “(I) CYCLIC GAS INJECTION.—

8                   The increase or maintenance of pres-  
9                   sure by injection of hydrocarbon gas  
10                  into the reservoir from which it was  
11                  originally produced.

12                  “(II) FLOODING.—The injection

13                  of water into an oil reservoir to dis-  
14                  place oil from the reservoir rock and  
15                  into the bore of a producing well.

16                  “(iv) OTHER METHODS.—Any method

17                  used to recover oil having an average lab-  
18                  oratory measured air permeability less  
19                  than or equal to 100 millidarcies when  
20                  averaged over the productive interval being  
21                  completed, or an in situ calculated perme-  
22                  ability to fluid flow less than or equal to  
23                  12 millidarcies or oil defined by the De-  
24                  partment of Energy as being immobile.

1                   “(D) AUTHORITY TO ADD OTHER NONTER-  
 2           TIARY RECOVERY METHODS.—The Secretary  
 3           shall provide procedures under which—

4                   “(i) the Secretary may treat methods  
 5                   not described in clause (ii), (iii), or (iv) of  
 6                   subparagraph (C) as qualified nontertiary  
 7                   recovery methods, and

8                   “(ii) a taxpayer may request the Sec-  
 9                   retary to treat any method not so de-  
 10                  scribed as a qualified nontertiary recovery  
 11                  method.

12           The Secretary may only specify methods as  
 13           qualified nontertiary recovery methods under  
 14           this subparagraph if the Secretary determines  
 15           that such specification is consistent with the  
 16           purposes of subparagraph (C) and will result in  
 17           greater production of oil and natural gas.”

18           (d) CONFORMING AMENDMENT.—Clause (iii) of sec-  
 19           tion 43(c)(2)(A) is amended to read as follows:

20                   “(iii) with respect to which—

21                   “(I) in the case of a tertiary re-  
 22                   covery method, the first injection of  
 23                   liquids, gases, or other matter com-  
 24                   mences after December 31, 1990, and

1 “(II) in the case of a qualified  
 2 nontertiary recovery method, the im-  
 3 plementation of the method begins  
 4 after December 31, 2000.”.

5 (e) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to taxable years ending after De-  
 7 cember 31, 2000.

8 **SEC. 903. EXTENSION OF CREDIT FOR PRODUCING FUEL**  
 9 **FROM A NONCONVENTIONAL SOURCE.**

10 (a) EXTENSION OF CREDIT.—Subsection (f) of sec-  
 11 tion 29 (relating to credit for producing fuel from a non-  
 12 conventional source) is amended—

13 (1) in paragraph (1)(A), by inserting before  
 14 “or” the following: “or from a well drilled after the  
 15 date of the enactment of the Energy Security Tax  
 16 Policy Act of 2001, and before January 1, 2011,”,

17 (2) in paragraph (1)(B), by inserting before  
 18 “and” at the end the following: “or placed in service  
 19 after the date of the enactment of the Energy Secu-  
 20 rity Tax Policy Act of 2001, and before January 1,  
 21 2011,” and

22 (3) in paragraph (2), by striking “2003” and  
 23 inserting “2013”.

1 (b) REDUCTION IN AMOUNT OF CREDIT STARTING  
 2 IN 2007.—Subsection (a) of section 29 is amended to read  
 3 as follows:

4 “(a) ALLOWANCE OF CREDIT.—

5 “(1) IN GENERAL.—There shall be allowed as a  
 6 credit against the tax imposed by this chapter for  
 7 the taxable year an amount equal to—

8 “(A) the applicable amount, multiplied by

9 “(B) the barrel-of-oil equivalent of quali-  
 10 fied fuels—

11 “(i) sold by the taxpayer to an unre-  
 12 lated person during the taxable year, and

13 “(ii) the production of which is attrib-  
 14 utable to the taxpayer.

15 “(2) APPLICABLE AMOUNT.—For purposes of  
 16 paragraph (1), the applicable amount is the amount  
 17 determined in accordance with the following table:

<b>“In the case of taxable years beginning in calendar year:</b>	<b>The applicable amount is:</b>
2001 to 2008 .....	\$3.00
2009 .....	\$2.60
2010 .....	\$2.00
2011 .....	\$1.40
2012 .....	\$0.80
2013 and thereafter .....	\$0.00.”

18 (c) QUALIFIED FUELS TO INCLUDE HEAVY OIL.—  
 19 Subsection (c) of section 29 (defining qualified fuels) is  
 20 amended—

(1) in paragraph (1), by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

“(D) heavy oil, as defined in section 613A(c)(6), except that ‘22 degrees’ shall be substituted for ‘20 degrees’ in applying subparagraph (F) thereof.”, and

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

“(4) SPECIAL RULES FOR HEAVY OIL.—

“(A) TERMINATION.—Heavy oil shall be considered to be a qualified fuel only if it is produced from a well drilled, or in a facility placed in service, after the date of the enactment of the Energy Security Tax Policy Act of 2001, and before January 1, 2011.

“(B) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of heavy oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the heavy oil is not consumed in the immediate vicinity of the well-head.”



1 (d) CONFORMING AMENDMENT.—Section 29(g) (re-  
 2 lating to extension for certain facilities) is amended to  
 3 read as follows:

4 “(g) EXTENSION FOR CERTAIN FACILITIES.—In the  
 5 case of a facility for producing qualified fuels described  
 6 in subparagraph (B)(ii) or (C) of subsection (c)(1), such  
 7 facility shall, for purposes of subsection (f)(1)(B), be  
 8 treated as being placed in service before January 1, 1993,  
 9 if such facility is placed in service before July 1, 1998,  
 10 pursuant to a binding written contract in effect before  
 11 January 1, 1997.”

12 (e) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply to taxable years beginning after  
 14 December 31, 2000.

15 **PART II—PERCENTAGE DEPLETION**

16 **SEC. 911. 10-YEAR CARRYBACK FOR PERCENTAGE DEPLE-**  
 17 **TION FOR OIL AND GAS PROPERTY.**

18 (a) IN GENERAL.—Subsection (d)(1) of section 613A  
 19 (relating to limitations on percentage depletion in case of  
 20 oil and gas wells) is amended to read as follows:

21 “(1) LIMITATION BASED ON TAXABLE IN-  
 22 COME.—

23 “(A) IN GENERAL.—The deduction for the  
 24 taxable year attributable to the application of  
 25 subsection (c) shall not exceed so much of the

1 taxpayer's taxable income for the year as the  
2 taxpayer elects, computed without regard to—

3 “(i) any depletion on production from  
4 an oil or gas property which is subject to  
5 the provisions of subsection (c),

6 “(ii) any net operating loss carryback  
7 to the taxable year under section 172,

8 “(iii) any capital loss carryback to the  
9 taxable year under section 1212, and

10 “(iv) in the case of a trust, any dis-  
11 tributions to its beneficiary, except in the  
12 case of any trust where any beneficiary of  
13 such trust is a member of the family (as  
14 defined in section 267(c)(4)) of a settlor  
15 who created inter vivos and testamentary  
16 trusts for members of the family and such  
17 settlor died within the last six days of the  
18 fifth month in 1970, and the law in the ju-  
19 risdiction in which such trust was created  
20 requires all or a portion of the gross or net  
21 proceeds of any royalty or other interest in  
22 oil, gas, or other mineral representing any  
23 percentage depletion allowance to be allo-  
24 cated to the principal of the trust.

1                   “(B)                   CARRYBACKS                   AND  
2                   CARRYFORWARDS.—

3                   “(i) IN GENERAL.—If any amount is  
4                   disallowed as a deduction for the taxable  
5                   year (in this subparagraph referred to as  
6                   the ‘unused depletion year’) by reason of  
7                   application of subparagraph (A), the dis-  
8                   allowed amount shall be treated as an  
9                   amount allowable as a deduction under  
10                  subsection (c) for—

11                  “(I) each of the 10 taxable years  
12                  preceding the unused depletion year,  
13                  and

14                  “(II) the taxable year following  
15                  the unused depletion year,  
16                  subject to the application of subparagraph  
17                  (A) to such taxable year.

18                  “(ii)       ELECTION       TO       WAIVE  
19                  CARRYBACK.—Any taxpayer may elect to  
20                  waive any carryback under clause (i) to  
21                  any of the taxable years to which the  
22                  carryback may otherwise be carried. A tax-  
23                  payer making an election under this clause  
24                  with respect to any taxable year may re-  
25                  voke such election in any succeeding tax-

1           able year in such manner as the Secretary  
2           may prescribe.

3           “(C)    ALLOCATION    OF    DISALLOWED  
4           AMOUNTS.—For purposes of basis adjustments  
5           and determining whether cost depletion exceeds  
6           percentage depletion with respect to the produc-  
7           tion from a property, any amount disallowed as  
8           a deduction on the application of this para-  
9           graph shall be allocated to the respective prop-  
10          erties from which the oil or gas was produced  
11          in proportion to the percentage depletion other-  
12          wise allowable to such properties under sub-  
13          section (c).”

14       (b) EFFECTIVE DATE.—

15           (1) IN GENERAL.—The amendment made by  
16           this section shall apply to taxable years beginning  
17           after December 31, 2000, and to any taxable year  
18           beginning on or before such date to the extent nec-  
19           essary to apply section 613A(d)(1) of the Internal  
20           Revenue Code of 1986 (as amended by subsection  
21           (a)).

22           (2) WAIVER OF LIMITATIONS.—If refund or  
23           credit of any overpayment of tax resulting from the  
24           application of the amendment made by this section  
25           is prevented at any time before the close of the 1-

1 year period beginning on the date of the enactment  
 2 of this Act by the operation of any law or rule of  
 3 law (including res judicata), such refund or credit  
 4 may nevertheless be made or allowed if claimed  
 5 therefor is filed before the close of such period.

6 **SEC. 912. NET INCOME LIMITATION ON PERCENTAGE DE-**  
 7 **PLETION REPEALED FOR OIL AND GAS PROP-**  
 8 **ERTIES.**

9 (a) IN GENERAL.—Section 613(a) (relating to per-  
 10 centage depletion) is amended by striking the second sen-  
 11 tence and inserting: “Except in the case of oil and gas  
 12 properties, such allowance shall not exceed 50 percent of  
 13 the taxpayer’s taxable income from the property (com-  
 14 puted without allowances for depletion).”

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 613A(c)(7) (relating to special  
 17 rules) is amended by striking subparagraph (C) and  
 18 redesignating subparagraph (D) as subparagraph  
 19 (C).

20 (2) Section 613A(c)(6) (relating to oil and nat-  
 21 ural gas produced from marginal properties) is  
 22 amended by striking subparagraph (H).

23 (c) EFFECTIVE DATE.—The amendments made by  
 24 this section shall apply to taxable years beginning after  
 25 December 31, 2000.

1 **SEC. 913. DETERMINATION OF SMALL REFINER EXCEPTION**  
2 **TO OIL DEPLETION DEDUCTION.**

3 (a) IN GENERAL.—Paragraph (4) of section 613A(d)  
4 (relating to certain refiners excluded) is amended to read  
5 as follows:

6 “(4) CERTAIN REFINERS EXCLUDED.—If the  
7 taxpayer or related person engages in the refining of  
8 crude oil, subsection (c) shall not apply to the tax-  
9 payer for a taxable year if the average daily refinery  
10 runs of the taxpayer and the related person for the  
11 taxable year exceed 50,000 barrels. For purposes of  
12 this paragraph, the average daily refinery runs for  
13 any taxable year shall be determined by dividing the  
14 aggregate refinery runs for the taxable year by the  
15 number of days in the taxable year.”

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to taxable years beginning after  
18 December 31, 2000.

19 **PART III—EXPENSING**

20 **SEC. 916. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**  
21 **PHYSICAL EXPENDITURES AND DELAY RENT-**  
22 **AL PAYMENTS.**

23 (a) PURPOSE.—The purpose of this section is to rec-  
24 ognize that geological and geophysical expenditures and  
25 delay rentals are ordinary and necessary business expenses

1 that should be deducted in the year the expense is in-  
2 curred.

3 (b) ELECTION TO EXPENSE GEOLOGICAL AND GEO-  
4 PHYSICAL EXPENDITURES.—

5 (1) IN GENERAL.—Section 263 (relating to cap-  
6 ital expenditures) is amended by adding at the end  
7 the following new subsection:

8 “(j) GEOLOGICAL AND GEOPHYSICAL EXPENDI-  
9 TURES FOR DOMESTIC OIL AND GAS WELLS.—Notwith-  
10 standing subsection (a), a taxpayer may elect to treat geo-  
11 logical and geophysical expenses incurred in connection  
12 with the exploration for, or development of, oil or gas with-  
13 in the United States (as defined in section 638) as ex-  
14 penses which are not chargeable to capital account. Any  
15 expenses so treated shall be allowed as a deduction in the  
16 taxable year in which paid or incurred.”

17 (2) CONFORMING AMENDMENT.—Section  
18 263A(c)(3) is amended by inserting “263(j),” after  
19 “263(i),”.

20 (3) EFFECTIVE DATE.—

21 (A) IN GENERAL.—The amendments made  
22 by this subsection shall apply to expenses paid  
23 or incurred after the date of the enactment of  
24 this Act.

1           (B) TRANSITION RULE.—In the case of  
 2           any expenses described in section 263(j) of the  
 3           Internal Revenue Code of 1986, as added by  
 4           this subsection, which were paid or incurred on  
 5           or before the date of the enactment of this Act,  
 6           the taxpayer may elect, at such time and in  
 7           such manner as the Secretary of the Treasury  
 8           may prescribe, to amortize the suspended por-  
 9           tion of such expenses over the 36-month period  
 10          beginning with the month in which the date of  
 11          the enactment of this Act occurs. For purposes  
 12          of this subparagraph, the suspended portion of  
 13          any expense is that portion of such expense  
 14          which, as of the first day of the 36-month pe-  
 15          riod, has not been included in the cost of a  
 16          property or otherwise deducted.

17          (c) ELECTION TO EXPENSE DELAY RENTAL PAY-  
 18          MENTS.—

19           (1) IN GENERAL.—Section 263 (relating to cap-  
 20          ital expenditures), as amended by subsection (b)(1),  
 21          is amended by adding at the end the following new  
 22          subsection:

23          “(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL  
 24          AND GAS WELLS.—



1           “(1) IN GENERAL.—Notwithstanding subsection  
 2           (a), a taxpayer may elect to treat delay rental pay-  
 3           ments incurred in connection with the development  
 4           of oil or gas within the United States (as defined in  
 5           section 638) as payments which are not chargeable  
 6           to capital account. Any payments so treated shall be  
 7           allowed as a deduction in the taxable year in which  
 8           paid or incurred.

9           “(2) DELAY RENTAL PAYMENTS.—For purposes  
 10          of paragraph (1), the term ‘delay rental payment’  
 11          means an amount paid for the privilege of deferring  
 12          the drilling of an oil or gas well under an oil or gas  
 13          lease.”

14          (2) CONFORMING AMENDMENT.—Section  
 15          263A(c)(3), as amended by subsection (b)(2), is  
 16          amended by inserting “263(k),” after “263(j),”.

17          (3) EFFECTIVE DATE.—

18                (A) IN GENERAL.—The amendments made  
 19                by this subsection shall apply to payments made  
 20                or incurred after the date of the enactment of  
 21                this Act.

22                (B) TRANSITION RULE.—In the case of  
 23                any expenses described in section 263(k) of the  
 24                Internal Revenue Code of 1986, as added by  
 25                this subsection, which were paid or incurred on

1 or before the date of the enactment of this Act,  
 2 the taxpayer may elect, at such time and in  
 3 such manner as the Secretary of the Treasury  
 4 may prescribe, to amortize the suspended por-  
 5 tion of such expenses over the 36-month period  
 6 beginning with the month in which the date of  
 7 the enactment of this Act occurs. For purposes  
 8 of this subparagraph, the suspended portion of  
 9 any expense is that portion of such expense  
 10 which, as of the first day of the 36-month pe-  
 11 riod, has not been included in the cost of a  
 12 property or otherwise deducted.

13 **PART IV—DEPRECIATION**

14 **SEC. 921. OIL AND GAS PIPELINES TREATED AS 7-YEAR**  
 15 **PROPERTY.**

16 (a) IN GENERAL.—Subparagraph (C) of section  
 17 168(e)(3) (relating to classification of certain property) is  
 18 amended by redesignating clause (ii) as clause (iii) and  
 19 by inserting after clause (i) the following new clause:

20 “(ii) any oil and gas pipeline, and”.

21 (b) OIL AND GAS PIPELINE.—Subsection (i) of sec-  
 22 tion 168 is amended by adding at the end the following  
 23 new paragraph:

24 “(15) OIL AND GAS PIPELINE.—The term ‘oil  
 25 and gas pipeline’ means the pipe, storage facilities,

1 equipment, distribution infrastructure, and appur-  
2 tenances used to deliver oil, natural gas, crude oil,  
3 or crude oil products.”

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by  
6 this section shall apply to property placed in service  
7 on or after the date of the enactment of this Act.

8 (2) GAS GATHERING LINES.—In the case of gas  
9 gathering lines, such amendments shall, at the elec-  
10 tion of the taxpayer, also apply to property placed  
11 in service before such date. For purposes of the pre-  
12 ceding sentence, a gas gathering line includes the  
13 pipe, storage facilities, equipment, and appur-  
14 tenances used to deliver natural gas from the well-  
15 head or a common point to the point at which such  
16 gas first reaches a gas processing plant, an inter-  
17 connection with a transmission pipeline, or a direct  
18 interconnection with a local distribution company, a  
19 gas storage facility, or an industrial consumer.

20 (3) ACCOUNTING RULE FOR PUBLIC UTILITY  
21 PROPERTY.—If any oil and gas pipeline is public  
22 utility property (as defined in section 46(f)(5) of the  
23 Internal Revenue Code of 1986, as in effect on the  
24 day before the date of the enactment of the Revenue  
25 Reconciliation Act of 1990), the amendments made

1 by this section shall only apply to such property if,  
 2 with respect to such property, the taxpayer uses a  
 3 normalization method of accounting.

4 **SEC. 922. CLASS LIFE FOR PETROLEUM STORAGE FACILI-**  
 5 **TIES.**

6 (a) 7-YEAR PROPERTY.—

7 (1) IN GENERAL.—Subparagraph (C) of section  
 8 168(e)(3), as amended by this Act, is amended by  
 9 striking “and” at the end of clause (ii), by redesign-  
 10 ating clause (iii) as clause (iv), and by adding after  
 11 clause (ii) the following:

12 “(iii) any section 1245 property de-  
 13 scribed in section 1245(a)(3)(E) other  
 14 than property to which section 179(b)(5)  
 15 applies, and”.

16 (2) CONFORMING AMENDMENT.—Subparagraph  
 17 (B) of section 168(g)(3) (relating to special rules for  
 18 determining class life) is amended by inserting after  
 19 the item relating to subparagraph (C)(i) in the table  
 20 contained therein the following new item:

“(C)(iii) ..... 10”.

21 (b) FULL EXPENSING OF HEATING OIL, NATURAL  
 22 GAS, AND PROPANE STORAGE FACILITY.—Section 179(b)  
 23 (relating to limitations) is amended by adding at the end  
 24 the following new paragraph:

1           “(5) FULL EXPENSING OF HEATING OIL, NAT-  
 2           URAL GAS, AND PROPANE STORAGE FACILITY.—  
 3           Paragraphs (1) and (2) shall not apply to section  
 4           179 property which is any storage facility (not in-  
 5           cluding a building or its structural components) used  
 6           in connection with the distribution of heating oil,  
 7           natural gas, or liquefied petroleum gas.”

8           (c) EFFECTIVE DATE.—The amendments made by  
 9           this section shall apply to property which is placed in serv-  
 10          ice on or after the date of enactment of this Act. A tax-  
 11          payer may elect (in such form and manner as the Sec-  
 12          retary of the Treasury may prescribe) to have such  
 13          amendments apply with respect to any property placed in  
 14          service before such date.

15   **SEC. 923. CLASS LIFE FOR PETROLEUM REFINERIES.**

16          (a) 7-YEAR PROPERTY.—

17               (1) IN GENERAL.—Subparagraph (C) of section  
 18               168(e)(3) (relating to classification of certain prop-  
 19               erty), as amended by this Act, is amended by strik-  
 20               ing “and” at the end of clause (iii), by redesignating  
 21               clause (iv) as clause (v), and by adding at the end  
 22               the following new clause:

23                       “(iv) any petroleum refining assets, and”.

24               (2) CONFORMING AMENDMENT.—Subparagraph  
 25               (B) of section 168(g)(3) (relating to special rules for

1 determining class life) is amended by inserting after  
 2 the item relating to subparagraph (C)(iii) in the  
 3 table contained therein the following new item:

“(C)(iv) ..... 10”.

4 (b) ASSETS USED IN PETROLEUM REFINING.—Sub-  
 5 section (i) of section 168 is amended by adding at the end  
 6 the following new paragraph:

7 “(16) ASSETS USED IN PETROLEUM REFIN-  
 8 ING.—The term ‘petroleum refining assets’ means  
 9 assets used for the distillation, fractionation, and  
 10 catalytic cracking of crude petroleum into gasoline  
 11 and other petroleum products.”

12 (c) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply to property which is placed in serv-  
 14 ice on or after the date of enactment of this Act.

## 15 **PART V—OFFSHORE OIL AND GAS VESSELS AND** 16 **STRUCTURES**

### 17 **SEC. 931. ACCELERATED DEPRECIATION.**

18 (a) 7-YEAR PROPERTY.—

19 (1) IN GENERAL.—Subparagraph (C) of section  
 20 168(e)(3) (relating to classification of certain prop-  
 21 erty), as amended by this Act, is amended by strik-  
 22 ing “and” at the end of clause (iv), by redesignating  
 23 clause (v) as clause (vi), and by adding at the end  
 24 the following new clause:

1           “(v) a vessel of at least 10,000 gross tons, or  
 2           any type of structure of at least 10,000 tons, that  
 3           is owned by a drilling company and used to explore  
 4           for, drill for, or produce offshore oil and gas, if that  
 5           vessel or structure was constructed or reconstructed  
 6           in the United States, and”.

7           (2) CONFORMING AMENDMENT.—Subparagraph  
 8           (B) of section 168(g)(3) (relating to special rules for  
 9           determining class life) is amended by inserting after  
 10          the item relating to subparagraph (C)(iv) in the  
 11          table contained therein the following new item:

          “(C)(v) ..... 10”.

12          (3) DRILLING COMPANY DEFINED.—Section  
 13          168(i) is amended by adding at the end the following  
 14          new paragraph:

15          “(17) DRILLING COMPANY.—The term ‘drilling  
 16          company’ means a person engaged in the business of  
 17          exploration, development, or production of oil and  
 18          gas.”

19          (b) EFFECTIVE DATE.—The amendments made by  
 20          this section shall apply to vessels and structures placed  
 21          in service after December 31, 2000, and constructed or  
 22          reconstructed under a contract executed before January  
 23          1, 2007.

24   **SEC. 932. TAX CREDIT.**

25          (a) AMENDMENTS.—

1           (1) CREDIT FOR CERTAIN VESSELS AND STRUC-  
2           TURES.—Section 48(a)(3)(A) (relating to the energy  
3           tax credit) is amended—

4                   (A) by striking “or” at the end of clause  
5                   (i);

6                   (B) by adding “or” at the end of clause  
7                   (ii); and

8                   (C) by adding at the end the following new  
9           clause:

10                   “(iii) a vessel of at least 10,000 gross  
11                   tons, or any type of structure of at least  
12                   10,000 tons, that is owned by a drilling  
13                   company and used to explore for, drill for,  
14                   or produce oil and gas, if that vessel or  
15                   structure was constructed or reconstructed  
16                   in the United States,”.

17           (2) DRILLING COMPANY DEFINED.—Section  
18           48(a)(3) is amended by adding at the end the fol-  
19           lowing new sentence: “The term ‘drilling company’  
20           means a person engaged in the business of explo-  
21           ration, development, or production of oil and gas.”

22           (b) EFFECTIVE DATE.—The amendments made by  
23           this section shall apply to vessels and structures placed  
24           in service after December 31, 2000, and constructed or



1 reconstructed under a contract executed before January  
2 1, 2007.

3 **SEC. 933. CAPITAL CONSTRUCTION FUNDS FOR UNITED**  
4 **STATES-BUILT DRILLING VESSELS.**

5 (a) AMENDMENTS TO MERCHANT MARINE ACT,  
6 1936.—

7 (1) CHANGES IN VESSELS TO WHICH CAPITAL  
8 CONSTRUCTION FUNDS APPLY.—

9 (A) The second sentence of section 607(a)  
10 of the Merchant Marine Act, 1936 (46 U.S.C.  
11 App. 1177(a)), is amended by striking “for op-  
12 eration in the United States foreign, Great  
13 Lakes, or noncontiguous domestic trade or in  
14 the fisheries of the United States” and insert-  
15 ing “for the operation in the fisheries of the  
16 United States, or in the United States foreign,  
17 Great Lakes, or noncontiguous domestic trade,  
18 or for operation as an oil and gas drilling vessel  
19 in the United States foreign or domestic com-  
20 merce,”.

21 (B) Section 607(k)(1) of that Act (46  
22 U.S.C. App. 1177(k)(1)) is amended by insert-  
23 ing “, including an oil and gas drilling vessel”  
24 after “means any vessel”.

(C) Subparagraph (C) of section 607(k)(2) of that Act (46 U.S.C. App. 1177(k)(2)) is amended to read as follows:

“(C) which the person maintaining the fund agrees with the Secretary will be operated in the fisheries of the United States, in the United States foreign, Great Lakes, or non-contiguous domestic trade, or, in the case of an oil and gas drilling vessel, in the foreign or domestic commerce of the United States.”

(D) Section 607(k) of that Act (46 U.S.C. App. 1177(k)) is amended by adding at the end the following new paragraph:

“(10) The term ‘oil and gas drilling vessel’ means a vessel constructed or reconstructed that is at least 10,000 gross tons and is used to explore for, drill for, or produce oil and gas.”

(2) TREATMENT OF CERTAIN LEASE PAYMENTS.—

(A) Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1171(f)(1)), is amended—

(i) by striking “or” at the end of subparagraph (B);

1 (ii) by striking the period at the end  
2 of subparagraph (C) and inserting “, or”;  
3 and

4 (iii) by inserting after subparagraph  
5 (C) the following new subparagraph:

6 “(D) the payment of amounts which re-  
7 duce the principal amount (as determined under  
8 regulations promulgated by the Secretary) of a  
9 qualified lease of a qualified vessel or container  
10 which is part of the complement of a qualified  
11 vessel.”

12 (B) Section 607(g)(4) of that Act (46  
13 U.S.C. App. 1171(g)(4)) is amended by insert-  
14 ing “or to reduce the principal amount of any  
15 qualified lease” after “indebtedness”.

16 (C) Section 607(k) of that Act (46 U.S.C.  
17 App. 1171(k)), as previously amended in this  
18 Act, is further amended by adding at the end  
19 the following new paragraph:

20 “(11) The term ‘qualified lease’ means any  
21 lease with a term of at least 5 years.”

22 (3) TREATMENT OF CAPITAL GAINS AND  
23 LOSSES.—

1 (A) Section 607(e)(3) of the Merchant Ma-  
2 rine Act, 1936 (46 U.S.C. App. 1177(e)(3)), is  
3 amended to read as follows:

4 “(3) The capital gain account shall consist of—

5 “(A) amounts representing long-term cap-  
6 ital gains (as defined in section 1222 of such  
7 Code) on assets referred to in subsection  
8 (b)(1)(C), reduced by,

9 “(B) amounts representing long-term cap-  
10 ital losses (as defined in such section 1222) on  
11 assets held in the fund.”

12 (B) Section 607(e)(4)(B) of that Act (46  
13 U.S.C. App. 1177(e)(4)(B)) is amended to read  
14 as follows:

15 “(B)(i) amounts representing short-term  
16 capital gains (as defined in section 1222 of  
17 such Code) on assets referred to in subsection  
18 (b)(1)(C), reduced by,

19 “(ii) amounts representing short-term cap-  
20 ital losses (as defined in such section 1222) on  
21 assets held in the fund,”.

22 (C) Section 607(h)(3)(B) of that Act (46  
23 U.S.C. App. 1177(h)(3)(B)) is amended by  
24 striking “gain” and all that follows and insert-

ing "long-term capital gain (as defined in section 1222 of such Code), and".

(D) The last sentence of section 607(h)(6)(A) of that Act (46 U.S.C. App. 1177(h)(6)(A)) is amended by striking "20 percent (34 percent in the case of a corporation)" and inserting "the rate applicable to net capital gain under section 1(h) or 1201(a) of such Code, as the case may be".

(4) COMPUTATION OF INTEREST WITH RESPECT TO NONQUALIFIED WITHDRAWALS.—

(A) Section 607(h)(3)(C) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(h)(3)(C)), is amended—

(i) by amending clause (i) to read as follows:

"(i) no addition to the tax shall be payable under section 6651 of such Code,"; and

(ii) in clause (ii), by striking "paid at the applicable rate (as defined in paragraph (4))" and inserting "paid in accordance with section 6601 of such Code".

(B) Section 607(h) of that Act (46 U.S.C. App. 1177(h)) is amended by striking para-

1 graph (4) and by redesignating paragraphs (5)  
 2 and (6) as paragraphs (4) and (5), respectively.

3 (C) Section 607(h)(5)(A) of that Act (46  
 4 U.S.C. App. 1177(h)(5)(A)), as so redesignated  
 5 by paragraph (2) of this subsection, is amended  
 6 by striking “paragraph (5)” and inserting  
 7 “paragraph (4)”.

8 (5) OTHER CHANGES.—Section 607 of the Mer-  
 9 chant Marine Act, 1936 (46 U.S.C. App. 1177) is  
 10 amended by striking “Internal Revenue Code of  
 11 1954” each place it appears and inserting “Internal  
 12 Revenue Code of 1986”.

13 (b) AMENDMENTS TO INTERNAL REVENUE CODE OF  
 14 1986.—

15 (1) TREATMENT OF CERTAIN LEASE PAY-  
 16 MENTS.—

17 (A) Section 7518(e)(1) (relating to pur-  
 18 poses of qualified withdrawals) is amended—

19 (i) by striking “or” at the end of sub-  
 20 paragraph (B);

21 (ii) by striking the period at the end  
 22 of subparagraph (C) and inserting “, or”;  
 23 and

24 (iii) by inserting after subparagraph  
 25 (C) the following new subparagraph:

“(D) the payment of amounts which reduce the principal amount (as determined under regulations) of a qualified lease of a qualified vessel or container which is part of the complement of a qualified vessel.”

(B) Section 7518(f)(4) is amended by inserting “or to reduce the principal amount of any qualified lease” after “indebtedness”.

(2) TREATMENT OF CAPITAL GAINS AND LOSSES.—

(A) Section 7518(d)(3) is amended to read as follows:

“(3) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

“(A) amounts representing long-term capital gain (as defined in section 1222) on assets referred to in subsection (a)(1)(C), reduced by,

“(B) amounts representing long-term capital loss (as defined in section 1222) on assets held in the fund.”

(B) Section 7518(d)(4)(B) is amended to read as follows:

“(B)(i) amounts representing short-term capital gain (as defined in section 1222) on as-

1 sets referred to in subsection (a)(1)(C), reduced  
 2 by,

3 “(ii) amounts representing short-term cap-  
 4 ital loss (as defined in section 1222) on assets  
 5 held in the fund,”.

6 (C) Section 7518(g)(3)(B) is amended by  
 7 striking “gain” and all that follows and insert-  
 8 ing “long-term capital gain (as defined in sec-  
 9 tion 1222), and”.

10 (D) The last sentence of section  
 11 7518(g)(6)(A) is amended by striking “20 per-  
 12 cent (34 percent in the case of a corporation)”  
 13 and inserting “the rate applicable to net capital  
 14 gain under section 1(h) or 1201(a), as the case  
 15 may be”.

16 (3) COMPUTATION OF INTEREST WITH RESPECT  
 17 TO NONQUALIFIED WITHDRAWALS.—

18 (A) Section 7518(g)(3)(C) is amended—

19 (i) by striking clause (i) and inserting  
 20 the following new clause:

21 “(i) no addition to the tax shall be  
 22 payable under section 6651,”; and

23 (ii) in clause (ii), by striking “paid at  
 24 the applicable rate (as defined in para-



1 graph (4))” and inserting “paid in accord-  
2 ance with section 6601”.

3 (B) Section 7518(g) is amended by strik-  
4 ing paragraph (4) and by redesignating para-  
5 graphs (5) and (6) as paragraphs (4) and (5),  
6 respectively.

7 (C) Section 7518(g)(5)(A), as redesignated  
8 by paragraph (2) of this subsection, is amended  
9 by striking “paragraph (5)” and inserting  
10 “paragraph (4)”.

11 (4) APPLICABILITY OF ALTERNATIVE MINIMUM  
12 TAX.—Section 56(c) is amended by striking para-  
13 graph (2) and by redesignating paragraph (3) as  
14 paragraph (2).

15 (5) OTHER CHANGES.—

16 (1) Section 7518(i) is amended by striking “en-  
17 actment of this section” and inserting “enactment of  
18 the Energy Security Tax Policy Act of 2001”.

19 (2) Section 543(a)(1)(B) is amended to read as  
20 follows:

21 “(B) interest on amounts set aside in a  
22 capital construction fund under section 607 of  
23 the Merchant Marine Act, 1936 (46 App.  
24 U.S.C. 1177), or in a construction reserve fund

1 under section 511 of such Act (46 App. U.S.C.  
2 1161),”.

3 (c) REGULATIONS.—

4 (1) 46 CFR PART 390.—Not later than 90 days  
5 after the date of the enactment of this Act, the Sec-  
6 retary of Transportation shall promulgate final regu-  
7 lations implementing the amendments made by sub-  
8 section (a)(1).

9 (2) JOINT REGULATIONS.—The amendments  
10 made by paragraphs (2) through (4) of subsection  
11 (a) shall be implemented under revised joint regula-  
12 tions promulgated by the Secretary of Transpor-  
13 tation and the Secretary of the Treasury.

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as otherwise pro-  
16 vided in this subsection, the amendments made by  
17 this section shall apply as of the date of the enact-  
18 ment of this Act.

19 (2) CHANGES IN COMPUTATION OF INTER-  
20 EST.—The amendments made by subsections (a)(4)  
21 and (b)(3) shall apply to withdrawals made after  
22 December 31, 2000, including for purposes of com-  
23 puting interest on such a withdrawal for periods on  
24 or before such date.

7 **PART I—CREDIT FOR EMISSION REDUCTIONS**  
8 **AND EFFICIENCY IMPROVEMENTS IN EXIST-**  
9 **ING COAL-BASED ELECTRICITY GENERATION**  
10 **FACILITIES**

(a) ALLOWANCE OF QUALIFYING CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “, and”, and by adding at the end the following:

(b) AMOUNT OF QUALIFYING CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

1   **“SEC. 48A. QUALIFYING CLEAN COAL TECHNOLOGY UNIT**  
2                   **CREDIT.**

3           “(a) IN GENERAL.—For purposes of section 46, the  
4   qualifying clean coal technology unit credit for any taxable  
5   year is an amount equal to 10 percent of the qualified  
6   investment in a qualifying system of continuous emission  
7   control for such taxable year.

8           “(b) QUALIFYING SYSTEM OF CONTINUOUS EMIS-  
9   SION CONTROL.—

10           “(1) IN GENERAL.—For purposes of subsection  
11   (a), the term ‘qualifying system of continuous emis-  
12   sion control’ means a system of the taxpayer  
13   which—

14           “(A) serves, is added to, or retrofits an ex-  
15   isting coal-based electricity generation unit, the  
16   construction, installation, or retrofitting of  
17   which is completed by the taxpayer (but only  
18   with respect to that portion of the basis which  
19   is properly attributable to such construction, in-  
20   stallation, or retrofitting),

21           “(B) removes or reduces 1 or more of the  
22   pollutants regulated under title I of the Clean  
23   Air Act (42 U.S.C. 7401 et seq.),

24           “(C) is depreciable under section 167,

25           “(D) has a useful life of not less than 4  
26   years, and

1                   “(E) is located in the United States.

2                   “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—

3           For purposes of subparagraph (A) of paragraph (1),

4           in the case of a unit which—

5                   “(A) is originally placed in service by a

6                   person, and

7                   “(B) is sold and leased back by such per-

8                   son, or is leased to such person, within 3

9                   months after the date such unit was originally

10                  placed in service, for a period of not less than

11                  12 years,

12           such unit shall be treated as originally placed in

13           service not earlier than the date on which such prop-

14           erty is used under the leaseback (or lease) referred

15           to in subparagraph (B). The preceding sentence

16           shall not apply to any property if the lessee and les-

17           sor of such property make an election under this

18           sentence. Such an election, once made, may be re-

19           voked only with the consent of the Secretary.

20           “(c) EXISTING COAL-BASED ELECTRICITY GENERA-

21   TION UNIT.—For purposes of subsection (a), the term ‘ex-

22   isting coal-based electricity generating unit’ means, with

23   respect to any taxable year, a steam generator-turbine

24   unit that uses coal to produce 75 percent or more of its

1 output as electricity and was in operation before the effec-  
 2 tive date of this section.

3 “(d) LIMIT ON QUALIFYING CLEAN COAL TECH-  
 4 NOLOGY UNIT CREDIT.—For purposes of subsection (a),  
 5 the credit shall be applicable to not more than the first  
 6 \$100,000,000 of qualifying investment in a qualifying sys-  
 7 tem of continuous emission control at any 1 existing coal-  
 8 based electricity generating unit.

9 “(e) QUALIFIED INVESTMENT.—For purposes of sub-  
 10 section (a), the term ‘qualified investment’ means, with  
 11 respect to any taxable year, the basis of a qualifying sys-  
 12 tem of continuous emission control placed in service by  
 13 the taxpayer during such taxable year.

14 “(f) QUALIFIED PROGRESS EXPENDITURES.—

15 “(1) INCREASE IN QUALIFIED INVESTMENT.—  
 16 In the case of a taxpayer who has made an election  
 17 under paragraph (5), the amount of the qualified in-  
 18 vestment of such taxpayer for the taxable year (de-  
 19 termined under subsection (e) without regard to this  
 20 subsection) shall be increased by an amount equal to  
 21 the aggregate of each qualified progress expenditure  
 22 for the taxable year with respect to progress expend-  
 23 iture property.

24 “(2) PROGRESS EXPENDITURE PROPERTY DE-  
 25 FINED.—For purposes of this subsection, the term

1       ‘progress expenditure property’ means any property  
 2       being constructed by or for the taxpayer and which  
 3       it is reasonable to believe will qualify as a qualifying  
 4       system of continuous emission control which is being  
 5       constructed by or for the taxpayer when it is placed  
 6       in service.

7               “(3) QUALIFIED PROGRESS EXPENDITURES DE-  
 8       FINED.—For purposes of this subsection—

9               “(A) SELF-CONSTRUCTED PROPERTY.—In  
 10       the case of any self-constructed property, the  
 11       term ‘qualified progress expenditures’ means  
 12       the amount which, for purposes of this subpart,  
 13       is properly chargeable (during such taxable  
 14       year) to capital account with respect to such  
 15       property.

16              “(B) NONSELF-CONSTRUCTED PROP-  
 17       ERTY.—In the case of nonself-constructed prop-  
 18       erty, the term ‘qualified progress expenditures’  
 19       means the amount paid during the taxable year  
 20       to another person for the construction of such  
 21       property.

22              “(4) OTHER DEFINITIONS.—For purposes of  
 23       this subsection—

24              “(A) SELF-CONSTRUCTED PROPERTY.—  
 25       The term ‘self-constructed property’ means

1 property for which it is reasonable to believe  
2 that more than half of the construction expendi-  
3 tures will be made directly by the taxpayer.

4 “(B) NONSELF-CONSTRUCTED PROP-  
5 ERTY.—The term ‘nonself-constructed property’  
6 means property which is not self-constructed  
7 property.

8 “(C) CONSTRUCTION, ETC.—The term  
9 ‘construction’ includes reconstruction and erec-  
10 tion, and the term ‘constructed’ includes recon-  
11 structed and erected.

12 “(D) ONLY CONSTRUCTION OF QUALI-  
13 FYING SYSTEM OF CONTINUOUS EMISSION CON-  
14 TROL TO BE TAKEN INTO ACCOUNT.—Construc-  
15 tion shall be taken into account only if, for pur-  
16 poses of this subpart, expenditures therefore  
17 are properly chargeable to capital account with  
18 respect to the property.

19 “(5) ELECTION.—An election under this sub-  
20 section may be made at such time and in such man-  
21 ner as the Secretary may by regulations prescribe.  
22 Such an election shall apply to the taxable year for  
23 which made and to all subsequent taxable years.  
24 Such an election, once made, may not be revoked ex-  
25 cept with the consent of the Secretary.



1       “(g) COORDINATION WITH OTHER CREDITS.—This  
 2 section shall not apply to any property with respect to  
 3 which the rehabilitation credit under section 47 or the en-  
 4 ergy credit under section 48 is allowed unless the taxpayer  
 5 elects to waive the application of such credit to such prop-  
 6 erty.

7       “(h) TERMINATION.—This section shall not apply  
 8 with respect to any qualified investment made more than  
 9 10 years after the effective date of this section.”

10       (c) RECAPTURE.—Section 50(a) (relating to other  
 11 special rules) is amended by adding at the end the fol-  
 12 lowing:

13               “(6) SPECIAL RULES RELATING TO QUALIFYING  
 14 SYSTEM OF CONTINUOUS EMISSION CONTROL.—For  
 15 purposes of applying this subsection in the case of  
 16 any credit allowable by reason of section 48A, the  
 17 following shall apply:

18                       “(A) GENERAL RULE.—In lieu of the  
 19 amount of the increase in tax under paragraph  
 20 (1), the increase in tax shall be an amount  
 21 equal to the investment tax credit allowed under  
 22 section 38 for all prior taxable years with re-  
 23 spect to a qualifying system of continuous emis-  
 24 sion control (as defined by section 48A(b)(1))  
 25 multiplied by a fraction whose numerator is the

1           number of years remaining to fully depreciate  
2           under this title the qualifying system of contin-  
3           uous emission control disposed of, and whose  
4           denominator is the total number of years over  
5           which such unit would otherwise have been sub-  
6           ject to depreciation. For purposes of the pre-  
7           ceding sentence, the year of disposition of the  
8           qualifying system of continuous emission con-  
9           trol property shall be treated as a year of re-  
10          maining depreciation.

11                 “(B) PROPERTY CEASES TO QUALIFY FOR  
12          PROGRESS EXPENDITURES.—Rules similar to  
13          the rules of paragraph (2) shall apply in the  
14          case of qualified progress expenditures for a  
15          qualifying system of continuous emission con-  
16          trol under section 48A, except that the amount  
17          of the increase in tax under subparagraph (A)  
18          of this paragraph shall be substituted in lieu of  
19          the amount described in such paragraph (2).

20                 “(C) APPLICATION OF PARAGRAPH.—This  
21          paragraph shall be applied separately with re-  
22          spect to the credit allowed under section 38 re-  
23          garding a qualifying system of continuous emis-  
24          sion control.”

1 (d) TRANSITIONAL RULE.—Section 39(d) (relating to  
2 transitional rules) is amended by adding at the end the  
3 following:

4 “(10) NO CARRYBACK OF SECTION 48A CREDIT  
5 BEFORE EFFECTIVE DATE.—No portion of the un-  
6 used business credit for any taxable year which is  
7 attributable to the qualifying clean coal technology  
8 unit credit determined under section 48A may be  
9 carried back to a taxable year ending before the date  
10 of enactment of section 48A.”

11 (e) TECHNICAL AMENDMENTS.—

12 (1) Section 49(a)(1)(C) is amended by striking  
13 “and” at the end of clause (ii), by striking the pe-  
14 riod at the end of clause (iii) and inserting “, and”,  
15 and by adding at the end the following:

16 “(iv) the portion of the basis of any  
17 qualifying system of continuous emission  
18 control attributable to any qualified invest-  
19 ment (as defined by section 48A(e)).”

20 (2) Section 50(a)(4) is amended by striking  
21 “and (2)” and inserting “, (2), and (6)”.

22 (3) Section 50(c) is amended by adding at the  
23 end the following:

1           “(6) NONAPPLICATION.—Paragraphs (1) and  
2           (2) shall not apply to any qualifying clean coal tech-  
3           nology unit credit under section 48A.”

4           (4) The table of sections for subpart E of part  
5           IV of subchapter A of chapter 1 is amended by in-  
6           serting after the item relating to section 48 the fol-  
7           lowing:

“48A. Qualifying clean coal technology unit credit.”

8           (f) INSTALLATIONS NOT SUBJECT TO NEW SOURCE  
9           REVIEW, ETC.—

10           (1) EXEMPTION FROM NEW SOURCE REVIEW.—

11           The installation of a qualifying system of continuous  
12           emission control (as defined in section 48A(b)(1) of  
13           the Internal Revenue Code of 1986, as added by  
14           subsection (b)), shall be exempt from the new source  
15           review provisions of the Clean Air Act (42 U.S.C.  
16           7401 et seq.).

17           (2) EXEMPTION FROM EMISSION CONTROL RE-  
18           QUIREMENTS.—The installation of a qualifying sys-  
19           tem of continuous emission control (as so defined)  
20           on an existing coal-based electricity generating unit,  
21           which meets or exceeds, for the applicable source  
22           category and pollutant being controlled by such  
23           qualified system, the standard of performance for  
24           new stationary sources, shall exempt the existing  
25           unit from any new or increased emission control re-

1       quirements for the pollutant being controlled by such  
2       qualified system under title I of the Clean Air Act  
3       (42 U.S.C. 7401 et seq.) for a period of 10 years  
4       after the date such qualified system is originally  
5       placed in service.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2000, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

12 SEC. 942. CREDIT FOR PRODUCTION FROM A QUALIFYING  
13 CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING  
CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV  
of subchapter A of chapter 1 (relating to business related  
credits), as amended by this Act, is amended by adding  
at the end the following:

19 "SEC. 45F. CREDIT FOR PRODUCTION FROM A QUALIFYING  
20 CLEAN COAL TECHNOLOGY UNIT.

21 “(a) GENERAL RULE.—For purposes of section 38,  
22 the qualifying clean coal technology production credit of  
23 any taxpayer for any taxable year is equal to the product  
24 of—

1           “(1) the applicable amount of clean coal tech-  
2           nology production credit, multiplied by

3           “(2) the kilowatt hours of electricity produced  
4           by the taxpayer during such taxable year at a quali-  
5           fying clean coal technology unit during the 10-year  
6           period beginning on the date the unit was returned  
7           to service after retrofit, repowering, or replacement.

8           “(b) APPLICABLE AMOUNT.—

9           “(1) IN GENERAL.—For purposes of this sec-  
10          tion, the applicable amount of clean coal technology  
11          production credit is equal to \$0.0034.

12          “(2) INFLATION ADJUSTMENT FACTOR.—For  
13          calendar years after 2001, the applicable amount of  
14          clean coal technology production credit shall be ad-  
15          justed by multiplying such amount by the inflation  
16          adjustment factor for the calendar year in which the  
17          amount is applied. If any amount as increased under  
18          the preceding sentence is not a multiple of 0.01 cent,  
19          such amount shall be rounded to the nearest mul-  
20          tiple of 0.01 cent.

21          “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
22          poses of this section—

23          “(1) QUALIFYING CLEAN COAL TECHNOLOGY  
24          UNIT.—The term ‘qualifying clean coal technology  
25          unit’ means a unit of the taxpayer which—

1           “(A) is an existing coal-based electricity  
2           generating steam generator-turbine unit,

3           “(B) has a nameplate capacity rating of  
4           not more than 300,000 kilowatts, and

5           “(C) has been retrofitted, repowered, or re-  
6           placed with a clean coal technology within 10  
7           years of the effective date of this section.

8           “(2) CLEAN COAL TECHNOLOGY.—The term  
9           ‘clean coal technology’ means technology which—

10           “(A) uses coal to produce 50 percent or  
11           more of its thermal output as electricity, includ-  
12           ing advanced pulverized coal or atmospheric flu-  
13           idized bed combustion, pressurized fluidized bed  
14           combustion, integrated gasification combined  
15           cycle, or any other technology for the produc-  
16           tion of electricity,

17           “(B) has a design heat rate not less than  
18           500 Btu/kWh below that of the existing unit be-  
19           fore it is retrofit, repowered, or replaced with  
20           the qualifying clean coal technology,

21           “(C) has a maximum design heat rate of  
22           not more than 9,000 Btu/kWh when the design  
23           coal has a heat content of more than 8,000 Btu  
24           per pound, and

1           “(D) has a maximum design heat rate of  
2           not more than 10,500 Btu/kWh when the de-  
3           sign coal has a heat content of 8,000 Btu per  
4           pound or less.

5           “(3) APPLICATION OF CERTAIN RULES.—The  
6           rules of paragraphs (3), (4), and (5) of section 45  
7           shall apply.

8           “(4) INFLATION ADJUSTMENT FACTOR.—The  
9           term ‘inflation adjustment factor’ means, with re-  
10          spect to a calendar year, a fraction the numerator  
11          of which is the GDP implicit price deflator for the  
12          preceding calendar year and the denominator of  
13          which is the GDP implicit price deflator for the cal-  
14          endar year 2000.

15          “(5) GDP IMPLICIT PRICE DEFLATOR.—The  
16          term ‘GDP implicit price deflator’ means the most  
17          recent revision of the implicit price deflator for the  
18          gross domestic product as computed by the Depart-  
19          ment of Commerce before March 15 of the calendar  
20          year.

21          “(d) COORDINATION WITH OTHER CREDITS.—This  
22          section shall not apply to any property with respect to  
23          which the qualifying clean coal technology unit credit  
24          under section 48A is allowed unless the taxpayer elects  
25          to waive the application of such credit to such property.”



1 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
 2 tion 38(b) is amended by striking “plus” at the end of  
 3 paragraph (13), by striking the period at the end of para-  
 4 graph (14) and inserting “, plus”, and by adding at the  
 5 end the following:

6 “(15) the qualifying clean coal technology pro-  
 7 duction credit determined under section 45F(a).”

8 (c) TRANSITIONAL RULE.—Section 39(d) (relating to  
 9 transitional rules), as amended by this Act, is amended  
 10 by adding at the end the following:

11 “(11) NO CARRYBACK OF SECTION 45F CREDIT  
 12 BEFORE EFFECTIVE DATE.—No portion of the un-  
 13 used business credit for any taxable year which is  
 14 attributable to the qualifying clean coal technology  
 15 production credit determined under section 45F may  
 16 be carried back to a taxable year ending before the  
 17 date of enactment of section 45F.”

18 (d) CLERICAL AMENDMENT.—The table of sections  
 19 for subpart D of part IV of subchapter A of chapter 1  
 20 is amended by adding at the end the following:

“Sec. 45F. Credit for production from a qualifying clean coal technology unit.”

21 (e) MODIFICATIONS AND INSTALLATIONS NOT SUB-  
 22 JECT TO NEW SOURCE REVIEW, ETC.—

23 (1) EXEMPTION FROM NEW SOURCE REVIEW.—  
 24 Modifications made to an existing coal-based genera-  
 25 tion unit because of, or as part of a qualifying clean

1 coal technology unit (as defined in section 45F(c)(1)  
2 of the Internal Revenue Code of 1986, as added by  
3 subsection (a)), shall be exempt from the new source  
4 review provisions of the Clean Air Act (42 U.S.C.  
5 7401 et seq.).

6 (2) EXEMPTION FROM EMISSION CONTROL RE-  
7 QUIREMENTS.—The installation of a qualifying clean  
8 coal technology (as so defined) on an existing coal-  
9 based electricity generating unit, which meets or ex-  
10 ceeds, for the applicable source category, the stand-  
11 ard of performance for new stationary sources under  
12 section 111 of the Clean Air Act (42 U.S.C. 7411),  
13 shall exempt the existing unit from any new or in-  
14 creased emission control requirements under title I  
15 of such Act (42 U.S.C. 7401 et seq.) for a period  
16 of 10 years after the date the qualifying clean coal  
17 technology is originally placed in service.

18 (f) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to production after the date of en-  
20 actment of this Act.

1 **PART II—INCENTIVES FOR EARLY COMMERCIAL**  
2 **APPLICATIONS OF ADVANCED CLEAN COAL**  
3 **TECHNOLOGIES**

4 **SEC. 946. CREDIT FOR INVESTMENT IN QUALIFYING AD-**  
5 **VANCED CLEAN COAL TECHNOLOGY.**

6 (a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN  
7 COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (re-  
8 lating to amount of credit), as amended by this Act, is  
9 amended by striking “and” at the end of paragraph (3),  
10 by striking the period at the end of paragraph (4) and  
11 inserting “, and”, and by adding at the end the following:

12 “(5) the qualifying advanced clean coal tech-  
13 nology facility credit.”

14 (b) AMOUNT OF QUALIFYING ADVANCED CLEAN  
15 COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of  
16 part IV of subchapter A of chapter 1 (relating to rules  
17 for computing investment credit), as amended by this Act,  
18 is amended by inserting after section 48A the following:

19 **“SEC. 48B. QUALIFYING ADVANCED CLEAN COAL TECH-**  
20 **NOLOGY FACILITY CREDIT.**

21 “(a) IN GENERAL.—For purposes of section 46, the  
22 qualifying advanced clean coal technology facility credit  
23 for any taxable year is an amount equal to 10 percent  
24 of the qualified investment in a qualifying advanced clean  
25 coal technology facility for such taxable year.

1       “(b) QUALIFYING ADVANCED CLEAN COAL TECH-  
2 NOLOGY FACILITY.—

3               “(1) IN GENERAL.—For purposes of subsection  
4 (a), the term ‘qualifying advanced clean coal tech-  
5 nology facility’ means a facility of the taxpayer—

6               “(A)(i)(I) which replaces a conventional  
7 technology facility of the taxpayer and the origi-  
8 nal use of which commences with the taxpayer,  
9 or

10              “(II) which is a retrofitted or repowered  
11 conventional technology facility, the retrofitting  
12 or repowering of which is completed by the tax-  
13 payer (but only with respect to that portion of  
14 the basis which is properly attributable to such  
15 retrofitting or repowering), or

16              “(ii) which is acquired through purchase  
17 (as defined by section 179(d)(2)),

18              “(B) which is depreciable under section  
19 167,

20              “(C) which has a useful life of not less  
21 than 4 years,

22              “(D) which is located in the United States,  
23 and

24              “(E) which uses qualifying advanced clean  
25 coal technology.

1           “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—

2           For purposes of subparagraph (A) of paragraph (1),

3           in the case of a facility that—

4                   “(A) is originally placed in service by a  
5                   person, and

6                   “(B) is sold and leased back by such per-  
7                   son, or is leased to such person, within 3  
8                   months after the date such facility was origi-  
9                   nally placed in service, for a period of not less  
10                  than 12 years,

11          such facility shall be treated as originally placed in  
12          service not earlier than the date on which such prop-  
13          erty is used under the leaseback (or lease) referred  
14          to in subparagraph (B). The preceding sentence  
15          shall not apply to any property if the lessee and les-  
16          sor of such property make an election under this  
17          sentence. Such an election, once made, may be re-  
18          voked only with the consent of the Secretary.

19          “(3) QUALIFYING ADVANCED CLEAN COAL  
20          TECHNOLOGY.—For purposes of paragraph (1)—

21                   “(A) IN GENERAL.—The term ‘qualifying  
22                   advanced clean coal technology’ means, with re-  
23                   spect to clean coal technology—

24                           “(i) multiple applications, with a com-  
25                           bined capacity of not more than 5,000

1 megawatts, of advanced pulverized coal or  
2 atmospheric fluidized bed combustion  
3 technology—

4 “(I) installed as a new, retrofit,  
5 or repowering application,

6 “(II) operated between 2001 and  
7 2011, and

8 “(III) with a design net heat rate  
9 of not more than 9,500 Btu per kilo-  
10 watt hour when the design coal has a  
11 heat content of more than 8,000 Btu  
12 per pound, or a design net heat rate  
13 of not more than 9,900 Btu per kilo-  
14 watt hour when the design coal has a  
15 heat content of 8,000 Btu per pound  
16 or less,

17 “(ii) multiple applications, with a  
18 combined capacity of not more than 1,000  
19 megawatts, of pressurized fluidized bed  
20 combustion technology—

21 “(I) installed as a new, retrofit,  
22 or repowering application,

23 “(II) operated between 2001 and  
24 2011, and

1 “(III) with a design net heat rate  
2 of not more than 8,400 Btu per kilo-  
3 watt hour when the design coal has a  
4 heat content of more than 8,000 Btu  
5 per pound, or a design net heat rate  
6 of not more than 9,900 Btu’s per kilo-  
7 watt hour when the design coal has a  
8 heat content of 8,000 Btu per pound  
9 or less,

10 “(iii) multiple applications, with a  
11 combined capacity of not more than 2,000  
12 megawatts, of integrated gasification com-  
13 bined cycle technology, with or without fuel  
14 or chemical co-production—

15 “(I) installed as a new, retrofit,  
16 or repowering application,

17 “(II) operated between 2001 and  
18 2011,

19 “(III) with a design net heat rate  
20 of not more than 8,550 Btu per kilo-  
21 watt hour when the design coal has a  
22 heat content of more than 8,000 Btu  
23 per pound, or a design net heat rate  
24 of not more than 9,900 Btu per kilo-  
25 watt hour when the design coal has a

1 heat content of 8,000 Btu per pound  
2 or less, and

3 “(IV) with a net thermal effi-  
4 ciency on any fuel or chemical co-pro-  
5 duction of not less than 39 percent  
6 (higher heating value), and

7 “(iv) multiple applications, with a  
8 combined capacity of not more than 2,000  
9 megawatts of technology for the production  
10 of electricity—

11 “(I) installed as a new, retrofit,  
12 or repowering application,

13 “(II) operated between 2001 and  
14 2011, and

15 “(III) with a carbon emission  
16 rate that is not more than 85 percent  
17 of conventional technology.

18 “(B) EXCEPTIONS.—Such term shall not  
19 include clean coal technology projects receiving  
20 or scheduled to receive funding under the Clean  
21 Coal Technology Program of the Department of  
22 Energy.

23 “(C) CLEAN COAL TECHNOLOGY.—The  
24 term ‘clean coal technology’ means advanced  
25 technology which uses coal to produce 75 per-



cent or more of its thermal output as electricity including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle with or without fuel or chemical co-production, and any other technology for the production of electricity that exceeds the performance of conventional technology.

“(D) CONVENTIONAL TECHNOLOGY.—The term ‘conventional technology’ means—

“(i) coal-fired combustion technology with a design net heat rate of not less than 9,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.54 pounds of carbon per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound,

“(ii) coal-fired combustion technology with a design net heat rate of not less than 10,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.60 pound of carbon per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less, or

1                   “(iii) natural gas-fired combustion  
2                   technology with a design net heat rate of  
3                   not less than 7,500 Btu per kilowatt hour  
4                   (HHV) and a carbon equivalents emission  
5                   rate of not more than 0.24 pound of car-  
6                   bon per kilowatt hour.

7                   “(E) DESIGN NET HEAT RATE.—The de-  
8                   sign net heat rate shall be based on the design  
9                   annual heat input to and the design annual net  
10                  electrical output from the qualifying advanced  
11                  clean coal technology (determined without re-  
12                  gard to such technology’s co-generation of  
13                  steam).

14                  “(F) SELECTION CRITERIA.—Selection cri-  
15                  teria for clean coal technology facilities—

16                         “(i) shall be established by the Sec-  
17                         retary of Energy as part of a competitive  
18                         solicitation,

19                         “(ii) shall include primary criteria of  
20                         minimum design net heat rate, maximum  
21                         design thermal efficiency, and lowest cost  
22                         to the government, and

23                         “(iii) shall include supplemental cri-  
24                         teria as determined appropriate by the  
25                         Secretary of Energy.

1       “(c) QUALIFIED INVESTMENT.—For purposes of sub-  
 2 section (a), the term ‘qualified investment’ means, with  
 3 respect to any taxable year, the basis of a qualifying ad-  
 4 vanced clean coal technology facility placed in service by  
 5 the taxpayer during such taxable year.

6       “(d) QUALIFIED PROGRESS EXPENDITURES.—

7               “(1) INCREASE IN QUALIFIED INVESTMENT.—  
 8 In the case of a taxpayer who has made an election  
 9 under paragraph (5), the amount of the qualified in-  
 10 vestment of such taxpayer for the taxable year (de-  
 11 termined under subsection (c) without regard to this  
 12 section) shall be increased by an amount equal to  
 13 the aggregate of each qualified progress expenditure  
 14 for the taxable year with respect to progress expend-  
 15 iture property.

16              “(2) PROGRESS EXPENDITURE PROPERTY DE-  
 17 FINED.—For purposes of this subsection, the term  
 18 ‘progress expenditure property’ means any property  
 19 being constructed by or for the taxpayer and which  
 20 it is reasonable to believe will qualify as a qualifying  
 21 advanced clean coal technology facility which is  
 22 being constructed by or for the taxpayer when it is  
 23 placed in service.

24              “(3) QUALIFIED PROGRESS EXPENDITURES DE-  
 25 FINED.—For purposes of this subsection—

1           “(A) SELF-CONSTRUCTED PROPERTY.—In  
 2           the case of any self-constructed property, the  
 3           term ‘qualified progress expenditures’ means  
 4           the amount which, for purposes of this subpart,  
 5           is properly chargeable (during such taxable  
 6           year) to capital account with respect to such  
 7           property.

8           “(B) NONSELF-CONSTRUCTED PROP-  
 9           ERTY.—In the case of nonself-constructed prop-  
 10          erty, the term ‘qualified progress expenditures’  
 11          means the amount paid during the taxable year  
 12          to another person for the construction of such  
 13          property.

14          “(4) OTHER DEFINITIONS.—For purposes of  
 15          this subsection—

16               “(A) SELF-CONSTRUCTED PROPERTY.—  
 17               The term ‘self-constructed property’ means  
 18               property for which it is reasonable to believe  
 19               that more than half of the construction expendi-  
 20               tures will be made directly by the taxpayer.

21               “(B) NONSELF-CONSTRUCTED PROP-  
 22               ERTY.—The term ‘nonself-constructed property’  
 23               means property which is not self-constructed  
 24               property.

1           “(C) CONSTRUCTION, ETC.—The term  
2           ‘construction’ includes reconstruction and erec-  
3           tion, and the term ‘constructed’ includes recon-  
4           structed and erected.

5           “(D) ONLY CONSTRUCTION OF QUALI-  
6           FYING ADVANCED CLEAN COAL TECHNOLOGY  
7           FACILITY TO BE TAKEN INTO ACCOUNT.—Con-  
8           struction shall be taken into account only if, for  
9           purposes of this subpart, expenditures therefor  
10          are properly chargeable to capital account with  
11          respect to the property.

12          “(5) ELECTION.—An election under this sub-  
13          section may be made at such time and in such man-  
14          ner as the Secretary may by regulations prescribe.  
15          Such an election shall apply to the taxable year for  
16          which made and to all subsequent taxable years.  
17          Such an election, once made, may not be revoked ex-  
18          cept with the consent of the Secretary.

19          “(e) COORDINATION WITH OTHER CREDITS.—This  
20          section shall not apply to any property with respect to  
21          which the rehabilitation credit under section 47 or the en-  
22          ergy credit under section 48 is allowed unless the taxpayer  
23          elects to waive the application of such credit to such prop-  
24          erty.

1       “(f) TERMINATION.—This section shall not apply  
2 with respect to any qualified investment made more than  
3 10 years after the effective date of this section.”

4       (c) RECAPTURE.—Section 50(a) (relating to other  
5 special rules), as amended by this Act, is amended by add-  
6 ing at the end the following:

7               “(7) SPECIAL RULES RELATING TO QUALIFYING  
8       ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—  
9       For purposes of applying this subsection in the case  
10       of any credit allowable by reason of section 48B, the  
11       following shall apply:

12               “(A) GENERAL RULE.—In lieu of the  
13       amount of the increase in tax under paragraph  
14       (1), the increase in tax shall be an amount  
15       equal to the investment tax credit allowed under  
16       section 38 for all prior taxable years with re-  
17       spect to a qualifying advanced clean coal tech-  
18       nology facility (as defined by section 48B(b)(1))  
19       multiplied by a fraction whose numerator is the  
20       number of years remaining to fully depreciate  
21       under this title the qualifying advanced clean  
22       coal technology facility disposed of, and whose  
23       denominator is the total number of years over  
24       which such facility would otherwise have been  
25       subject to depreciation. For purposes of the

1 preceding sentence, the year of disposition of  
2 the qualifying advanced clean coal technology  
3 facility property shall be treated as a year of re-  
4 maining depreciation.

5 “(B) PROPERTY CEASES TO QUALIFY FOR  
6 PROGRESS EXPENDITURES.—Rules similar to  
7 the rules of paragraph (2) shall apply in the  
8 case of qualified progress expenditures for a  
9 qualifying advanced clean coal technology facil-  
10 ity under section 48B, except that the amount  
11 of the increase in tax under subparagraph (A)  
12 of this paragraph shall be substituted in lieu of  
13 the amount described in such paragraph (2).

14 “(C) APPLICATION OF PARAGRAPH.—This  
15 paragraph shall be applied separately with re-  
16 spect to the credit allowed under section 38 re-  
17 garding a qualifying advanced clean coal tech-  
18 nology facility.”

19 (d) TRANSITIONAL RULE.—Section 39(d) (relating to  
20 transitional rules), as amended by this Act, is amended  
21 by adding at the end the following:

22 “(12) NO CARRYBACK OF SECTION 48B CREDIT  
23 BEFORE EFFECTIVE DATE.—No portion of the un-  
24 used business credit for any taxable year which is  
25 attributable to the qualifying advanced clean coal

1       technology facility credit determined under section  
 2       48B may be carried back to a taxable year ending  
 3       before the date of the enactment of section 48B.”

4       (e) TECHNICAL AMENDMENTS.—

5           (1) Section 49(a)(1)(C), as amended by this  
 6       Act, is amended by striking “and” at the end of  
 7       clause (iii), by striking the period at the end of  
 8       clause (iv) and inserting “, and”, and by adding at  
 9       the end the following:

10                   “(v) the portion of the basis of any  
 11                   qualifying advanced clean coal technology  
 12                   facility attributable to any qualified invest-  
 13                   ment (as defined by section 48B(c)).”

14           (2) Section 50(a)(4), as amended by this Act,  
 15       is amended by striking “and (6)” and inserting “(6),  
 16       and (7)”.

17           (3) Section 50(c)(6), as added by this Act, is  
 18       amended by inserting “or any advanced clean coal  
 19       technology facility credit under section 48B” after  
 20       “section 48A”.

21           (4) The table of sections for subpart E of part  
 22       IV of subchapter A of chapter 1, as amended by this  
 23       Act, is amended by inserting after the item relating  
 24       to section 48A the following:

“Sec. 48B. Qualifying advanced clean coal technology facility credit.”



1 (f) INSTALLATIONS NOT SUBJECT TO NEW SOURCE  
2 REVIEW, ETC.—

3 (1) EXEMPTION FROM NEW SOURCE REVIEW.—

4 The installation of a qualifying advanced clean coal  
5 technology facility (as defined in section 48B(b)(1)  
6 of the Internal Revenue Code of 1986, as added by  
7 subsection (b)), shall be exempt from the new source  
8 review provisions of the Clean Air Act (42 U.S.C.  
9 7401 et seq.).

10 (2) EXEMPTION FROM EMISSION CONTROL RE-

11 QUIREMENTS.—The installation of a qualifying ad-  
12 vanced clean coal technology facility (as so defined)  
13 which meets or exceeds, for the applicable source  
14 category, the standard of performance for new sta-  
15 tionary sources established under section 111 of the  
16 Clean Air Act (42 U.S.C. 7411), shall exempt that  
17 facility from any new or increased emission control  
18 requirements under title I of such Act (42 U.S.C.  
19 7401 et seq.) for a period of 10 years after the date  
20 the qualifying advanced clean coal technology facility  
21 is originally placed in service.

22 (g) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to periods after December 31,  
24 2000, under rules similar to the rules of section 48(m)  
25 of the Internal Revenue Code of 1986 (as in effect on the

1 day before the date of the enactment of the Revenue Rec-  
 2 onciliation Act of 1990).

3 **SEC. 947. CREDIT FOR PRODUCTION FROM QUALIFYING**  
 4 **ADVANCED CLEAN COAL TECHNOLOGY.**

5 (a) CREDIT FOR PRODUCTION FROM QUALIFYING  
 6 ADVANCED CLEAN COAL TECHNOLOGY.—Subpart D of  
 7 part IV of subchapter A of chapter 1 (relating to business  
 8 related credits), as amended by this Act, is amended by  
 9 adding at the end the following:

10 **“SEC. 45G. CREDIT FOR PRODUCTION FROM QUALIFYING**  
 11 **ADVANCED CLEAN COAL TECHNOLOGY.**

12 “(a) GENERAL RULE.—For purposes of section 38,  
 13 the qualifying advanced clean coal technology production  
 14 credit of any taxpayer for any taxable year is equal to—

15 “(1) the applicable amount of advanced clean  
 16 coal technology production credit, multiplied by

17 “(2) the sum of—

18 “(A) the kilowatt hours of electricity, plus

19 “(B) each 3413 Btu of fuels or chemicals,  
 20 produced by the taxpayer during such taxable year  
 21 at a qualifying advanced clean coal technology facil-  
 22 ity during the 10-year period beginning on the date  
 23 the facility was originally placed in service.

24 “(b) APPLICABLE AMOUNT.—For purposes of this  
 25 section, the applicable amount of advanced clean coal tech-

1 nology production credit with respect to production from  
 2 a qualifying advanced clean coal technology facility shall  
 3 be determined as follows:

4 “(1) Where the design coal has a heat content  
 5 of more than 8,000 Btu per pound:

6 “(A) In the case of a facility originally  
 7 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400 .....	\$.0050	\$.0030
More than 8,400 but not more than 8,550 .....	\$.0010	\$.0010
More than 8,550 but not more than 8,750 .....	\$.0005	\$.0005.

8 “(B) In the case of a facility originally  
 9 placed in service after 2007 and before 2012,  
 10 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770 .....	\$.0090	\$.0075
More than 7,770 but not more than 8,125 .....	\$.0070	\$.0050
More than 8,125 but not more than 8,350 .....	\$.0060	\$.0040.

11 “(C) In the case of a facility originally  
 12 placed in service after 2011 and before 2015,  
 13 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380 .....	\$.0120	\$.0090
More than 7,380 but not more than 7,720 .....	\$.0095	\$.0070.

14 “(2) Where the design coal has a heat content  
 15 of not more than 8,000 Btu per pound:

1 “(A) In the case of a facility originally  
 2 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500 .....	\$.0050	\$.0030
More than 8,500 but not more than 8,650 .....	\$.0010	\$.0010
More than 8,650 but not more than 8,750 .....	\$.0005	\$.0005.

3 “(B) In the case of a facility originally  
 4 placed in service after 2007 and before 2012,  
 5 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000 .....	\$.0090	\$.0075
More than 8,000 but not more than 8,250 .....	\$.0070	\$.0050
More than 8,250 but not more than 8,400 .....	\$.0060	\$.0040.

6 “(C) In the case of a facility originally  
 7 placed in service after 2011 and before 2015,  
 8 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800 .....	\$.0120	\$.0090
More than 7,800 but not more than 7,950 .....	\$.0095	\$.0070.

9 “(3) Where the clean coal technology facility is  
 10 producing fuel or chemicals:

11 “(A) In the case of a facility originally  
 12 placed in service before 2008, if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent .....	\$.0050	\$.0030
Less than 40.6 but not less than 40 percent .....	\$.0010	\$.0010
Less than 40 but not less than 39 percent .....	\$.0005	\$.0005.

1                   “(B) In the case of a facility originally  
 2                   placed in service after 2007 and before 2012,  
 3                   if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent .....	\$.0090	\$.0075
Less than 43.9 but not less than 42 percent .....	\$.0070	\$.0050
Less than 42 but not less than 40.9 percent .....	\$.0060	\$.0040.

4                   “(C) In the case of a facility originally  
 5                   placed in service after 2011 and before 2015,  
 6                   if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent .....	\$.0120	\$.0090
Less than 44.2 but not less than 43.6 percent .....	\$.0095	\$.0070.

7           “(c) INFLATION ADJUSTMENT FACTOR.—For cal-  
 8   endar years after 2001, each amount in paragraphs (1),  
 9   (2), and (3) of subsection (b) shall be adjusted by multi-  
 10   plying such amount by the inflation adjustment factor for  
 11   the calendar year in which the amount is applied. If any  
 12   amount has increased under the preceding sentence is not  
 13   a multiple of 0.01 cent, such amount shall be rounded to  
 14   the nearest multiple of 0.01 cent.

15           “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
 16   poses of this section—

17           “(1) IN GENERAL.—Any term used in this sec-  
 18   tion which is also used in section 48B shall have the  
 19   meaning given such term in section 48B.

1           “(2) APPLICABLE RULES.—The rules of para-  
2           graphs (3), (4), and (5) of section 45 shall apply.

3           “(3) INFLATION ADJUSTMENT FACTOR.—The  
4           term ‘inflation adjustment factor’ means, with re-  
5           spect to a calendar year, a fraction the numerator  
6           of which is the GDP implicit price deflator for the  
7           preceding calendar year and the denominator of  
8           which is the GDP implicit price deflator for the cal-  
9           endar year 2000.

10          “(4) GDP IMPLICIT PRICE DEFLATOR.—The  
11          term ‘GDP implicit price deflator’ means the most  
12          recent revision of the implicit price deflator for the  
13          gross domestic product as computed by the Depart-  
14          ment of Commerce before March 15 of the calendar  
15          year.”

16          (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
17          tion 38(b), as amended by this Act, is amended by striking  
18          “plus” at the end of paragraph (14), by striking the period  
19          at the end of paragraph (15) and inserting “, plus”, and  
20          by adding at the end the following:

21                 “(16) the qualifying advanced clean coal tech-  
22                 nology production credit determined under section  
23                 45G(a).”

1 (c) TRANSITIONAL RULE.—Section 39(d) (relating to  
2 transitional rules), as amended by this Act, is amended  
3 by adding at the end the following:

4 “(13) NO CARRYBACK OF SECTION 45H CREDIT  
5 BEFORE EFFECTIVE DATE.—No portion of the un-  
6 used business credit for any taxable year which is  
7 attributable to the qualifying advanced clean coal  
8 technology production credit determined under sec-  
9 tion 45G may be carried back to a taxable year end-  
10 ing before the date of enactment of section 45G.”

11 (d) CLERICAL AMENDMENT.—The table of sections  
12 for subpart D of part IV of subchapter A of chapter 1,  
13 as amended by this Act, is amended by adding at the end  
14 the following:

“Sec. 45G. Credit for production from qualifying advanced clean coal tech-  
nology.”

15 (e) INSTALLATIONS NOT SUBJECT TO NEW SOURCE  
16 REVIEW, ETC.—

17 (1) EXEMPTION FROM NEW SOURCE REVIEW.—  
18 The installation of a qualifying advanced clean coal  
19 technology facility which has qualified for a quali-  
20 fying advanced clean coal technology production  
21 credit determined under section 45G of the Internal  
22 Revenue Code of 1986, as added by subsection (a),  
23 shall be exempt from the new source review provi-  
24 sions of the Clean Air Act (42 U.S.C. 7401 et seq.).

1           (2) EXEMPTION FROM EMISSION CONTROL RE-  
 2           QUIREMENTS.—The installation of a qualifying ad-  
 3           vanced clean coal technology facility which has quali-  
 4           fied for a qualifying advanced clean coal technology  
 5           production credit determined under such section  
 6           45G and which meets or exceeds, for the applicable  
 7           source category, the standard of performance for  
 8           new stationary sources established under section 111  
 9           of the Clean Air Act (42 U.S.C. 7411), shall exempt  
 10          that facility from any new or increased emission con-  
 11          trol requirements under title I of such Act (42  
 12          U.S.C. 7401 et seq.) for a period of 10 years after  
 13          the date the qualifying advanced clean coal tech-  
 14          nology facility is originally placed in service.

15          (f) EFFECTIVE DATE.—The amendments made by  
 16          this section shall apply to production after the date of the  
 17          enactment of this Act.

## 18       **Subtitle C—Provisions Relating to** 19               **Natural Gas**

### 20       **SEC. 951. ARBITRAGE RULES NOT TO APPLY TO PREPAY-** 21               **MENTS FOR NATURAL GAS AND OTHER COM-** 22               **MODITIES.**

23          (a) IN GENERAL.—Section 148(b) (defining higher  
 24          yielding investments) is amended by adding at the end the  
 25          following new paragraph:



1           “(4) INVESTMENT PROPERTY NOT TO INCLUDE  
 2           CERTAIN PREPAYMENTS TO ENSURE COMMODITY  
 3           SUPPLY.—The term ‘investment property’ shall not  
 4           include a prepayment entered into for the purpose of  
 5           obtaining a supply of a commodity reasonably ex-  
 6           pected to be used in a business of one or more utili-  
 7           ties each of which is owned and operated by a State  
 8           or local government, any political subdivision or in-  
 9           strumentality thereof, or any governmental unit act-  
 10          ing for or on behalf of such a utility.”

11          (b) EFFECTIVE DATE.—The amendments made by  
 12          this section shall apply to obligations issued after the date  
 13          of the enactment of this Act.

14   **SEC. 952. PRIVATE LOAN FINANCING TEST NOT TO APPLY**  
 15                           **TO PREPAYMENTS FOR NATURAL GAS AND**  
 16                           **OTHER COMMODITIES.**

17          (a) IN GENERAL.—Section 141(c)(2) (providing ex-  
 18          ceptions to the private loan financing test) is amended by  
 19          striking “or” at the end of subparagraph (A), by striking  
 20          the period at the end of subparagraph (B) and inserting  
 21          “, or”, and by adding at the end the following:

22                           “(C) arises from a transaction described in  
 23                           section 148(b)(4).”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

## **Subtitle D—Provisions Relating to Electric Power**

### **SEC. 956. DEPRECIATION OF PROPERTY USED IN THE GENERATION OR TRANSMISSION OF ELECTRICITY.**

(a) DEPRECIATION OF PROPERTY USED IN THE GENERATION OR TRANSMISSION OF ELECTRICITY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to 7-year property), as amended by this Act, is amended by striking “and” at the end of clause (v), by redesignating clause (vi) as clause (vii), and by inserting after clause (v) the following new clause:

“(vi) any property used in the generation or transmission of electricity, and”.

(2) 10-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(v) the following new item:

“(C)(vi) ..... 10”.

(b) DEFINITION OF PROPERTY USED IN THE GENERATION OR TRANSMISSION OF ELECTRICITY.—Subsection (i) of section 168, as amended by this Act, is

1 amended by adding at the end the following new para-  
 2 graph:

3 “(18) PROPERTY USED IN THE GENERATION OR  
 4 TRANSMISSION OF ELECTRICITY.—

5 “(A) GENERATION.—The term ‘property  
 6 used in the generation of electricity’ means  
 7 property used in nuclear power production of  
 8 electricity for sale, property used in hydraulic  
 9 power production of electricity for sale, property  
 10 used in steam power production of electricity  
 11 for sale, and property used in combustion tur-  
 12 bine production of electricity for sale.

13 “(B) TRANSMISSION.—The term ‘property  
 14 used in the transmission of electricity’ means  
 15 property used in the transmission of electricity  
 16 for sale.”

17 (c) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to property placed in service after  
 19 the date of the enactment of this Act.

20 **SEC. 957. TAX-EXEMPT BOND FINANCING OF CERTAIN**  
 21 **ELECTRIC FACILITIES.**

22 (a) RULES APPLICABLE TO ELECTRIC OUTPUT FA-  
 23 CILITIES.—Subpart A of part IV of subchapter B of chap-  
 24 ter 1 (relating to tax exemption requirements for State

1 and local bonds) is amended by inserting after section 141  
 2 the following new section:

3 **“SEC. 141A. ELECTRIC OUTPUT FACILITIES.**

4       “(a) ELECTION TO TERMINATE TAX-EXEMPT BOND  
 5 FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILI-  
 6 TIES.—

7               “(1) IN GENERAL.—A governmental unit may  
 8       make an irrevocable election under this paragraph to  
 9       terminate certain tax-exempt financing for electric  
 10      output facilities. If the governmental unit makes  
 11      such election, then—

12               “(A) except as provided in paragraph (2),  
 13       on or after the date of such election the govern-  
 14       mental unit may not issue with respect to an  
 15       electric output facility any bond the interest on  
 16       which is exempt from tax under section 103,  
 17       and

18               “(B) notwithstanding paragraph (1) or (2)  
 19       of section 141(a) or paragraph (4) or (5) of  
 20       section 141(b), no bond which was issued by  
 21       such unit with respect to an electric output fa-  
 22       cility before the date of enactment of this sub-  
 23       section (or which is described in paragraph  
 24       (2)(B), (D), (E) or (F)) the interest on which

1           was exempt from tax on such date, shall be  
2           treated as a private activity bond.

3           “(2) EXCEPTIONS.—An election under para-  
4           graph (1) does not apply to any of the following  
5           bonds:

6                   “(A) Any qualified bond (as defined in sec-  
7                   tion 141(e)).

8                   “(B) Any eligible refunding bond (as de-  
9                   fined in subsection (d)(6)).

10                   “(C) Any bond issued to finance a quali-  
11                   fying transmission facility or a qualifying dis-  
12                   tribution facility.

13                   “(D) Any bond issued to finance equip-  
14                   ment or facilities necessary to meet Federal or  
15                   State environmental requirements applicable to  
16                   an existing generation facility.

17                   “(E) Any bond issued to finance repair of  
18                   any existing generation facility. Repairs of fa-  
19                   cilities may not increase the generation capacity  
20                   of the facility by more than 3 percent above the  
21                   greater of its nameplate or rated capacity as of  
22                   the date of the enactment of this section.

23                   “(F) Any bond issued to acquire or con-  
24                   struct (i) a qualified facility, as defined in sec-  
25                   tion 45(c)(3), if such facility is placed in service

1 during a period in which a qualified facility may  
2 be placed in service under such section, or (ii)  
3 any energy property, as defined in section  
4 48(a)(3).

5 “(3) FORM AND EFFECT OF ELECTION.—

6 “(A) IN GENERAL.—An election under  
7 paragraph (1) shall be made in such a manner  
8 as the Secretary prescribes and shall be binding  
9 on any successor in interest to, or any related  
10 party with respect to, the electing governmental  
11 unit. For purposes of this paragraph, a govern-  
12 mental unit shall be treated as related to an-  
13 other governmental unit if it is a member of the  
14 same controlled group.

15 “(B) TREATMENT OF ELECTING GOVERN-  
16 MENTAL UNIT.—A governmental unit which  
17 makes an election under paragraph (1) shall be  
18 treated for purposes of section 141 as a person  
19 which is not a governmental unit and which is  
20 engaged in a trade or business, with respect to  
21 its purchase of electricity generated by an elec-  
22 tric output facility placed in service after such  
23 election, if such purchase is under a contract  
24 executed after such election.

1           “(4) DEFINITIONS.—For purposes of this sub-  
2       section:

3           “(A) EXISTING GENERATION FACILITY.—  
4       The term ‘existing generation facility’ means an  
5       electric generation facility in service on the date  
6       of the enactment of this subsection or the con-  
7       struction of which commenced before June 1,  
8       2000.

9           “(B) QUALIFYING DISTRIBUTION FACIL-  
10      ITY.—The term ‘qualifying distribution facility’  
11      means a distribution facility over which open  
12      access distribution services described in sub-  
13      section (b)(2)(C) are provided.

14          “(C) QUALIFYING TRANSMISSION FACIL-  
15      ITY.—The term ‘qualifying transmission facil-  
16      ity’ means a local transmission facility (as de-  
17      fined in subsection (c)(3)(A)) over which open  
18      access transmission services described in sub-  
19      paragraph (A), (B), or (E) of subsection (b)(2)  
20      are provided.

21          “(b) PERMITTED OPEN ACCESS ACTIVITIES AND  
22      SALES TRANSACTIONS NOT A PRIVATE BUSINESS USE  
23      FOR BONDS WHICH REMAIN SUBJECT TO PRIVATE USE  
24      RULES.—

1           “(1) GENERAL RULE.—For purposes of this  
 2           section and section 141, the term ‘private business  
 3           use’ shall not include a permitted open access activ-  
 4           ity or a permitted sales transaction.

5           “(2) PERMITTED OPEN ACCESS ACTIVITIES.—  
 6           For purposes of this section, the term ‘permitted  
 7           open access activity’ means any of the following  
 8           transactions or activities with respect to an electric  
 9           output facility owned by a governmental unit:

10           “(A) Providing nondiscriminatory open ac-  
 11           cess transmission service and ancillary  
 12           services—

13           “(i) pursuant to an open access trans-  
 14           mission tariff filed with and approved by  
 15           FERC, but, in the case of a voluntarily  
 16           filed tariff, only if the governmental unit  
 17           voluntarily files a report described in para-  
 18           graph (c) or (h) of section 35.34 of title 18  
 19           of the Code of Federal Regulations or suc-  
 20           cessor provision (relating to whether or not  
 21           the issuer will join a regional transmission  
 22           organization) not later than the later of  
 23           the applicable date prescribed in such  
 24           paragraphs or 60 days after the date of  
 25           the enactment of this section,



1 “(ii) under an independent system op-  
2 erator agreement, regional transmission or-  
3 ganization agreement, or regional trans-  
4 mission group agreement approved by  
5 FERC, or

6 “(iii) in the case of an ERCOT utility  
7 (as defined in section 212(k)(2)(B) of the  
8 Federal Power Act (16 U.S.C.  
9 824k(k)(2)(B)), pursuant to a tariff ap-  
10 proved by the Public Utility Commission of  
11 Texas.

12 “(B) Participation in—

13 “(i) an independent system operator  
14 agreement,

15 “(ii) a regional transmission organiza-  
16 tion agreement, or

17 “(iii) a regional transmission group,  
18 which has been approved by FERC, or by the  
19 Public Utility Commission of Texas in the case  
20 of an ERCOT utility (as so defined). Such par-  
21 ticipation may include transfer of control of  
22 transmission facilities to an organization de-  
23 scribed in clause (i), (ii), or (iii).

24 “(C) Delivery on a nondiscriminatory open  
25 access basis of electric energy sold to end-users

1 served by distribution facilities owned by such  
2 governmental unit.

3 “(D) Delivery on a nondiscriminatory open  
4 access basis of electric energy generated by gen-  
5 eration facilities connected to distribution facili-  
6 ties owned by such governmental unit.

7 “(E) Other transactions providing non-  
8 discriminatory open access transmission or dis-  
9 tribution services under Federal, State, or local  
10 open access, retail competition, or similar pro-  
11 grams, to the extent provided in regulations  
12 prescribed by the Secretary.

13 “(3) PERMITTED SALES TRANSACTION.—For  
14 purposes of this subsection, the term ‘permitted  
15 sales transaction’ means any of the following sales of  
16 electric energy from existing generation facilities (as  
17 defined in subsection (a)(4)(A)):

18 “(A) The sale of electricity to an on-system  
19 purchaser, if the seller provides open access dis-  
20 tribution service under paragraph (2)(C) and,  
21 in the case of a seller which owns or operates  
22 transmission facilities, if such seller provides  
23 open access transmission under subparagraph  
24 (A), (B), or (E) of paragraph (2).

1           “(B) The sale of electricity to a wholesale  
2 native load purchaser or in a wholesale strand-  
3 ed cost mitigation sale—

4           “(i) if the seller provides open access  
5 transmission service described in subpara-  
6 graph (A), (B), or (E) of paragraph (2), or

7           “(ii) if the seller owns or operates no  
8 transmission facilities and transmission  
9 providers to the seller’s wholesale native  
10 load purchasers provide open access trans-  
11 mission service described in subparagraph  
12 (A), (B), or (E) of paragraph (2).

13           “(4) DEFINITIONS AND SPECIAL RULES.—For  
14 purposes of this subsection—

15           “(A) ON-SYSTEM PURCHASER.—The term  
16 ‘on-system purchaser’ means a person whose  
17 electric facilities or equipment are directly con-  
18 nected with transmission or distribution facili-  
19 ties which are owned by a governmental unit,  
20 and such person—

21           “(i) purchases electric energy from  
22 such governmental unit at retail and either  
23 was within such unit’s distribution area in  
24 the base year or is a person as to whom

1           the governmental unit has a service obliga-  
2           tion, or

3           “(ii) is a wholesale native load pur-  
4           chaser from such governmental unit.

5           “(B) WHOLESALE NATIVE LOAD PUR-  
6           CHASER.—The term ‘wholesale native load pur-  
7           chaser’ means a wholesale purchaser as to  
8           whom the governmental unit had—

9           “(i) a service obligation at wholesale  
10          in the base year, or

11          “(ii) an obligation in the base year  
12          under a requirements contract, or under a  
13          firm sales contract which has been in effect  
14          for (or has an initial term of) at least 10  
15          years,

16          but only to the extent that in either case such  
17          purchaser resells the electricity at retail to per-  
18          sons within the purchaser’s distribution area.

19          “(C) WHOLESALE STRANDED COST MITI-  
20          GATION SALE.—The term ‘wholesale stranded  
21          cost mitigation sale’ means 1 or more wholesale  
22          sales made in accordance with the following re-  
23          quirements:

24          “(i) A governmental unit’s allowable  
25          sales under this subparagraph during the

1 recovery period may not exceed the sum of  
2 its annual load losses for each year of the  
3 recovery period.

4 “(ii) The governmental unit’s annual  
5 load loss for each year of the recovery pe-  
6 riod is the amount (if any) by which—

7 “(I) sales in the base year to  
8 wholesale native load purchasers  
9 which do not constitute a private busi-  
10 ness use, exceed

11 “(II) sales during that year of  
12 the recovery period to wholesale native  
13 load purchasers which do not con-  
14 stitute a private business use.

15 “(iii) If actual sales under this sub-  
16 paragraph during the recovery period are  
17 less than allowable sales under clause (i),  
18 the amount not sold (but not more than 10  
19 percent of the aggregate allowable sales  
20 under clause (i)) may be carried over and  
21 sold as wholesale stranded cost mitigation  
22 sales in the calendar year following the re-  
23 covery period.

1           “(D) RECOVERY PERIOD.—The recovery  
2           period is the 7-year period beginning with the  
3           start-up year.

4           “(E) START-UP YEAR.—The start-up year  
5           is whichever of the following calendar years the  
6           governmental unit elects:

7                   “(i) The year the governmental unit  
8                   first offers open transmission access.

9                   “(ii) The first year in which at least  
10                  10 percent of the governmental unit’s  
11                  wholesale customers’ aggregate retail na-  
12                  tive load is open to retail competition.

13                  “(iii) The calendar year which in-  
14                  cludes the date of the enactment of this  
15                  section, if later than the year described in  
16                  clause (i) or (ii).

17           “(F) PERMITTED SALES TRANSACTIONS  
18           UNDER EXISTING CONTRACTS.—A sale to a  
19           wholesale native load purchaser (other than a  
20           person to whom the governmental unit had a  
21           service obligation) under a contract which re-  
22           sulted in private business use in the base year  
23           shall be treated as a permitted sales transaction  
24           only to the extent that sales under the contract  
25           exceed the lesser of—

1 “(i) in any year, the private business  
2 use which resulted during the base year, or

3 “(ii) the maximum amount of private  
4 business use which could occur (absent the  
5 enactment of this section) without causing  
6 the bonds to be private activity bonds.

7 This subparagraph shall only apply to the ex-  
8 tent that the sale is allocable to bonds issued  
9 before the date of the enactment of this section  
10 (or bonds issued to refund such bonds).

11 “(G) JOINT ACTION AGENCIES.—A joint  
12 action agency, or a member of (or a wholesale  
13 native load purchaser from) a joint action agen-  
14 cy, which is entitled to make a sale described in  
15 subparagraph (A) or (B) in a year, may trans-  
16 fer the entitlement to make that sale to the  
17 member (or purchaser), or the joint action  
18 agency, respectively.

19 “(c) CERTAIN BONDS FOR TRANSMISSION AND DIS-  
20 TRIBUTION FACILITIES NOT TAX EXEMPT.—

21 “(1) GENERAL RULE.—For purposes of this  
22 title, no bond the interest on which is exempt from  
23 taxation under section 103 may be issued on or after  
24 the date of the enactment of this subsection if any  
25 of the proceeds of such issue are used to finance—

1           “(A) any transmission facility which is not  
2           a local transmission facility, or

3           “(B) a start-up utility distribution facility.

4           “(2) EXCEPTIONS.—Paragraph (1) shall not  
5           apply to—

6           “(A) any qualified bond (as defined in sec-  
7           tion 141(e)),

8           “(B) any eligible refunding bond (as de-  
9           fined in subsection (d)(6)), or

10          “(C) any bond issued to finance—

11               “(i) any repair of a transmission facil-  
12               ity in service on the date of the enactment  
13               of this section, so long as the repair does  
14               not increase the voltage level over its level  
15               in the base year or increase the thermal  
16               load limit of the transmission facility by  
17               more than 3 percent over such limit in the  
18               base year,

19               “(ii) any qualifying upgrade of a  
20               transmission facility in service on the date  
21               of the enactment of this section, or

22               “(iii) a transmission facility necessary  
23               to comply with an obligation under a  
24               shared or reciprocal transmission agree-



1                   ment in effect on the date of the enact-  
2                   ment of this section.

3                   “(3) LOCAL TRANSMISSION FACILITY DEFINI-  
4                   TIONS AND SPECIAL RULES.—For purposes of this  
5                   subsection—

6                   “(A) LOCAL TRANSMISSION FACILITY.—  
7                   The term ‘local transmission facility’ means a  
8                   transmission facility which is located within the  
9                   governmental unit’s distribution area or which  
10                  is, or will be, necessary to supply electricity to  
11                  serve retail native load or wholesale native load  
12                  of 1 or more governmental units. For purposes  
13                  of this subparagraph, the distribution area of a  
14                  public power authority which was created in  
15                  1931 by a State statute and which, as of Janu-  
16                  ary 1, 1999, owned at least one-third of the  
17                  transmission circuit miles rated at 230kV or  
18                  greater in the State, shall be determined under  
19                  regulations of the Secretary.

20                  “(B) RETAIL NATIVE LOAD.—The term  
21                  ‘retail native load’ is the electric load of end-  
22                  users served by distribution facilities owned by  
23                  a governmental unit.

24                  “(C) WHOLESALE NATIVE LOAD.—The  
25                  term ‘wholesale native load’ is—

1 “(i) the retail native load of a govern-  
2 mental unit’s wholesale native load pur-  
3 chasers, and

4 “(ii) the electric load of purchasers  
5 (not described in clause (i)) under whole-  
6 sale requirements contracts which—

7 “(I) do not constitute private  
8 business use under the rules in effect  
9 absent this subsection, and

10 “(II) were in effect in the base  
11 year.

12 “(D) NECESSARY TO SERVE LOAD.—For  
13 purposes of determining whether a transmission  
14 or distribution facility is, or will be, necessary  
15 to supply electricity to retail native load or  
16 wholesale native load—

17 “(i) electric reliability standards or re-  
18 quirements of national or regional reli-  
19 ability organizations, regional transmission  
20 organizations, and the Electric Reliability  
21 Council of Texas shall be taken into ac-  
22 count, and

23 “(ii) transmission, siting, and con-  
24 struction decisions of regional transmission  
25 organizations or independent system opera-

1           tors and State and Federal agencies shall  
2           be presumptive evidence regarding whether  
3           transmission facilities are necessary to  
4           serve native load.

5           “(E) QUALIFYING UPGRADE.—The term  
6           ‘qualifying upgrade’ means an improvement or  
7           addition to transmission facilities in service on  
8           the date of the enactment of this section which  
9           is ordered or approved by a regional trans-  
10          mission organization, by an independent system  
11          operator, or by a State regulatory or siting  
12          agency.

13          “(4) START-UP UTILITY DISTRIBUTION FACIL-  
14          ITY DEFINED.—For purposes of this subsection, the  
15          term ‘start-up utility distribution facility’ means any  
16          distribution facility to provide electric service to the  
17          public that is placed in service—

18                 “(A) by a governmental unit which did not  
19                 operate an electric utility on the date of the en-  
20                 actment of this section, and

21                 “(B) before the date on which such govern-  
22                 mental unit operates in a qualified service area  
23                 (as such term is defined in section  
24                 141(d)(3)(B)).

1 A governmental unit is deemed to have operated an  
2 electric utility on the date of the enactment of this  
3 section if it operates electric output facilities which  
4 were operated by another governmental unit to pro-  
5 vide electric service to the public on such date.

6 “(d) DEFINITIONS; SPECIAL RULES.—For purposes  
7 of this section—

8 “(1) BASE YEAR.—The term ‘base year’ means  
9 the calendar year which includes the date of the en-  
10 actment of this section or, at the election of the gov-  
11 ernmental unit, either of the 2 immediately pre-  
12 ceding calendar years.

13 “(2) DISTRIBUTION AREA.—The term ‘distribu-  
14 tion area’ means the area in which a governmental  
15 unit owns distribution facilities.

16 “(3) ELECTRIC OUTPUT FACILITY.—The term  
17 ‘electric output facility’ means an output facility  
18 that is an electric generation, transmission, or dis-  
19 tribution facility.

20 “(4) DISTRIBUTION FACILITY.—The term ‘dis-  
21 tribution facility’ means an electric output facility  
22 that is not a generation or transmission facility.

23 “(5) TRANSMISSION FACILITY.—The term  
24 ‘transmission facility’ means an electric output facil-  
25 ity (other than a generation facility) that operates at

1 an electric voltage of 69kV or greater, except that  
2 the owner of the facility may elect to treat any out-  
3 put facility that is a transmission facility for pur-  
4 poses of the Federal Power Act as a transmission fa-  
5 cility for purposes of this section.

6 “(6) ELIGIBLE REFUNDING BOND.—The term  
7 ‘eligible refunding bond’ means any State or local  
8 bond issued after an election described in subsection  
9 (a) that directly or indirectly refunds any tax-exempt  
10 bond (other than a qualified bond) issued before  
11 such election, if the weighted average maturity of  
12 the issue of which the refunding bond is a part does  
13 not exceed the remaining weighted average maturity  
14 of the bonds issued before the election. In applying  
15 such term for purposes of subsection (c)(2)(B), the  
16 date of election shall be deemed to be the date of the  
17 enactment of this section.

18 “(7) FERC.—The term ‘FERC’ means the  
19 Federal Energy Regulatory Commission.

20 “(8) GOVERNMENT-OWNED FACILITY.—An elec-  
21 tric output facility shall be treated as owned by a  
22 governmental unit if it is an electric output facility  
23 that either is—

24 “(A) owned or leased by such govern-  
25 mental unit, or

1                   “(B) a transmission facility in which the  
 2                   governmental unit acquired before the base year  
 3                   long-term firm capacity for the purposes of  
 4                   serving customers to which the unit had at that  
 5                   time either—

6                               “(i) a service obligation, or

7                               “(ii) an obligation under a require-  
 8                               ments contract.

9                   “(9) REPAIR.—The term ‘repair’ shall include  
 10                  replacement of components of an electric output fa-  
 11                  cility, but shall not include replacement of the facil-  
 12                  ity.

13                  “(10) SERVICE OBLIGATION.—The term ‘service  
 14                  obligation’ means an obligation under State or Fed-  
 15                  eral law (exclusive of an obligation arising solely  
 16                  from a contract entered into with a person) to pro-  
 17                  vide electric distribution services or electric sales  
 18                  service, as provided in such law.

19                  “(e) SAVINGS CLAUSE.—Subsection (b) shall not af-  
 20                  fect the applicability of section 141 to (or the Secretary’s  
 21                  authority to prescribe, amend, or rescind regulations re-  
 22                  specting) any transaction which is not a permitted open  
 23                  access transaction or permitted sales transaction.”

24                  (b) REPEAL OF EXCEPTION FOR CERTAIN NON-  
 25                  GOVERNMENTAL ELECTRIC OUTPUT FACILITIES.—Sec-

tion 141(d)(5) is amended by inserting “(except in the case of an electric output facility which is a distribution facility),” after “this subsection”.

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter B of chapter 1 is amended by inserting after the item relating to section 141 the following new item:

“Sec. 141A. Electric output facilities.”

(d) EFFECTIVE DATE; APPLICABILITY.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that a governmental unit may elect to apply paragraphs (1) and (2) of section 141A(b) of the Internal Revenue Code of 1986, as added by subsection (a), with respect to permitted open access activities entered into on or after April 14, 1996.

(2) CERTAIN EXISTING AGREEMENTS.—The amendment made by subsection (b) (relating to repeal of the exception for certain nongovernmental output facilities) does not apply to any acquisition of facilities made pursuant to an agreement that was entered into before the date of the enactment of this Act.

(3) APPLICABILITY.—References in this Act to sections of the Internal Revenue Code of 1986, shall

1 be deemed to include references to comparable sec-  
 2 tions of the Internal Revenue Code of 1954.

3 **SEC. 958. INDEPENDENT TRANSMISSION COMPANIES.**

4 (a) SALES OR DISPOSITIONS TO IMPLEMENT FED-  
 5 ERAL ENERGY REGULATORY COMMISSION OR STATE  
 6 ELECTRIC RESTRUCTURING POLICY.—

7 (1) IN GENERAL.—Section 1033 (relating to in-  
 8 voluntary conversions) is amended by redesignating  
 9 subsection (k) as subsection (l) and by inserting  
 10 after subsection (j) the following new subsection:

11 “(k) SALES OR DISPOSITIONS TO IMPLEMENT FED-  
 12 ERAL ENERGY REGULATORY COMMISSION OR STATE  
 13 ELECTRIC RESTRUCTURING POLICY.—

14 “(1) IN GENERAL.—For purposes of this sub-  
 15 title, if a taxpayer elects the application of this sub-  
 16 section to a qualifying electric transmission trans-  
 17 action and the proceeds received from such trans-  
 18 action are invested in exempt utility property, such  
 19 transaction shall be treated as an involuntary con-  
 20 version to which this section applies.

21 “(2) EXTENSION OF REPLACEMENT PERIOD.—  
 22 In the case of any involuntary conversion described  
 23 in paragraph (1), subsection (a)(2)(B) shall be ap-  
 24 plied by substituting ‘4 years’ for ‘2 years’ in clause  
 25 (i) thereof.



1           “(3) QUALIFYING ELECTRIC TRANSMISSION  
2           TRANSACTION.—For purposes of this subsection, the  
3           term ‘qualifying electric transmission transaction’  
4           means any sale or other disposition of property used  
5           in the trade or business of electric transmission, or  
6           an ownership interest in a person whose primary  
7           trade or business consists of providing electric trans-  
8           mission services, to another person that is an inde-  
9           pendent transmission company.

10           “(4) INDEPENDENT TRANSMISSION COM-  
11           PANY.—For purposes of this subsection, the term  
12           ‘independent transmission company’ means—

13                   “(A) a regional transmission organization  
14                   approved by the Federal Energy Regulatory  
15                   Commission,

16                   “(B) a person—

17                           “(i) who the Federal Energy Regu-  
18                           latory Commission determines in its au-  
19                           thorization of the transaction under section  
20                           203 of the Federal Power Act (16 U.S.C.  
21                           823b) is not a market participant within  
22                           the meaning of such Commission’s rules  
23                           applicable to regional transmission organi-  
24                           zations, and

1                   “(ii) whose transmission facilities to  
2                   which the election under this subsection  
3                   applies are placed under the operational  
4                   control of a Federal Energy Regulatory  
5                   Commission-approved regional trans-  
6                   mission organization within the period  
7                   specified in such order, but not later than  
8                   the close of the replacement period, or

9                   “(C) in the case of facilities subject to the  
10                  exclusive jurisdiction of the Public Utility Com-  
11                  mission of Texas, a person which is approved by  
12                  that Commission as consistent with Texas State  
13                  law regarding an independent transmission or-  
14                  ganization.

15               “(5) EXEMPT UTILITY PROPERTY.—For pur-  
16               poses of this subsection, the term ‘exempt utility  
17               property’ means—

18                   “(A) property used in the trade or business  
19                   of generating, transmitting, distributing, or sell-  
20                   ing electricity or producing, transmitting, dis-  
21                   tributing, or selling natural gas, or

22                   “(B) stock in a person whose primary  
23                   trade or business consists of generating, trans-  
24                   mitting, distributing, or selling electricity or

1 producing, transmitting, distributing, or selling  
2 natural gas.

3 “(6) SPECIAL RULES FOR CONSOLIDATED  
4 GROUPS.—

5 “(A) INVESTMENT BY QUALIFYING GROUP  
6 MEMBERS.—

7 “(i) IN GENERAL.—This subsection  
8 shall apply to a qualifying electric trans-  
9 mission transaction engaged in by a tax-  
10 payer if the proceeds are invested in ex-  
11 empt utility property by a qualifying group  
12 member.

13 “(ii) QUALIFYING GROUP MEMBER.—  
14 For purposes of this subparagraph, the  
15 term ‘qualifying group member’ means any  
16 member of a consolidated group within the  
17 meaning of section 1502 and the regula-  
18 tions promulgated thereunder of which the  
19 taxpayer is also a member.

20 “(B) COORDINATION WITH CONSOLIDATED  
21 RETURN PROVISIONS.—A sale or other disposi-  
22 tion of electric transmission property or an  
23 ownership interest in a qualifying electric trans-  
24 mission transaction, where an election is made  
25 under this subsection, shall not result in the

1 recognition of income or gain under the consoli-  
2 dated return provisions of subchapter A of  
3 chapter 6. The Secretary shall prescribe such  
4 regulations as may be necessary to provide for  
5 the treatment of any exempt utility property re-  
6 ceived in a qualifying electric transmission  
7 transaction as successor assets subject to the  
8 application of such consolidated return provi-  
9 sions.

10 “(7) ELECTION.—Any election made by a tax-  
11 payer under this subsection shall be made by a  
12 statement to that effect in the return for the taxable  
13 year in which the qualifying electric transmission  
14 transaction takes place in such form and manner as  
15 the Secretary shall prescribe, and such election shall  
16 be binding for that taxable year and all subsequent  
17 taxable years.”

18 (2) SAVINGS CLAUSE.—Nothing in section  
19 1033(k) of the Internal Revenue Code of 1986, as  
20 added by subsection (a), shall affect Federal or  
21 State regulatory policy respecting the extent to  
22 which any acquisition premium paid in connection  
23 with the purchase of an asset in a qualifying electric  
24 transmission transaction can be recovered in rates.

1           (3) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall apply to transactions occur-  
3       ring after the date of the enactment of this Act.

4       (b) DISTRIBUTIONS OF STOCK TO IMPLEMENT FED-  
5       ERAL ENERGY REGULATORY COMMISSION OR STATE  
6       ELECTRIC RESTRUCTURING POLICY.

7           (1) IN GENERAL.—Section 355(e)(4) is amend-  
8       ed by redesignating subparagraphs (C), (D), and  
9       (E) as subparagraphs (D), (E), and (F), respec-  
10      tively, and by inserting after subparagraph (B) the  
11      following new subparagraph:

12           “(C) DISTRIBUTIONS OF STOCK TO IMPLE-  
13           MENT FEDERAL ENERGY REGULATORY COMMIS-  
14           SION OR STATE ELECTRIC RESTRUCTURING  
15           POLICY.—

16           “(i) IN GENERAL.—Paragraph (1)  
17           shall not apply to any distribution which is  
18           a qualifying electric transmission trans-  
19           action. For purposes of this subparagraph,  
20           a ‘qualifying electric transmission trans-  
21           action’ means any distribution of stock in  
22           a corporation whose primary trade or busi-  
23           ness consists of providing electric trans-  
24           mission services, where such stock is later  
25           acquired (or where the assets of such cor-

1           poration are later acquired) by another  
2           person that is an independent transmission  
3           company.

4           “(ii) INDEPENDENT TRANSMISSION  
5           COMPANY.—For purposes of this sub-  
6           section, the term ‘independent trans-  
7           mission company’ means—

8                   “(I) a regional transmission or-  
9                   ganization approved by the Federal  
10                  Energy Regulatory Commission,

11                  “(II) a person who the Federal  
12                  Energy Regulatory Commission deter-  
13                  mines in its authorization of the  
14                  transaction under section 203 of the  
15                  Federal Power Act (16 U.S.C. 824b)  
16                  is not a market participant within the  
17                  meaning of such Commission’s rules  
18                  applicable to regional transmission or-  
19                  ganizations, and whose transmission  
20                  facilities transferred as a part of such  
21                  qualifying electric transmission trans-  
22                  action are placed under the oper-  
23                  ational control of a Federal Energy  
24                  Regulatory Commission-approved re-  
25                  gional transmission organization with-

1 in the period specified in such order,  
 2 but not later than the close of the re-  
 3 placement period (as defined in sec-  
 4 tion 1033(k)(2)), or

5 “(III) in the case of facilities  
 6 subject to the exclusive jurisdiction of  
 7 the Public Utility Commission of  
 8 Texas, a person that is approved by  
 9 that Commission as consistent with  
 10 Texas State law regarding an inde-  
 11 pendent transmission organization.”

12 (2) EFFECTIVE DATE.—The amendments made  
 13 by this subsection shall apply to distributions occur-  
 14 ring after the date of the enactment of this Act.

15 **SEC. 959. CERTAIN AMOUNTS RECEIVED BY ENERGY, NAT-**  
 16 **URAL GAS, OR STEAM UTILITIES EXCLUDED**  
 17 **FROM GROSS INCOME AS CONTRIBUTIONS TO**  
 18 **CAPITAL.**

19 (a) IN GENERAL.—Subsection (c) of section 118 (re-  
 20 lating to contributions to the capital of a corporation) is  
 21 amended—

22 (1) by striking “WATER AND SEWAGE DIS-  
 23 POSAL” in the heading and inserting “CERTAIN”,

24 (2) by striking “water or,” in the matter pre-  
 25 ceding subparagraph (A) of paragraph (1) and in-

1       serting “electric energy, natural gas (through a local  
2       distribution system or by pipeline), steam, water,  
3       or”,

4           (3) by striking “water or” in paragraph (1)(B)  
5       and inserting “electric energy (but not including as-  
6       sets used in the generation of electricity), natural  
7       gas, steam, water, or”,

8           (4) by striking “water or” in paragraph  
9       (2)(A)(ii) and inserting “electric energy (but not in-  
10      cluding assets used in the generation of electricity),  
11      natural gas, steam, water, or”,

12          (5) by inserting “such term shall include  
13      amounts paid as customer connection fees (including  
14      amounts paid to connect the customer’s line to an  
15      electric line, a gas main, a steam line, or a main  
16      water or sewer line) and” after “except that” in  
17      paragraph (3)(A), and

18          (6) by striking “water or” in paragraph (3)(C)  
19      and inserting “electric energy, natural gas, steam,  
20      water, or”.

21      (b) EFFECTIVE DATE.—The amendments made by  
22      this section shall apply to amounts received after the date  
23      of the enactment of this Act.



1     **Subtitle E—Provisions Relating to**  
2                     **Nuclear Energy**

3     **SEC. 961. EXPENSING OF COSTS INCURRED FOR TEM-**  
4                     **PORARY STORAGE OF SPENT NUCLEAR FUEL.**

5             (a) IN GENERAL.—Part VI of subchapter B of chap-  
6     ter 1 (relating to itemized deductions for individuals and  
7     corporations) is amended by adding at the end the fol-  
8     lowing new section:

9     **“SEC. 199. EXPENSING OF COSTS FOR TEMPORARY STOR-**  
10                    **AGE OF SPENT NUCLEAR FUEL.**

11            “A taxpayer may elect to treat any amount paid or  
12     incurred during the taxable year for the temporary storage  
13     or isolation of spent nuclear fuel as an expense which is  
14     not chargeable to capital account. Any expenditure which  
15     is so treated shall be allowed as a deduction for the taxable  
16     year in which it is paid or incurred.”

17            (b) CONFORMING AMENDMENT.—The table of sec-  
18     tions for part VI of subchapter B of chapter 1 is amended  
19     by adding at the end the following new item:

“Sec. 199. Expensing of costs for temporary storage of spent nuclear fuel.”

20            (c) EFFECTIVE DATE.—The amendments made by  
21     this section shall apply to taxable years beginning after  
22     December 31, 2000.

1 **SEC. 962. NUCLEAR DECOMMISSIONING RESERVE FUND.**

2 (a) INCREASE IN AMOUNT PERMITTED TO BE PAID  
3 INTO NUCLEAR DECOMMISSIONING RESERVE FUND.—

4 Subsection (b) of section 468A is amended to read as fol-  
5 lows:

6 “(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

7 “(1) IN GENERAL.—The amount which a tax-  
8 payer may pay into the Fund for any taxable year  
9 during the funding period shall not exceed the level  
10 funding amount determined pursuant to subsection  
11 (d), except—

12 “(A) where the taxpayer is permitted by  
13 Federal or State law or regulation (including  
14 authorization by a public service commission) to  
15 charge customers a greater amount for nuclear  
16 decommissioning costs, in which case the tax-  
17 payer may pay into the Fund such greater  
18 amount; or

19 “(B) in connection with the transfer of a  
20 nuclear powerplant, where the transferor or  
21 transferee (or both) is required pursuant to the  
22 terms of the transfer to contribute a greater  
23 amount for nuclear decommissioning costs, in  
24 which case the transferor or transferee (or  
25 both) may pay into the Fund such greater  
26 amount.

1           “(2) CONTRIBUTIONS AFTER FUNDING PE-  
2           RIOD.—Notwithstanding any other provision of this  
3           section, a taxpayer may make deductible payments  
4           to the Fund in any taxable year between the end of  
5           the funding period and the termination of the license  
6           issued by the Nuclear Regulatory Commission for  
7           the nuclear powerplant to which the Fund relates  
8           but only if such payments do not cause the assets  
9           of the Fund to exceed the nuclear decommissioning  
10          costs allocable to the taxpayer’s current or former  
11          interest in the nuclear powerplant to which the Fund  
12          relates. The foregoing limitation shall be applied by  
13          taking into account a reasonable rate of inflation for  
14          the nuclear decommissioning costs and a reasonable  
15          after-tax rate of return on the assets of the Fund  
16          until such assets are anticipated to be expended.”

17          (b) DEDUCTION FOR NUCLEAR DECOMMISSIONING  
18          COSTS WHEN PAID.—Paragraph (2) of section 468A(c)  
19          is amended to read as follows:

20               “(2) DEDUCTION OF NUCLEAR DECOMMIS-  
21               SIONING COSTS.—In addition to any deduction under  
22               subsection (a), nuclear decommissioning costs paid  
23               or incurred by the taxpayer during any taxable year  
24               shall constitute ordinary and necessary expenses in  
25               carrying on a trade or business under section 162.”

1       (c) LEVEL FUNDING AMOUNTS.—Subsection (d) of  
2 section 468A is amended to read as follows:

3       “(d) LEVEL FUNDING AMOUNTS.—

4               “(1) ANNUAL AMOUNTS.—For purposes of this  
5 section, the level funding amount for any taxable  
6 year shall equal the annual amount required to be  
7 contributed to the Fund in each year remaining in  
8 the funding period in order for the Fund to accumu-  
9 late the nuclear decommissioning costs allocable to  
10 the taxpayer’s current or former interest in the nu-  
11 clear powerplant to which the Fund relates. The an-  
12 nual amount described in the preceding sentence  
13 shall be calculated by taking into account a reason-  
14 able rate of inflation for the nuclear decommis-  
15 sioning costs and a reasonable after-tax rate of re-  
16 turn on the assets of the Fund until such assets are  
17 anticipated to be expended.

18               “(2) FUNDING PERIOD.—The funding period  
19 for a Fund shall end on the last day of the last tax-  
20 able year of the expected operating life of the nu-  
21 clear powerplant.

22               “(3) NUCLEAR DECOMMISSIONING COSTS.—For  
23 purposes of this section, the term ‘nuclear decom-  
24 missioning costs’ means all costs to be incurred in  
25 connection with entombing, decontaminating, dis-

1       mantling, removing, and disposing of a nuclear power-  
 2       plant, and includes all associated preparation, security,  
 3       fuel storage, and radiation monitoring costs.  
 4       The taxpayer may identify such costs by reference  
 5       either to a site-specific engineering study or to the  
 6       financial assurance amount calculated pursuant to  
 7       section 50.75 of title 10 of the Code of Federal Regulations.  
 8       The term shall include all such costs which,  
 9       outside of the decommissioning context, might otherwise  
 10      be capital expenditures.”.

11      (d) EFFECTIVE DATE.—The amendments made by  
 12      this section shall apply to amounts paid after June 8,  
 13      1999, in taxable years ending after such date.

## 14           **Subtitle F—Tax Incentives for** 15           **Energy Efficiency**

### 16   **SEC. 971. CREDIT FOR CERTAIN DISTRIBUTED POWER AND** 17           **COMBINED HEAT AND POWER SYSTEM PROP-** 18           **ERTY USED IN BUSINESS.**

19      (a) IN GENERAL.—Section 48(a)(3) (defining energy  
 20      property) is amended by inserting before the last sentence  
 21      the following: “The term ‘energy property’ includes distributed  
 22      power property or combined heat and power system property,  
 23      but only if the requirements of subparagraphs (B) and (C) are met  
 24      with respect to the property.”

1       (b) DEFINITIONS.—Subsection (a) of section 48 (re-  
2       lating to the energy credit) is amended by adding at the  
3       end the following new paragraphs:

4               “(6) DISTRIBUTED POWER PROPERTY.—The  
5       term ‘distributed power property’ means property—

6               “(A) which is used in the generation of  
7       electricity for primary use—

8               “(i) in nonresidential real or residen-  
9       tial rental property used in the taxpayer’s  
10      trade or business, with a rated total capac-  
11      ity in excess of 1 kilowatt, or

12              “(ii) in the taxpayer’s industrial man-  
13      ufacturing process or plant activity, with a  
14      rated total capacity in excess of 500 kilo-  
15      watts,

16              “(B) which may also produce usable ther-  
17      mal energy or mechanical power for use in a  
18      heating or cooling application, but only if at  
19      least 30 percent of the total useful energy pro-  
20      duced consists of—

21              “(i) with respect to assets described in  
22      subparagraph (A)(i), electrical power  
23      (whether sold or used by the taxpayer), or

24              “(ii) with respect to assets described  
25      in subparagraph (A)(ii), electrical power

1 (whether sold or used by the taxpayer) and  
2 thermal or mechanical energy used in the  
3 taxpayer's industrial manufacturing proc-  
4 ess or plant activity,

5 “(C) which is not used to transport pri-  
6 mary fuel to the generating facility or to dis-  
7 tribute energy within or outside of the facility,  
8 and

9 “(D) if it is reasonably expected that not  
10 more than 50 percent of the produced elec-  
11 tricity will be sold to, or used by, unrelated per-  
12 sons.

13 “(7) COMBINED HEAT AND POWER SYSTEM  
14 PROPERTY.—For purposes of this subsection—

15 “(A) COMBINED HEAT AND POWER SYS-  
16 TEM PROPERTY.—The term ‘combined heat and  
17 power system property’ means property com-  
18 prising a system—

19 “(i) which uses the same energy  
20 source for the simultaneous or sequential  
21 generation of electrical power, mechanical  
22 shaft power, or both, in combination with  
23 the generation of steam or other forms of  
24 useful thermal energy (including heating  
25 and cooling applications),

1           “(ii) which has an electrical capacity  
2 of more than 50 kilowatts or a mechanical  
3 energy capacity of more than 67 horse-  
4 power or an equivalent combination of elec-  
5 trical and mechanical energy capacities,

6           “(iii) which produces—

7               “(I) at least 20 percent of its  
8 total useful energy in the form of  
9 thermal energy, and

10               “(II) at least 20 percent of its  
11 total useful energy in the form of elec-  
12 trical or mechanical power (or a com-  
13 bination thereof), and

14           “(iv) the energy efficiency percentage  
15 of which exceeds 60 percent (70 percent in  
16 the case of a system with an electrical ca-  
17 pacity in excess of 50 megawatts or a me-  
18 chanical energy capacity in excess of  
19 67,000 horsepower, or an equivalent com-  
20 bination of electrical and mechanical en-  
21 ergy capacities).

22           “(B) SPECIAL RULES.—

23               “(i) ENERGY EFFICIENCY PERCENT-  
24 AGE.—For purposes of subparagraph



1 (A)(iv), the energy efficiency percentage of  
2 a system is the fraction—

3 “(I) the numerator of which is  
4 the total useful electrical, thermal,  
5 and mechanical power produced by  
6 the system at normal operating rates,  
7 and

8 “(II) the denominator of which is  
9 the lower heating value of the primary  
10 fuel source for the system.

11 “(ii) DETERMINATIONS MADE ON BTU  
12 BASIS.—The energy efficiency percentage  
13 and the percentages under subparagraph  
14 (A)(iii) shall be determined on a Btu basis.

15 “(iii) INPUT AND OUTPUT PROPERTY  
16 NOT INCLUDED.—The term ‘combined heat  
17 and power system property’ does not in-  
18 clude property used to transport the en-  
19 ergy source to the facility or to distribute  
20 energy produced by the facility.

21 “(iv) PUBLIC UTILITY PROPERTY.—

22 “(I) ACCOUNTING RULE FOR  
23 PUBLIC UTILITY PROPERTY.—If the  
24 combined heat and power system  
25 property is public utility property (as

1 defined in section 46(f)(5) as in effect  
 2 on the day before the date of the en-  
 3 actment of the Revenue Reconciliation  
 4 Act of 1990), the taxpayer may only  
 5 claim the credit under this subsection  
 6 if, with respect to such property, the  
 7 taxpayer uses a normalization method  
 8 of accounting.

9 “(II) CERTAIN EXCEPTION NOT  
 10 TO APPLY.—The matter in paragraph  
 11 (3) which follows subparagraph (D)  
 12 shall not apply to combined heat and  
 13 power system property.”.

14 (c) NO CARRYBACK OF ENERGY CREDIT BEFORE  
 15 EFFECTIVE DATE.—Subsection (d) of section 39, as  
 16 amended by this Act, is amended by adding at the end  
 17 the following new paragraph:

18 “(14) NO CARRYBACK OF ENERGY CREDIT BE-  
 19 FORE EFFECTIVE DATE.—No portion of the unused  
 20 business credit for any taxable year which is attrib-  
 21 utable to the portion of the energy credit described  
 22 in section 48(a) (6) or (7) may be carried back to  
 23 a taxable year ending before the date of the enact-  
 24 ment of this paragraph.”

25 (d) DEPRECIATION.—

1           (1) Subparagraph (C) of section 168(e)(3), as  
 2           amended by this Act, is amended by striking “and”  
 3           at the end of clause (vi), by redesignating clause  
 4           (vii) as clause (viii), and by inserting after clause  
 5           (vi) the following new clause:

6                       “(vii) any energy property (as defined  
 7                       in paragraph (6) or (7) of section 48(a))  
 8                       for which a credit is allowed under section  
 9                       48 and which, but for this clause, would  
 10                      have a recovery period of less than 15  
 11                      years, and”.

12           (2) The table contained in subparagraph (B) of  
 13           section 168(g)(3) is amended by inserting after the  
 14           item relating to subparagraph (C)(vi) the following:

“(C)(vii) ..... 10”.

15           (e) **EFFECTIVE DATE.**—The amendments made by  
 16           this section shall apply to periods after December 31,  
 17           2000, under rules similar to the rules of section 48(m)  
 18           of the Internal Revenue Code of 1986 (as in effect on the  
 19           day before the date of the enactment of the Revenue Rec-  
 20           onciliation Act of 1990).

21           **SEC. 972. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**  
 22                       **MENTS TO EXISTING HOMES.**

23           (a) **IN GENERAL.**—Subpart A of part IV of sub-  
 24           chapter A of chapter 1 (relating to nonrefundable personal

1 credits) is amended by inserting after section 25A the fol-  
2 lowing new section:

3 **“SEC. 25B. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
4 **ING HOMES.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
6 dividual, there shall be allowed as a credit against the tax  
7 imposed by this chapter for the taxable year an amount  
8 equal to 20 percent of the amount paid or incurred by  
9 the taxpayer for qualified energy efficiency improvements  
10 installed during such taxable year.

11 “(b) LIMITATIONS.—

12 “(1) MAXIMUM CREDIT.—The credit allowed by  
13 this section with respect to a dwelling shall not ex-  
14 ceed \$2,000.

15 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER  
16 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a  
17 credit was allowed to the taxpayer under subsection  
18 (a) with respect to a dwelling in 1 or more prior tax-  
19 able years, the amount of the credit otherwise allow-  
20 able for the taxable year with respect to that dwell-  
21 ing shall not exceed the amount of \$2,000 reduced  
22 by the sum of the credits allowed under subsection  
23 (a) to the taxpayer with respect to the dwelling for  
24 all prior taxable years.

1       “(c) CARRYFORWARD OF UNUSED CREDIT.—If the  
 2 credit allowable under subsection (a) exceeds the limita-  
 3 tion imposed by section 26(a) for such taxable year re-  
 4 duced by the sum of the credits allowable under subpart  
 5 A of part IV of subchapter A (other than this section),  
 6 such excess shall be carried to the succeeding taxable year  
 7 and added to the credit allowable under subsection (a) for  
 8 such taxable year.

9       “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-  
 10 MENTS.—For purposes of this section, the term ‘qualified  
 11 energy efficiency improvements’ means any energy effi-  
 12 cient building envelope component that is certified to meet  
 13 or exceed the prescriptive criteria for such component es-  
 14 tablished by the 1998 International Energy Conservation  
 15 Code, if—

16           “(1) such component is installed in or on a  
 17 dwelling—

18                   “(A) located in the United States, and

19                   “(B) owned and used by the taxpayer as  
 20 the taxpayer’s principal residence (within the  
 21 meaning of section 121),

22           “(2) the original use of such component com-  
 23 mences with the taxpayer, and

24           “(3) such component reasonably can be ex-  
 25 pected to remain in use for at least 5 years.

1       “(e) CERTIFICATION.—The certification described in  
2 subsection (d) shall be—

3           “(1) determined on the basis of the technical  
4 specifications or applicable ratings (including prod-  
5 uct labeling requirements) for the measurement of  
6 energy efficiency, based upon energy use or building  
7 envelope component performance, for the energy effi-  
8 cient building envelope component,

9           “(2) provided by the contractor who installed  
10 such building envelope component, a local building  
11 regulatory authority, a utility, a manufactured home  
12 production inspection primary inspection agency  
13 (IPIA), or an accredited home energy rating system  
14 provider who is accredited by or otherwise author-  
15 ized to use approved energy performance measure-  
16 ment methods by the Home Energy Ratings Systems  
17 Council or the National Association of State Energy  
18 Officials, and

19           “(3) made in writing in a manner that specifies  
20 in readily verifiable fashion the energy efficient  
21 building envelope components installed and their re-  
22 spective energy efficiency levels.

23       “(f) DEFINITIONS AND SPECIAL RULES.—

24           “(1) TENANT-STOCKHOLDER IN COOPERATIVE  
25 HOUSING CORPORATION.—In the case of an indi-

vidual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

“(2) CONDOMINIUMS.—

“(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having paid his proportionate share of the cost of qualified energy efficiency improvements made by such association.

“(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

“(3) BUILDING ENVELOPE COMPONENT.—The term ‘building envelope component’ means—

1           “(A) insulation material or system which is  
 2           specifically and primarily designed to reduce the  
 3           heat loss or gain or a dwelling when installed  
 4           in or on such dwelling, and

5           “(B) exterior windows (including skylights)  
 6           and doors.

7           “(4) MANUFACTURED HOMES INCLUDED.—For  
 8           purposes of this section, the term ‘dwelling’ includes  
 9           a manufactured home which conforms to Federal  
 10          Manufactured Home Construction and Safety Stand-  
 11          ards (24 C.F.R. 3280).

12          “(g) BASIS ADJUSTMENT.—For purposes of this sub-  
 13          title, if a credit is allowed under this section for any ex-  
 14          penditure with respect to any property, the increase in the  
 15          basis of such property which would (but for this sub-  
 16          section) result from such expenditure shall be reduced by  
 17          the amount of the credit so allowed.

18          “(h) TERMINATION.—Subsection (a) shall apply to  
 19          qualified energy efficiency improvements installed during  
 20          the period beginning on January 1, 2001, and ending on  
 21          December 31, 2005.”.

22          (b) CONFORMING AMENDMENTS.—

23                 (1) Subsection (c) of section 23 is amended by  
 24                 inserting “, section 25B, and section 1400C” after  
 25                 “other than this section”.



1           (2) Subparagraph (C) of section 25(e)(1) is  
 2           amended by striking “section 23” and inserting  
 3           “sections 23, 25B, and 1400C”.

4           (3) Subsection (d) of section 1400C is amended  
 5           by inserting “and section 25B” after “other than  
 6           this section”.

7           (4) Subsection (a) of section 1016 is amended  
 8           by striking “and” at the end of paragraph (26), by  
 9           striking the period at the end of paragraph (27) and  
 10          inserting “; and”, and by adding at the end the fol-  
 11          lowing new paragraph:

12           “(28) to the extent provided in section 25B(f),  
 13          in the case of amounts with respect to which a credit  
 14          has been allowed under section 25B.”.

15          (5) The table of sections for subpart A of part  
 16          IV of subchapter A of chapter 1 is amended by in-  
 17          serting after the item relating to section 25A the fol-  
 18          lowing new item:

            “Sec. 25B. Energy efficiency improvements to existing homes.”

19          (c) EFFECTIVE DATE.—The amendments made by  
 20          this section shall apply to taxable years ending after De-  
 21          cember 31, 2000.

22      **SEC. 973. BUSINESS CREDIT FOR CONSTRUCTION OF NEW**  
 23                              **ENERGY EFFICIENT HOME.**

24          (a) IN GENERAL.—Subpart D of part IV of sub-  
 25          chapter A of chapter 1 (relating to business related cred-

1 its), as amended by this Act, is amended by inserting after  
 2 section 45G the following new section:

3 **“SEC. 45H. NEW ENERGY EFFICIENT HOME CREDIT.**

4       “(a) IN GENERAL.—For purposes of section 38, in  
 5 the case of an eligible contractor, the credit determined  
 6 under this section for the taxable year is an amount equal  
 7 to the aggregate adjusted bases of all energy efficient  
 8 property installed in a qualified new energy efficient home  
 9 during construction of such home.

10       “(b) LIMITATIONS.—

11               “(1) MAXIMUM CREDIT.—

12                       “(A) IN GENERAL.—The credit allowed by  
 13 this section with respect to a dwelling shall not  
 14 exceed \$2,000.

15                       “(B) PRIOR CREDIT AMOUNTS ON SAME  
 16 DWELLING TAKEN INTO ACCOUNT.—If a credit  
 17 was allowed under subsection (a) with respect  
 18 to a dwelling in 1 or more prior taxable years,  
 19 the amount of the credit otherwise allowable for  
 20 the taxable year with respect to that dwelling  
 21 shall not exceed the amount of \$2,000 reduced  
 22 by the sum of the credits allowed under sub-  
 23 section (a) with respect to the dwelling for all  
 24 prior taxable years.

1           “(2) COORDINATION WITH REHABILITATION  
2           AND ENERGY CREDITS.—For purposes of this  
3           section—

4                   “(A) the basis of any property referred to  
5                   in subsection (a) shall be reduced by that por-  
6                   tion of the basis of any property which is attrib-  
7                   utable to qualified rehabilitation expenditures  
8                   (as defined in section 47(c)(2)) or to the energy  
9                   percentage of energy property (as determined  
10                  under section 48(a)), and

11                  “(B) expenditures taken into account  
12                  under either section 47 or 48(a) shall not be  
13                  taken into account under this section.

14           “(c) DEFINITIONS.—For purposes of this section—

15                   “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-  
16                   ble contractor’ means the person who constructed  
17                   the new energy efficient home, or in the case of a  
18                   manufactured home which conforms to Federal  
19                   Manufactured Home Construction and Safety Stand-  
20                   ards (24 C.F.R. 3280), the manufactured home pro-  
21                   ducer of such home.

22                   “(2) ENERGY EFFICIENT PROPERTY.—The  
23                   term ‘energy efficient property’ means any energy  
24                   efficient building envelope component, and any en-  
25                   ergy efficient heating or cooling appliance.

1           “(3) QUALIFIED NEW ENERGY EFFICIENT  
2 HOME.—The term ‘qualified new energy efficient  
3 home’ means a dwelling—

4                   “(A) located in the United States,

5                   “(B) the construction of which is substan-  
6 tially completed after December 31, 2000,

7                   “(C) the original use of which is as a prin-  
8 cipal residence (within the meaning of section  
9 121) which commences with the person who ac-  
10 quires such dwelling from the eligible con-  
11 tractor, and

12                   “(D) which is certified to have a level of  
13 annual heating and cooling energy consumption  
14 that is at least 30 percent below the annual  
15 level of heating and cooling energy consumption  
16 of a comparable dwelling constructed in accord-  
17 ance with the standards of the 1998 Inter-  
18 national Energy Conservation Code.

19           “(4) CONSTRUCTION.—The term ‘construction’  
20 includes reconstruction and rehabilitation.

21           “(5) ACQUIRE.—The term ‘acquire’ includes  
22 purchase and, in the case of reconstruction and re-  
23 habilitation, such term includes a binding written  
24 contract for such reconstruction or rehabilitation.

1           “(6) BUILDING ENVELOPE COMPONENT.—The  
2       term ‘building envelope component’ means—

3           “(A) insulation material or system which is  
4       specifically and primarily designed to reduce the  
5       heat loss or gain of a dwelling when installed in  
6       or on such dwelling, and

7           “(B) exterior windows (including skylights)  
8       and doors.

9           “(7) MANUFACTURED HOME INCLUDED.—The  
10      term ‘dwelling’ includes a manufactured home con-  
11      forming to Federal Manufactured Home Construc-  
12      tion and Safety Standards (24 C.F.R. 3280).

13      “(d) CERTIFICATION.—

14           “(1) METHOD.—A certification described in  
15      subsection (c)(3)(D) shall be determined on the  
16      basis of one of the following methods:

17           “(A) The technical specifications or appli-  
18      cable ratings (including product labeling re-  
19      quirements) for the measurement of energy effi-  
20      ciency for the energy efficient building envelope  
21      component or energy efficient heating or cooling  
22      appliance, based upon energy use or building  
23      envelope component performance.

24           “(B) An energy performance measurement  
25      method that utilizes computer software ap-

1           proved by organizations designated by the Sec-  
2           retary.

3           “(2) PROVIDER.—Such certification shall be  
4           provided by—

5                   “(A) in the case of a method described in  
6                   paragraph (1)(A), the eligible contractor, a  
7                   local building regulatory authority, a utility, a  
8                   manufactured home production inspection pri-  
9                   mary inspection agency (IPIA), or an accred-  
10                  ited home energy rating systems provider who  
11                  is accredited by, or otherwise authorized to use,  
12                  approved energy performance measurement  
13                  methods by the Home Energy Ratings Systems  
14                  Council or the National Association of State  
15                  Energy Officials, or

16                   “(B) in the case of a method described in  
17                   paragraph (1)(B), an individual recognized by  
18                   an organization designated by the Secretary for  
19                   such purposes.

20           “(3) FORM.—Such certification shall be made  
21           in writing in a manner that specifies in readily  
22           verifiable fashion the energy efficient building enve-  
23           lope components and energy efficient heating or  
24           cooling appliances installed and their respective en-  
25           ergy efficiency levels, and in the case of a method

1 described in subparagraph (B) of paragraph (1), ac-  
2 companied by written analysis documenting the  
3 proper application of a permissible energy perform-  
4 ance measurement method to the specific cir-  
5 cumstances of such dwelling.

6 “(4) REGULATIONS.—

7 “(A) IN GENERAL.—In prescribing regula-  
8 tions under this subsection for energy perform-  
9 ance measurement methods, the Secretary shall  
10 prescribe procedures for calculating annual en-  
11 ergy costs for heating and cooling and cost sav-  
12 ings and for the reporting of the results. Such  
13 regulations shall—

14 “(i) be based on the National Home  
15 Energy Rating Technical Guidelines of the  
16 National Association of State Energy Offi-  
17 cials and the 1998 California Residential  
18 ACM manual,

19 “(ii) provide that any calculation pro-  
20 cedures be developed such that the same  
21 energy efficiency measures allow a home to  
22 qualify for the credit under this section re-  
23 gardless of whether the house uses a gas  
24 or oil furnace or boiler or an electric heat  
25 pump, and

1                   “(iii) require that any computer soft-  
 2                   ware allow for the printing of the Federal  
 3                   tax forms necessary for the credit under  
 4                   this section and explanations for the home-  
 5                   buyer of the energy efficient features that  
 6                   were used to comply with the requirements  
 7                   of this section.

8                   “(B) PROVIDERS.—For purposes of para-  
 9                   graph (2)(B), the Secretary shall establish re-  
 10                  quirements for the designation of individuals  
 11                  based on the requirements for energy consult-  
 12                  ants and home energy raters specified by the  
 13                  National Association of State Energy Officials.

14               “(e) BASIS ADJUSTMENT.—For purposes of this sub-  
 15               title, if a credit is allowed under this section for any ex-  
 16               penditure with respect to any property, the increase in the  
 17               basis of such property which would (but for this sub-  
 18               section) result from such expenditure shall be reduced by  
 19               the amount of the credit so allowed.

20               “(f) TERMINATION.—Subsection (a) shall apply to  
 21               dwellings purchased during the period beginning on Janu-  
 22               ary 1, 2001, and ending on December 31, 2005.”

23               (b) CREDIT MADE PART OF GENERAL BUSINESS  
 24               CREDIT.—Subsection (b) of section 38 (relating to current  
 25               year business credit) is amended by striking “plus” at the



1 end of paragraph (15), by striking the period at the end  
 2 of paragraph (16) and inserting “, plus”, and by adding  
 3 at the end thereof the following new paragraph:

4 “(17) the new energy efficient home credit de-  
 5 termined under section 45H.”

6 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C  
 7 (relating to certain expenses for which credits are allow-  
 8 able) is amended by adding at the end thereof the fol-  
 9 lowing new subsection:

10 “(d) NEW ENERGY EFFICIENT HOME EXPENSES.—  
 11 No deduction shall be allowed for that portion of expenses  
 12 for a new energy efficient home otherwise allowable as a  
 13 deduction for the taxable year which is equal to the  
 14 amount of the credit determined for such taxable year  
 15 under section 45H.”

16 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-  
 17 IMUM TAX.—

18 (1) IN GENERAL.—Subsection (c) of section 38  
 19 (relating to limitation based on amount of tax) is  
 20 amended by redesignating paragraph (5) as para-  
 21 graph (6) and by inserting after paragraph (4) the  
 22 following new paragraph:

23 “(5) SPECIAL RULES FOR NEW ENERGY EFFI-  
 24 CIENT HOME CREDIT.—

1                   “(A) IN GENERAL.—In the case of the new  
2                   energy efficient home credit—

3                   “(i) this section and section 39 shall  
4                   be applied separately with respect to the  
5                   credit, and

6                   “(ii) in applying paragraph (1) to the  
7                   credit—

8                   “(I) subparagraph (A) thereof  
9                   shall not apply, and

10                  “(II) the limitation under para-  
11                  graph (1) (as modified by subclause  
12                  (I)) shall be reduced by the credit al-  
13                  lowed under subsection (a) for the  
14                  taxable year (other than the new en-  
15                  ergy efficient home credit).

16                  “(B) NEW ENERGY EFFICIENT HOME  
17                  CREDIT.—For purposes of this subsection, the  
18                  term ‘new energy efficient home credit’ means  
19                  the credit allowable under subsection (a) by rea-  
20                  son of section 45H.”

21                  (2) CONFORMING AMENDMENTS.—Subclause  
22                  (II) of section 38(c)(2)(A)(ii), subclause (II) of sec-  
23                  tion 38(c)(3)(A)(ii), and subclause (II) of section  
24                  38(c)(4)(A)(ii) are each amended by inserting “or

1 the new energy efficient home credit” after “en-  
 2 hanced oil recovery credit”.

3 (e) LIMITATION ON CARRYBACK.—Subsection (d) of  
 4 section 39, as amended by this Act, is amended by adding  
 5 at the end the following new paragraph:

6 “(15) NO CARRYBACK OF NEW ENERGY EFFI-  
 7 CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—  
 8 No portion of the unused business credit for any  
 9 taxable year which is attributable to the credit deter-  
 10 mined under section 45H may be carried back to  
 11 any taxable year ending before the date of the enact-  
 12 ment of section 45H.”

13 (f) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
 14 CREDITS.—Subsection (c) of section 196 is amended by  
 15 striking “and” at the end of paragraph (7), by striking  
 16 the period at the end of paragraph (8) and inserting “,  
 17 and”, and by adding after paragraph (8) the following new  
 18 paragraph:

19 “(9) the new energy efficient home credit deter-  
 20 mined under section 45H.”

21 (g) CLERICAL AMENDMENT.—The table of sections  
 22 for subpart D of part IV of subchapter A of chapter 1  
 23 is amended by inserting after the item relating to section  
 24 45G the following new item:

“Sec. 45H. New energy efficient home credit.”

1 (h) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years ending after De-  
 3 cember 31, 2000.

4 **SEC. 974. TAX CREDIT FOR ENERGY EFFICIENT APPLI-**  
 5 **ANCES.**

6 (a) IN GENERAL.—Subpart B of part IV of sub-  
 7 chapter A of chapter 1 (relating to other credits) is  
 8 amended by adding at the end the following new section:

9 **“SEC. 30B. ENERGY EFFICIENT APPLIANCE CREDIT.**

10 “(a) GENERAL RULE.—There shall be allowed as a  
 11 credit against the tax imposed by this chapter for the tax-  
 12 able year an amount equal to the amount paid or incurred  
 13 by the taxpayer during the taxable year for qualified en-  
 14 ergy efficient appliances.

15 “(b) LIMITATIONS.—

16 “(1) DOLLAR AMOUNT.—The amount which  
 17 may be taken into account under subsection (a) shall  
 18 not exceed—

19 “(A) in the case of an energy efficient  
 20 clothes washer described in subsection (c)(2)(A)  
 21 or an energy efficient refrigerator described in  
 22 subsection (c)(3)(B)(i), \$50, and

23 “(B) in the case of an energy efficient  
 24 clothes washer described in subsection (c)(2)(B)

1 or an energy efficient refrigerator described in  
 2 subsection (c)(3)(B)(ii), \$100.

3 “(2) APPLICATION WITH OTHER CREDITS.—

4 The credit allowed under subsection (a) for any tax-  
 5 able year shall not exceed the excess (if any) of—

6 “(A) the regular tax for the taxable year  
 7 reduced by the sum of the credits allowable  
 8 under subpart A and sections 27 and 30, over

9 “(B) the tentative minimum tax for the  
 10 taxable year.

11 “(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—

12 For purposes of this section—

13 “(1) IN GENERAL.—The term ‘qualified energy  
 14 efficient appliance’ means—

15 “(A) an energy efficient clothes washer, or

16 “(B) an energy efficient refrigerator.

17 “(2) ENERGY EFFICIENT CLOTHES WASHER.—

18 The term ‘energy efficient clothes washer’ means a  
 19 residential clothes washer, including a residential  
 20 style coin operated washer, which is manufactured  
 21 with—

22 “(A) a 1.26 Modified Energy Factor (re-  
 23 ferred to in this paragraph as ‘MEF’) (as de-  
 24 termined by the Secretary of Energy), or

1           “(B) a 1.42 MEF (as determined by the  
2           Secretary of Energy) (1.5 MEF for calendar  
3           years beginning after 2004).

4           “(3) ENERGY EFFICIENT REFRIGERATOR.—The  
5           term ‘energy efficient refrigerator’ means an auto-  
6           matic defrost refrigerator-freezer which—

7                   “(A) has an internal volume of at least  
8           16.5 cubic feet, and

9                   “(B) consumes—

10                   “(i) 10 percent less kw/hr/yr than the  
11                   energy conservation standards promulgated  
12                   by the Department of Energy for such re-  
13                   frigerator for 2001, or

14                   “(ii) 15 percent less kw/hr/yr than  
15                   such energy conservation standards.

16           “(d) VERIFICATION.—The taxpayer shall submit such  
17           information or certification as the Secretary, in consulta-  
18           tion with the Secretary of Energy, determines necessary  
19           to claim the credit amount under subsection (a).

20           “(e) TERMINATION.—This section shall not apply—

21                   “(1) with respect to energy efficient refrig-  
22                   erators described in subsection (c)(3)(B)(i) pur-  
23                   chased in calendar years beginning after 2004, and

1           “(2) with respect to all other qualified energy  
2           efficient appliances purchased in calendar years be-  
3           ginning after 2006.”

4           (b) CLERICAL AMENDMENT.—The table of sections  
5           for subpart B of part IV of subchapter A of chapter 1  
6           is amended by inserting at the end the following new item:

          “Sec. 30B. Energy efficient appliance credit.”

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to taxable years beginning after  
9           December 31, 2000.

10       **SEC. 975. CREDIT FOR CERTAIN ENERGY EFFICIENT**  
11                               **MOTOR VEHICLES.**

12           (a) IN GENERAL.—Subpart B of part IV of sub-  
13           chapter A of chapter 1, as amended by this Act, is amend-  
14           ed by adding at the end the following new section:

15       **“SEC. 30C. CREDIT FOR HYBRID VEHICLES.**

16           “(a) ALLOWANCE OF CREDIT.—There shall be al-  
17           lowed as a credit against the tax imposed by this chapter  
18           for the taxable year an amount equal to the sum of the  
19           credit amounts for each qualified hybrid vehicle placed in  
20           service during the taxable year.

21           “(b) CREDIT AMOUNT.—For purposes of this section,  
22           the credit amount for each qualified hybrid vehicle with  
23           a rechargeable energy storage system which provides the  
24           applicable percentage of the maximum available power  
25           shall be the amount specified in the following table:

<b>“Applicable percentage</b>	<b>Credit amount</b>
Greater than or equal to 20 percent but less than 40 percent .....	\$500
Greater than or equal to 40 percent but less than 60 percent .....	\$1,000
Greater than or equal to 60 percent .....	\$2,000.

1       “(c) DEFINITIONS.—For purposes of this section—

2               “(1) QUALIFIED HYBRID VEHICLE.—The term  
3       ‘qualified hybrid vehicle’ means an automobile which  
4       meets all applicable regulatory requirements and  
5       which can draw propulsion energy from both of the  
6       following onboard sources of stored energy:

7               “(A) A consumable fuel.

8               “(B) A rechargeable energy storage sys-  
9       tem.

10              “(2) MAXIMUM AVAILABLE POWER.—The term  
11       ‘maximum available power’ means the maximum  
12       value of the sum of the heat engine and electric  
13       drive system power or other nonheat energy conver-  
14       sion devices available for a driver’s command for  
15       maximum acceleration at vehicle speeds under 75  
16       miles per hour.

17              “(3) AUTOMOBILE.—The term ‘automobile’ has  
18       the meaning given such term by section 4064(b)(1)  
19       (without regard to subparagraphs (B) and (C) there-  
20       of). A vehicle shall not fail to be treated as an auto-  
21       mobile solely by reason of weight if such vehicle is  
22       rated at 8,500 pounds gross vehicle weight rating or  
23       less.



1       “(d) APPLICATION WITH OTHER CREDITS.—The  
2 credit allowed by subsection (a) for any taxable year shall  
3 not exceed the excess (if any) of—

4               “(1) the regular tax for the taxable year re-  
5 duced by the sum of the credits allowable under sub-  
6 part A and sections 27, 30, and 30B of this subpart,  
7 over

8               “(2) the tentative minimum tax for the taxable  
9 year.

10       “(e) SPECIAL RULES.—

11               “(1) BASIS REDUCTION.—The basis of any  
12 property for which a credit is allowable under sub-  
13 section (a) shall be reduced by the amount of such  
14 credit (determined without regard to subsection (d)).

15               “(2) RECAPTURE.—The Secretary shall, by reg-  
16 ulations, provide for recapturing the benefit of any  
17 credit allowable under subsection (a) with respect to  
18 any property which ceases to be property eligible for  
19 such credit.

20               “(3) PROPERTY USED OUTSIDE UNITED  
21 STATES, ETC., NOT QUALIFIED.—No credit shall be  
22 allowed under this section with respect to—

23                       “(A) any property for which a credit is al-  
24 lowed under section 30,

1           “(B) any property referred to in section  
2           50(b), or

3           “(C) any property taken into account  
4           under section 179 or 179A.

5           “(4) ELECTION TO NOT TAKE CREDIT.—No  
6           credit shall be allowed under subsection (a) for any  
7           vehicle if the taxpayer elects to not have this section  
8           apply to such vehicle.

9           “(5) LEASED VEHICLES.—No credit shall be al-  
10          lowed under this section with respect to a leased  
11          motor vehicle unless the lease documents clearly dis-  
12          close to the lessee the specific amount of any credit  
13          otherwise allowable to the lessor under this section.

14          “(f) REGULATIONS.—

15               “(1) TREASURY.—The Secretary shall prescribe  
16               such regulations as may be necessary or appropriate  
17               to carry out the purposes of this section.

18               “(2) ENVIRONMENTAL PROTECTION AGENCY.—  
19               The Administrator of the Environmental Protection  
20               Agency, in coordination with the Secretary of Trans-  
21               portation and consistent with the laws administered  
22               by such agency for automobiles, shall timely pre-  
23               scribe such regulations as may be necessary or ap-  
24               propriate solely for the purpose of specifying the  
25               testing and calculation procedures to determine

1       whether a vehicle meets the qualifications for a cred-  
2       it under this section.

3       “(g) APPLICATION OF SECTION.—This section shall  
4       apply to any qualified hybrid vehicles placed in service  
5       after December 31, 2000, and before January 1, 2009.”

6       (b) CONFORMING AMENDMENTS.—

7               (1) Subsection (a) of section 1016, as amended  
8       by this Act, is amended by striking “and” at the end  
9       of paragraph (27), by striking the period at the end  
10      of paragraph (28) and inserting “, and”, and by  
11      adding at the end the following new paragraph:

12              “(29) to the extent provided in section  
13      30C(e)(1).”

14              (2) The table of sections for subpart B of part  
15      IV of subchapter A of chapter 1 is amended by add-  
16      ing at the end the following new item:

“Sec. 30C. Credit for hybrid vehicles.”

17      (c) EFFECTIVE DATE.—The amendments made by  
18      this title shall apply to vehicles placed in service after De-  
19      cember 31, 2000.

## 20       **Subtitle G—Alternative Fuels**

### 21      **SEC. 981. CREDIT FOR ALTERNATIVE FUEL VEHICLES.**

22      (a) IN GENERAL.—Subpart B of part IV of sub-  
23      chapter A of chapter 1 (relating to foreign tax credit, etc.),  
24      as amended by this Act, is amended by inserting after sec-  
25      tion 30C the following:

1 **“SEC. 30D. CREDIT FOR ALTERNATIVE FUEL VEHICLES.**

2       “(a) ALLOWANCE OF CREDIT.—There shall be al-  
3 lowed as a credit against the tax imposed by this chapter  
4 an amount equal to the applicable percentage of the incre-  
5 mental cost of any qualified alternative fuel motor vehicle  
6 placed in service by the taxpayer during the taxable year.

7       “(b) APPLICABLE PERCENTAGE.—For purposes of  
8 subsection (a), the applicable percentage with respect to  
9 any qualified alternative fuel motor vehicle is—

10               “(1) 50 percent, plus

11               “(2) 35 percent, if such vehicle—

12                       “(A) has a gross weight vehicle rating of  
13 less than 14,000 pounds, and

14                               “(i) has received a certificate of con-  
15 formity under the Clean Air Act and meets  
16 or exceeds the most stringent standard  
17 available for certification under the Clean  
18 Air Act for that make and model year vehi-  
19 cle (other than a zero emission standard),  
20 or

21                               “(ii) has received an order certifying  
22 the vehicle for sale in California and meets  
23 or exceeds the most stringent standard  
24 available for certification under the laws of  
25 the State of California for that make and

1 model year vehicle (other than a zero emis-  
2 sion standard), or

3 “(B) has a gross weight vehicle rating of  
4 14,000 or more pounds, and

5 “(i) has received a certificate of con-  
6 formity under the Clean Air Act at emis-  
7 sions levels that are not more than 50 per-  
8 cent of the standard applicable to a vehicle  
9 of that make and model year, or

10 “(ii) has received an order certifying  
11 the vehicle for sale in California at emis-  
12 sions levels that are not more than 50 per-  
13 cent of the standard applicable under the  
14 laws of the State of California to a vehicle  
15 of that make and model year.

16 “(c) INCREMENTAL COST.—For purposes of this sec-  
17 tion, the incremental cost of any qualified alternative fuel  
18 motor vehicle is equal to the amount of the excess of the  
19 manufacturer’s suggested retail price for such vehicle over  
20 such price for a gasoline or diesel fuel motor vehicle of  
21 the same model, to the extent such amount does not  
22 exceed—

23 “(1) \$5,000, if such vehicle has a gross vehicle  
24 weight rating of not more than 8,500 pounds,

1           “(2) \$10,000, if such vehicle has a gross vehicle  
2           weight rating of more than 8,500 pounds but not  
3           more than 14,000 pounds,

4           “(3) \$25,000, if such vehicle has a gross vehicle  
5           weight rating of more than 14,000 pounds but not  
6           more than 26,000 pounds, and

7           “(4) \$50,000, if such vehicle has a gross vehicle  
8           weight rating of more than 26,000 pounds.

9           “(d) QUALIFIED ALTERNATIVE FUEL MOTOR VEHI-  
10          CLE DEFINED.—For purposes of this section, the term  
11          ‘qualified alternative fuel motor vehicle’ means any motor  
12          vehicle—

13               “(1) which is only capable of operating on an  
14               alternative fuel,

15               “(2) the original use of which commences with  
16               the taxpayer, and

17               “(3) which is acquired by the taxpayer for use  
18               or to lease, but not for resale.

19           “(e) APPLICATION WITH OTHER CREDITS.—The  
20          credit allowed under subsection (a) for any taxable year  
21          shall not exceed the excess (if any) of—

22               “(1) the regular tax for the taxable year re-  
23               duced by the sum of the credits allowable under sub-  
24               part A and sections 27, 29, 30, 30A, 30B, and 30C,  
25               over

1           “(2) the tentative minimum tax for the taxable  
2       year.

3       “(f) OTHER DEFINITIONS AND SPECIAL RULES.—  
4 For purposes of this section—

5           “(1) ALTERNATIVE FUEL.—The term ‘alter-  
6       native fuel’ has the meaning given such term by sec-  
7       tion 301(2) of the Energy Policy Act of 1992 (42  
8       U.S.C. 13211(2)), as in effect on the date of the en-  
9       actment of this section.

10          “(2) MOTOR VEHICLE.—The term ‘motor vehi-  
11       cle’ has the meaning given such term by section  
12       30(c)(2).

13          “(3) REDUCTION IN BASIS.—For purposes of  
14       this subtitle, the basis of any property for which a  
15       credit is allowable under subsection (a) shall be re-  
16       duced by the amount of such credit so allowed (de-  
17       termined without regard to subsection (e)).

18          “(4) NO DOUBLE BENEFIT.—The amount of  
19       any deduction or credit allowable under this chapter  
20       for any incremental cost taken into account in com-  
21       puting the amount of the credit determined under  
22       subsection (a) shall be reduced by the amount of  
23       such credit attributable to such cost.

24          “(5) LEASED VEHICLES.—No credit shall be al-  
25       lowed under subsection (a) with respect to a leased

1 motor vehicle unless the lease documents clearly dis-  
2 close to the lessee the specific amount of any credit  
3 otherwise allowable to the lessor under subsection  
4 (a).

5 “(6) RECAPTURE.—The Secretary shall, by reg-  
6 ulations, provide for recapturing the benefit of any  
7 credit allowable under subsection (a) with respect to  
8 any property which ceases to be property eligible for  
9 such credit.

10 “(7) PROPERTY USED OUTSIDE UNITED  
11 STATES, ETC., NOT QUALIFIED.—No credit shall be  
12 allowed under subsection (a) with respect to any  
13 property referred to in section 50(b) or with respect  
14 to the portion of the cost of any property taken into  
15 account under section 179.

16 “(8) ELECTION TO NOT TAKE CREDIT.—No  
17 credit shall be allowed under subsection (a) for any  
18 vehicle if the taxpayer elects to not have this section  
19 apply to such vehicle.

20 “(g) TERMINATION.—This section shall not apply to  
21 any property placed in service after December 31, 2007.”

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 1016(a), as amended by this Act, is  
24 amended by striking “and” at the end of paragraph  
25 (28), by striking the period at the end of paragraph



1 (29) and inserting “, and”, and by adding at the  
 2 end the following:

3 “(30) to the extent provided in section  
 4 30D(f)(3).”

5 (2) Section 53(d)(1)(B)(iii) is amended by in-  
 6 serting “, or not allowed under section 30D solely by  
 7 reason of the application of section 30D(e)(2)” be-  
 8 fore the period.

9 (3) Section 55(c)(2) is amended by inserting  
 10 “30D(e),” after “30(b)(3)”.

11 (4) Section 6501(m) is amended by inserting  
 12 “30D(f)(8),” after “30(d)(4),”.

13 (5) The table of sections for subpart B of part  
 14 IV of subchapter A of chapter 1 is amended by in-  
 15 serting after the item relating to section 30C the fol-  
 16 lowing:

“Sec. 30D. Credit for alternative fuel vehicles.”

17 (e) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to property placed in service after  
 19 December 31, 2000, in taxable years ending after such  
 20 date.

21 **SEC. 982. MODIFICATION OF CREDIT FOR QUALIFIED ELEC-**  
 22 **TRIC VEHICLES.**

23 (a) AMOUNT OF CREDIT.—

1           (1) IN GENERAL.—Section 30(a) (relating to al-  
2           lowance of credit) is amended by striking “10 per-  
3           cent of”.

4           (2) LIMITATION OF CREDIT ACCORDING TO  
5           TYPE OF VEHICLE.—Section 30(b) (relating to limi-  
6           tations) is amended—

7                   (A) by striking paragraphs (1) and (2) and  
8                   inserting the following new paragraph:

9                   “(1) LIMITATION ACCORDING TO TYPE OF VE-  
10                  HICLE.—The amount of the credit allowed under  
11                  subsection (a) for any vehicle shall not exceed the  
12                  greatest of the following amounts applicable to such  
13                  vehicle:

14                           “(A) In the case of a vehicle with a rated  
15                           top speed not exceeding 50 miles per hour, the  
16                           lesser of—

17                                   “(i) 10 percent of the cost of the vehi-  
18                                   cle, or

19                                   “(ii) \$4,250.

20                           “(B) In the case of a vehicle with a gross  
21                           vehicle weight rating not exceeding 8,500  
22                           pounds and a rated top speed exceeding 50  
23                           miles per hour, \$4,250.

24                           “(C) In the case of a vehicle capable of a  
25                           driving range of at least 100 miles on a single

charge of the vehicle's rechargeable batteries and measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, \$6,375.

“(D) In the case of a vehicle capable of a payload capacity of at least 1000 pounds, \$6,375.

“(E) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, \$8,500.

“(F) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, \$21,250.

“(G) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, \$42,500.”, and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking “section 30(b)(3)(B)” and inserting “section 30(b)(2)(B)”.

(3) Section 55(c)(2) is amended by striking “30(b)(3)” and inserting “30(b)(2)”.

1 (b) QUALIFIED ELECTRIC VEHICLE.—Section  
2 30(c)(1)(A) (defining qualified electric vehicle) is amended  
3 to read as follows:

4 “(A) which is powered primarily by an  
5 electric motor drawing current from recharge-  
6 able batteries, fuel cells which generate elec-  
7 trical current from an alternative fuel (as de-  
8 fined in section 30D(f)(1)), or other portable  
9 sources of electrical current generated on board  
10 the vehicle from an alternative fuel (as so de-  
11 fined),”.

12 (c) ADDITIONAL SPECIAL RULES.—Section 30(d)  
13 (relating to special rules) is amended by adding at the end  
14 the following new paragraphs:

15 “(5) NO DOUBLE BENEFIT.—The amount of  
16 any deduction or credit allowable under this chapter  
17 for any cost taken into account in computing the  
18 amount of the credit determined under subsection  
19 (a) shall be reduced by the amount of such credit at-  
20 tributable to such cost.

21 “(6) LEASED VEHICLES.—No credit shall be al-  
22 lowed under subsection (a) with respect to a leased  
23 motor vehicle unless the lease documents clearly dis-  
24 close to the lessee the specific amount of any credit

1 otherwise allowable to the lessor under subsection  
 2 (a).”

3 (d) EXTENSION.—Section 30(e) (relating to termi-  
 4 nation) is amended by striking “2004” and inserting  
 5 “2007”.

6 (e) EFFECTIVE DATE.—The amendments made by  
 7 this section shall apply to property placed in service after  
 8 December 31, 2000, in taxable years ending after such  
 9 date.

10 **SEC. 983. CREDIT FOR RETAIL SALE OF ALTERNATIVE**  
 11 **FUELS AS MOTOR VEHICLE FUEL.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-  
 13 chapter A of chapter 1 (relating to business related cred-  
 14 its) is amended by inserting after section 40 the following:

15 **“SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE**  
 16 **FUELS AS MOTOR VEHICLE FUEL.**

17 “(a) GENERAL RULE.—For purposes of section 38,  
 18 the alternative fuel retail sales credit of any taxpayer for  
 19 any taxable year is 25 cents for each gasoline gallon equiv-  
 20 alent of alternative fuel sold at retail by the taxpayer dur-  
 21 ing such year as a fuel to propel any qualified motor vehi-  
 22 cle.

23 “(b) DEFINITIONS.—For purposes of this section—

24 “(1) ALTERNATIVE FUEL.—The term ‘alter-  
 25 native fuel’ has the meaning given such term by sec-

tion 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)), as in effect on the date of the enactment of this section.

“(2) GASOLINE GALLON EQUIVALENT.—The term ‘gasoline gallon equivalent’ means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

“(3) QUALIFIED MOTOR VEHICLE.—The term ‘qualified motor vehicle’ means any motor vehicle (as defined in section 179A(e)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

“(4) SOLD AT RETAIL.—

“(A) IN GENERAL.—The term ‘sold at retail’ means the sale, for a purpose other than resale, after manufacture, production, or importation.

“(B) USE TREATED AS SALE.—If any person uses alternative fuel as a fuel to propel any qualified motor vehicle (including any use after importation) before such fuel is sold at retail, then such use shall be treated in the same man-

1           ner as if such fuel were sold at retail as a fuel  
2           to propel such a vehicle by such person.

3           “(c) NO DOUBLE BENEFIT.—The amount of any de-  
4   duction or credit allowable under this chapter for any fuel  
5   taken into account in computing the amount of the credit  
6   determined under subsection (a) shall be reduced by the  
7   amount of such credit attributable to such fuel.

8           “(d) PASS-THRU IN THE CASE OF ESTATES AND  
9   TRUSTS.—Under regulations prescribed by the Secretary,  
10   rules similar to the rules of subsection (d) of section 52  
11   shall apply.

12          “(e) TERMINATION.—This section shall not apply to  
13   any fuel sold at retail after December 31, 2007.”.

14          (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
15   tion 38(b) (relating to current year business credit), as  
16   amended by this Act, is amended by striking “plus” at  
17   the end of paragraph (16), by striking the period at the  
18   end of paragraph (17) and inserting “, plus”, and by add-  
19   ing at the end the following:

20               “(18) the alternative fuel retail sales credit de-  
21   termined under section 40A(a).”.

22          (c) TRANSITIONAL RULE.—Section 39(d) (relating to  
23   transitional rules), as amended by this Act, is amended  
24   by adding at the end the following:

“(16) NO CARRYBACK OF SECTION 40A CREDIT  
BEFORE EFFECTIVE DATE.—No portion of the un-  
used business credit for any taxable year which is  
attributable to the alternative fuel retail sales credit  
determined under section 40A(a) may be carried  
back to a taxable year ending before January 1,  
2001.”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following:

“Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuel sold at retail after December 31, 2000, in taxable years ending after such date.

15 SEC. 984. EXTENSION OF DEDUCTION FOR CERTAIN RE-  
16 FUELING PROPERTY.

(a) IN GENERAL.—Section 179A(f) (relating to termination) is amended by striking “2004” and inserting “2007”.

(b) CONFORMING AMENDMENT.—Section 179A(c) (relating to qualified clean-fuel vehicle property defined) is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after



1 December 31, 2000, in taxable years ending after such  
2 date.

3 **SEC. 985. ADDITIONAL DEDUCTION FOR COST OF INSTAL-**  
4 **LATION OF ALTERNATIVE FUELING STA-**  
5 **TIONS.**

6 (a) IN GENERAL.—Subparagraph (A) of section  
7 179A(b)(2) (relating to qualified clean-fuel vehicle refuel-  
8 ing property) is amended to read as follows:

9 “(A) IN GENERAL.—The aggregate cost  
10 which may be taken into account under sub-  
11 section (a)(1)(B) with respect to qualified  
12 clean-fuel vehicle refueling property placed in  
13 service during the taxable year at a location  
14 shall not exceed the sum of—

15 “(i) with respect to costs not de-  
16 scribed in clause (ii), the excess (if any)  
17 of—

18 “(I) \$100,000, over

19 “(II) the aggregate amount of  
20 such costs taken into account under  
21 subsection (a)(1)(B) by the taxpayer  
22 (or any related person or predecessor)  
23 with respect to property placed in  
24 service at such location for all pre-  
25 ceding taxable years, plus

1 “(ii) the lesser of—  
 2 “(I) the cost of the installation of  
 3 such property, or  
 4 “(II) \$30,000.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
 6 this section shall apply to property placed in service after  
 7 December 31, 2000.

## 8 **Subtitle H—Renewable Energy**

### 9 **SEC. 991. MODIFICATIONS TO CREDIT FOR ELECTRICITY** 10 **PRODUCED FROM RENEWABLE RESOURCES** 11 **AND EXTENSION TO WASTE ENERGY.**

12 (a) EXPANSION OF QUALIFIED ENERGY RE-  
 13 SOURCES.—

14 (1) IN GENERAL.—Section 45(c)(1) (defining  
 15 qualified energy resources) is amended by striking  
 16 “and” at the end of subparagraph (A), by striking  
 17 subparagraph (B), and by adding at the end the fol-  
 18 lowing:

19 “(B) biomass,  
 20 “(C) municipal solid waste,  
 21 “(D) incremental hydropower,  
 22 “(E) geothermal,  
 23 “(F) landfill gas, and  
 24 “(G) steel cogeneration.”

1           (2) DEFINITIONS.—Section 45(c) is amended  
2       by redesignating paragraph (3) as paragraph (8)  
3       and by striking paragraph (2) and inserting the fol-  
4       lowing:

5           “(2) BIOMASS.—The term ‘biomass’ means—

6               “(A) any organic material from a plant  
7               which is planted exclusively for purposes of  
8               being used at a qualified facility to produce  
9               electricity, or

10               “(B) any solid, nonhazardous waste mate-  
11               rial which is derived from—

12                   “(i) any of the following forest-related  
13                   resources: mill residues, precommercial  
14                   thinnings, slash, and brush, but not includ-  
15                   ing old-growth timber,

16                   “(ii) waste pallets, crates, and  
17                   dunnage, and landscape or right-of-way  
18                   tree trimmings, but not including unsegre-  
19                   gated municipal solid waste or paper that  
20                   is destined for recycling, or

21                   “(iii) agriculture sources, including  
22                   switchgrass, orchard tree crops, vineyards,  
23                   grain, legumes, sugar, and other crop by-  
24                   products or residues.

1           “(3) MUNICIPAL SOLID WASTE.—The term  
2           ‘municipal solid waste’ has the same meaning given  
3           the term ‘solid waste’ under section 2(27) of the  
4           Solid Waste Utilization Act (42 U.S.C. 6903).

5           “(4) INCREMENTAL HYDROPOWER.—The term  
6           ‘incremental hydropower’ means additional gener-  
7           ating capacity achieved from increased efficiency or  
8           additions of new capacity at existing hydroelectric  
9           dams licensed by the Federal Energy Regulatory  
10          Commission.

11          “(5) GEOTHERMAL.—The term ‘geothermal’  
12          means energy derived from a geothermal deposit  
13          (within the meaning of section 613(e)(2)), but only,  
14          in the case of electricity generated by geothermal  
15          power, up to (but not including) the electrical trans-  
16          mission stage.

17          “(6) LANDFILL GAS.—The term ‘landfill gas’  
18          means gas generated from the decomposition of any  
19          household solid waste, commercial solid waste, and  
20          industrial solid waste disposed of in a municipal  
21          solid waste landfill unit (as such terms are defined  
22          in regulations promulgated under subtitle D of the  
23          Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

24          “(7) STEEL COGENERATION.—The term ‘steel  
25          cogeneration’ means the production of electricity and

1 steam (or other form of thermal energy) from any  
 2 or all waste sources in subparagraphs (A), (B), and  
 3 (C) within an operating facility which produces or  
 4 integrates the production of coke, direct reduced  
 5 iron ore, iron, or steel but only if the cogeneration  
 6 meets any regulatory energy-efficiency standards es-  
 7 tablished by the Secretary, and only to the extent  
 8 that such energy is produced from—

9 “(A) gases or heat generated from the pro-  
 10 duction of metallurgical coke,

11 “(B) gases or heat generated from the pro-  
 12 duction of direct reduced iron ore or iron, from  
 13 blast furnace or direct ironmaking processes, or

14 “(C) gases or heat generated from the  
 15 manufacture of steel.”

16 (b) EXTENSION AND MODIFICATION OF PLACED-IN-  
 17 SERVICE RULES.—Paragraph (8) of section 45(c), as re-  
 18 designated by subsection (a), is amended to read as fol-  
 19 lows:

20 “(8) QUALIFIED FACILITY.—

21 “(A) IN GENERAL.—The term ‘qualified  
 22 facility’ means any facility owned or leased by  
 23 the taxpayer which is originally placed in  
 24 service—

1 “(i) in the case of a facility using  
2 wind to produce electricity, after December  
3 31, 1993, and before July 1, 2011,

4 “(ii) in the case of a facility using  
5 municipal solid waste, geothermal or land-  
6 fill gas to produce electricity, after the  
7 date of the enactment of this subparagraph  
8 and before July 1, 2011,

9 “(iii) in the case of a facility using  
10 biomass to produce electricity, before July  
11 1, 2011, except that a facility shall not be  
12 treated as a qualified facility for any  
13 month unless, for such month, biomass  
14 comprises not less than 75 percent (on a  
15 Btu basis) of the average monthly fuel  
16 input of the facility for the taxable year  
17 which includes such month, and

18 “(iv) in the case of a facility using  
19 steel cogeneration to produce electricity,  
20 after December 31, 2000, and before Jan-  
21 uary 1, 2011.

22 “(B) COMBINED PRODUCTION FACILITIES  
23 INCLUDED.—For purposes of this paragraph,  
24 the term ‘qualified facility’ shall include a facil-  
25 ity using biomass to produce electricity and

1 other biobased products such as chemicals and  
 2 fuels from renewable resources.

3 “(C) SPECIAL RULES.—In the case of a  
 4 qualified facility described in subparagraph (A)  
 5 (ii), (iii), or (iv)—

6 “(i) the 10-year period referred to in  
 7 subsection (a) shall be treated as beginning  
 8 no earlier than the date of the enactment  
 9 of this paragraph, and

10 “(ii) subsection (b)(3) shall not apply  
 11 to any such facility originally placed in  
 12 service before January 1, 1997.”

13 (c) SPECIAL RULES FOR LANDFILL GAS.—Section  
 14 45(d) is amended by adding at the end the following:

15 “(8) CREDIT ALLOWABLE FOR SALE OF LAND-  
 16 FILL GAS.—

17 “(A) IN GENERAL.—In the case of landfill  
 18 gas which is produced by the taxpayer but not  
 19 used by the taxpayer to produce electricity,  
 20 paragraph (2) of subsection (a) shall be applied  
 21 as if it read as follows:

22 ““(2) the kilowatt-hour equivalent of the landfill  
 23 gas—

24 ““(A) produced by the taxpayer at a quali-  
 25 fied facility during the 10-year period beginning

1 on the date the facility was originally placed in  
2 service, and

3 ““(B) sold by the taxpayer to an unrelated  
4 person during the taxable year.’.

5 ““(B) KILOWATT HOUR EQUIVALENT.—For  
6 purposes of applying subparagraph (A), the kil-  
7 owatt hour equivalent for landfill gas is the  
8 amount of such gas which has a Btu content of  
9 10,000.

10 ““(C) SPECIAL RULES.—In the case of  
11 landfill gas to which subparagraph (A)  
12 applies—

13 ““(i) the reference to electricity in  
14 paragraphs (1) and (4) shall be treated as  
15 including a reference to such gas,

16 ““(ii) the reference price for such gas  
17 shall be determined under paragraph  
18 (2)(C) on the basis of kilowatt hour  
19 equivalents, and

20 ““(iii) the reference to ownership inter-  
21 ests in paragraph (3) shall be treated as  
22 including a reference to any economic in-  
23 terest.”



1 (d) COORDINATION WITH OTHER CREDITS.—Section  
 2 45(d) (relating to definitions and special rules) is amended  
 3 by adding at the end the following:

4 “(9) COORDINATION WITH OTHER CREDITS.—  
 5 This section shall not apply to any production with  
 6 respect to which the clean coal technology produc-  
 7 tion credit under section 45F or 45G, or the non-  
 8 conventional fuel production credit under section 29,  
 9 is allowed unless the taxpayer elects to waive the ap-  
 10 plication of such credit to such production.”.

11 (e) CONFORMING AMENDMENTS.—

12 (1) The heading for section 45 is amended by  
 13 inserting “and waste energy” after “renewable”.

14 (2) The item relating to section 45 in the table  
 15 of sections subpart D of part IV of subchapter A of  
 16 chapter 1 is amended by inserting “and waste en-  
 17 ergy” after “renewable”.

18 (f) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply to electricity produced after the  
 20 date of the enactment of this Act.

21 **SEC. 992. CREDIT FOR RESIDENTIAL SOLAR AND WIND EN-**  
 22 **ERGY PROPERTY.**

23 (a) IN GENERAL.—Subpart A of part IV of sub-  
 24 chapter A of chapter 1 (relating to nonrefundable personal

1 credits), as amended by this Act, is amended by inserting  
2 after section 25B the following new section:

3 **“SEC. 25C. RESIDENTIAL SOLAR AND WIND ENERGY PROP-**  
4 **ERTY.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
6 dividual, there shall be allowed as a credit against the tax  
7 imposed by this chapter for the taxable year an amount  
8 equal to the sum of—

9 “(1) 15 percent of the qualified photovoltaic  
10 property expenditures made by the taxpayer during  
11 the taxable year,

12 “(2) 15 percent of the qualified solar water  
13 heating property expenditures made by the taxpayer  
14 during the taxable year, and

15 “(3) 15 percent of the qualified wind energy  
16 property expenditures made by the taxpayer during  
17 the taxable year.

18 “(b) LIMITATIONS.—

19 “(1) MAXIMUM CREDIT.—The credit allowed  
20 under subsection (a)(2) shall not exceed \$2,000 for  
21 each system of solar energy property.

22 “(2) TYPE OF PROPERTY.—No expenditure may  
23 be taken into account under this section unless such  
24 expenditure is made by the taxpayer for property in-  
25 stalled on or in connection with a dwelling unit

1       which is located in the United States and which is  
2       used as a residence.

3               “(3) SAFETY CERTIFICATIONS.—No credit shall  
4       be allowed under this section for an item of property  
5       unless—

6               “(A) in the case of solar water heating  
7       equipment, such equipment is certified for per-  
8       formance and safety by the non-profit Solar  
9       Rating Certification Corporation or a com-  
10      parable entity endorsed by the government of  
11      the State in which such property is installed,  
12      and

13              “(B) in the case of a photovoltaic or wind  
14      energy system, such system meets appropriate  
15      fire and electric code requirements.

16      “(c) DEFINITIONS.—For purposes of this section—

17              “(1) QUALIFIED SOLAR WATER HEATING PROP-  
18      ERTY EXPENDITURE.—The term ‘qualified solar  
19      water heating property expenditure’ means an ex-  
20      penditure for property that uses solar energy to heat  
21      water for use in a dwelling unit with respect to  
22      which a majority of the energy is derived from the  
23      sun.

24              “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-  
25      PENDITURE.—The term ‘qualified photovoltaic prop-

erty expenditure' means an expenditure for property that uses solar energy to generate electricity for use in a dwelling unit.

“(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

“(4) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term ‘qualified wind energy property expenditure’ means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit.

“(5) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), or (4) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

“(6) ENERGY STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such

1 storage shall not be taken into account for purposes  
2 of this section.

3 “(d) SPECIAL RULES.—For purposes of this  
4 section—

5 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
6 CUPANCY.—In the case of any dwelling unit which is  
7 jointly occupied and used during any calendar year  
8 as a residence by 2 or more individuals the following  
9 shall apply:

10 “(A) The amount of the credit allowable  
11 under subsection (a) by reason of expenditures  
12 (as the case may be) made during such cal-  
13 endar year by any of such individuals with re-  
14 spect to such dwelling unit shall be determined  
15 by treating all of such individuals as 1 taxpayer  
16 whose taxable year is such calendar year.

17 “(B) There shall be allowable with respect  
18 to such expenditures to each of such individ-  
19 uals, a credit under subsection (a) for the tax-  
20 able year in which such calendar year ends in  
21 an amount which bears the same ratio to the  
22 amount determined under subparagraph (A) as  
23 the amount of such expenditures made by such  
24 individual during such calendar year bears to

1 the aggregate of such expenditures made by all  
 2 of such individuals during such calendar year.

3 “(2) TENANT-STOCKHOLDER IN COOPERATIVE  
 4 HOUSING CORPORATION.—In the case of an indi-  
 5 vidual who is a tenant-stockholder (as defined in sec-  
 6 tion 216) in a cooperative housing corporation (as  
 7 defined in such section), such individual shall be  
 8 treated as having made his tenant-stockholder’s pro-  
 9 portionate share (as defined in section 216(b)(3)) of  
 10 any expenditures of such corporation.

11 “(3) CONDOMINIUMS.—

12 “(A) IN GENERAL.—In the case of an indi-  
 13 vidual who is a member of a condominium man-  
 14 agement association with respect to a condo-  
 15 minium which he owns, such individual shall be  
 16 treated as having made his proportionate share  
 17 of any expenditures of such association.

18 “(B) CONDOMINIUM MANAGEMENT ASSO-  
 19 CIATION.—For purposes of this paragraph, the  
 20 term ‘condominium management association’  
 21 means an organization which meets the require-  
 22 ments of paragraph (1) of section 528(c) (other  
 23 than subparagraph (E) thereof) with respect to  
 24 a condominium project substantially all of the  
 25 units of which are used as residences.

1           “(4) JOINT OWNERSHIP OF ITEMS OF SOLAR OR  
2 WIND ENERGY PROPERTY.—

3           “(A) IN GENERAL.—Any expenditure oth-  
4 erwise qualifying as an expenditure described in  
5 paragraph (1), (2), or (4) of subsection (c) shall  
6 not be treated as failing to so qualify merely be-  
7 cause such expenditure was made with respect  
8 to 2 or more dwelling units.

9           “(B) LIMITS APPLIED SEPARATELY.—In  
10 the case of any expenditure described in sub-  
11 paragraph (A), the amount of the credit allow-  
12 able under subsection (a) shall (subject to para-  
13 graph (1)) be computed separately with respect  
14 to the amount of the expenditure made for each  
15 dwelling unit.

16           “(5) ALLOCATION IN CERTAIN CASES.—If less  
17 than 80 percent of the use of an item is for nonbusi-  
18 ness residential purposes, only that portion of the  
19 expenditures for such item which is properly allo-  
20 cable to use for nonbusiness residential purposes  
21 shall be taken into account. For purposes of this  
22 paragraph, use for a swimming pool shall be treated  
23 as use which is not for residential purposes.

24           “(6) WHEN EXPENDITURE MADE; AMOUNT OF  
25 EXPENDITURE.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), an expenditure with respect  
3           to an item shall be treated as made when the  
4           original installation of the item is completed.

5           “(B) EXPENDITURES PART OF BUILDING  
6           CONSTRUCTION.—In the case of an expenditure  
7           in connection with the construction or recon-  
8           struction of a structure, such expenditure shall  
9           be treated as made when the original use of the  
10          constructed or reconstructed structure by the  
11          taxpayer begins.

12          “(C) AMOUNT.—The amount of any ex-  
13          penditure shall be the cost thereof.

14          “(7) REDUCTION OF CREDIT FOR GRANTS, TAX-  
15          EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANC-  
16          ING.—The rules of section 29(b)(3) shall apply for  
17          purposes of this section.

18          “(e) BASIS ADJUSTMENTS.—For purposes of this  
19          subtitle, if a credit is allowed under this section for any  
20          expenditure with respect to any property, the increase in  
21          the basis of such property which would (but for this sub-  
22          section) result from such expenditure shall be reduced by  
23          the amount of the credit so allowed.



1       “(f) TERMINATION.—The credit allowed under this  
2 section shall not apply to taxable years beginning after  
3 December 31, 2011.”.

4       (b) CONFORMING AMENDMENTS.—

5           (1) Subsection (a) of section 1016 is amended  
6 by striking “and” at the end of paragraph (29), by  
7 striking the period at the end of paragraph (30) and  
8 inserting “; and”, and by adding at the end the fol-  
9 lowing new paragraph:

10           “(31) to the extent provided in section 25C(e),  
11 in the case of amounts with respect to which a credit  
12 has been allowed under section 25C.”

13           (2) The table of sections for subpart A of part  
14 IV of subchapter A of chapter 1 is amended by in-  
15 serting after the item relating to section 25B the fol-  
16 lowing new item:

“Sec. 25C. Residential solar and wind energy property.”.

17       (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years ending after De-  
19 cember 31, 2001.

1 **SEC. 993. TREATMENT OF FACILITIES USING BAGASSE TO**  
2 **PRODUCE ENERGY AS SOLID WASTE DIS-**  
3 **POSAL FACILITIES ELIGIBLE FOR TAX-EX-**  
4 **EMPT FINANCING.**

5 (a) IN GENERAL.—Section 142 (relating to exempt  
6 facility bond) is amended by adding at the end the fol-  
7 lowing:

8 “(k) SOLID WASTE DISPOSAL FACILITIES.—For pur-  
9 poses of subsection (a)(6), the term ‘solid waste disposal  
10 facilities’ includes property used for the collection, storage,  
11 treatment, utilization, processing, or final disposal of ba-  
12 gasse in the manufacture of ethanol.”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to bonds issued after the date of  
15 the enactment of this Act.

○