

MAY 20, 2016

RULES COMMITTEE PRINT 114-55
TEXT OF HOUSE AMENDMENT TO S. 2012,
ENERGY POLICY MODERNIZATION ACT OF 2016

**[Showing the text of North American Energy Security and
Infrastructure Act of 2016.]**

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “North American Energy Security and Infrastructure Act
4 of 2016”.

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

Sec. 1. Short title; table of contents.

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- Sec. 1104. Critical electric infrastructure security.
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- Sec. 1113. Grid resilience report.
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- Sec. 641. Energy efficiency.
- Sec. 642. Next Generation Lighting Initiative.
- Sec. 643. Building standards.
- Sec. 644. Secondary electric vehicle battery use program.
- Sec. 645. Network for Manufacturing Innovation Program.
- Sec. 646. Advanced Energy Technology Transfer Centers.
- Sec. 647. Renewable energy.
- Sec. 648. Bioenergy program.
- Sec. 649. Concentrating solar power research program.
- Sec. 650. Renewable energy in public buildings.

Subtitle E—Fossil Energy Research and Development

- Sec. 661. Fossil energy.
- Sec. 662. Coal research, development, demonstration, and commercial application programs.
- Sec. 663. High efficiency gas turbines research and development.

Subtitle F—Advanced Research Projects Agency—Energy

- Sec. 671. ARPA-E amendments.

Subtitle G—Authorization of Appropriations

- Sec. 681. Authorization of appropriations.

Subtitle H—Definitions

- Sec. 691. Definitions.

TITLE VII—DEPARTMENT OF ENERGY TECHNOLOGY TRANSFER

Subtitle A—In General

- Sec. 701. Definitions.

Sec. 702. Savings clause.

Subtitle B—Innovation Management at Department of Energy

Sec. 712. Technology transfer and transitions assessment.

Sec. 713. Sense of Congress.

Sec. 714. Nuclear energy innovation.

Subtitle C—Cross-Sector Partnerships and Grant Competitiveness

Sec. 721. Agreements for Commercializing Technology pilot program.

Sec. 722. Public-private partnerships for commercialization.

Sec. 723. Inclusion of early-stage technology demonstration in authorized technology transfer activities.

Sec. 724. Funding competitiveness for institutions of higher education and other nonprofit institutions.

Sec. 725. Participation in the Innovation Corps program.

Subtitle D—Assessment of Impact

Sec. 731. Report by Government Accountability Office.

TITLE XXXIII—NUCLEAR ENERGY INNOVATION CAPABILITIES

Sec. 3301. Short title.

Sec. 3302. Nuclear energy.

Sec. 3303. Nuclear energy research programs.

Sec. 3304. Advanced fuel cycle initiative.

Sec. 3305. University nuclear science and engineering support.

Sec. 3306. Department of Energy civilian nuclear infrastructure and facilities.

Sec. 3307. Security of nuclear facilities.

Sec. 3308. High-performance computation and supportive research.

Sec. 3309. Enabling nuclear energy innovation.

Sec. 3310. Budget plan.

Sec. 3311. Conforming amendments.

1 **DIVISION A—NORTH AMERICAN**
2 **ENERGY SECURITY AND IN-**
3 **FRAS**TRUCTURE

4 **SEC. 1. SHORT TITLE.**

5 This division may be cited as the “North American
6 Energy Security and Infrastructure Act of 2016”.

1 **TITLE I—MODERNIZING AND**
2 **PROTECTING INFRASTRUCTURE**
3 **Subtitle A—Energy Delivery,**
4 **Reliability, and Security**

5 **SEC. 1101. FERC PROCESS COORDINATION.**

6 Section 15 of the Natural Gas Act (15 U.S.C. 717n)
7 is amended—

8 (1) by amending subsection (b)(2) to read as
9 follows:

10 “(2) OTHER AGENCIES.—

11 “(A) IN GENERAL.—Each Federal and
12 State agency considering an aspect of an appli-
13 cation for Federal authorization shall cooperate
14 with the Commission and comply with the dead-
15 lines established by the Commission.

16 “(B) IDENTIFICATION.—The Commission
17 shall identify, as early as practicable after it is
18 notified by a prospective applicant of a potential
19 project requiring Commission authorization,
20 any Federal or State agency, local government,
21 or Indian tribe that may consider an aspect of
22 an application for that Federal authorization.

23 “(C) NOTIFICATION.—

24 “(i) IN GENERAL.—The Commission
25 shall notify any agency identified under

1 subparagraph (B) of the opportunity to co-
2 operate or participate in the review pro-
3 cess.

4 “(ii) DEADLINE.—A notification
5 issued under clause (i) shall establish a
6 deadline by which a response to the notifi-
7 cation shall be submitted, which may be
8 extended by the Commission for good
9 cause.”;

10 (2) in subsection (c)—

11 (A) in paragraph (1)—

12 (i) by striking “and” at the end of
13 subparagraph (A);

14 (ii) by redesignating subparagraph
15 (B) as subparagraph (C); and

16 (iii) by inserting after subparagraph
17 (A) the following new subparagraph:

18 “(B) set deadlines for all such Federal au-
19 thorizations; and”;

20 (B) by striking paragraph (2); and

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

23 “(2) DEADLINE FOR FEDERAL AUTHORIZA-
24 TIONS.—A final decision on a Federal authorization
25 is due no later than 90 days after the Commission

1 issues its final environmental document, unless a
2 schedule is otherwise established by Federal law.

3 “(3) CONCURRENT REVIEWS.—Each Federal
4 and State agency considering an aspect of an appli-
5 cation for a Federal authorization shall—

6 “(A) carry out the obligations of that
7 agency under applicable law concurrently, and
8 in conjunction, with the review required by the
9 National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.), unless doing so would im-
11 pair the ability of the agency to conduct needed
12 analysis or otherwise carry out those obliga-
13 tions;

14 “(B) formulate and implement administra-
15 tive, policy, and procedural mechanisms to en-
16 able the agency to ensure completion of re-
17 quired Federal authorizations no later than 90
18 days after the Commission issues its final envi-
19 ronmental document; and

20 “(C) transmit to the Commission a state-
21 ment—

22 “(i) acknowledging receipt of the
23 schedule established under paragraph (1);
24 and

1 “(ii) setting forth the plan formulated
2 under subparagraph (B) of this paragraph.

3 “(4) ISSUE IDENTIFICATION AND RESOLU-
4 TION.—

5 “(A) IDENTIFICATION.—Federal and State
6 agencies that may consider an aspect of an ap-
7 plication for Federal authorization shall iden-
8 tify, as early as possible, any issues of concern
9 that may delay or prevent an agency from
10 working with the Commission to resolve such
11 issues and granting such authorization.

12 “(B) ISSUE RESOLUTION.—The Commis-
13 sion may forward any issue of concern identi-
14 fied under subparagraph (A) to the heads of
15 the relevant agencies (including, in the case of
16 a failure by the State agency, the Federal agen-
17 cy overseeing the delegated authority) for reso-
18 lution.

19 “(5) FAILURE TO MEET SCHEDULE.—If a Fed-
20 eral or State agency does not complete a proceeding
21 for an approval that is required for a Federal au-
22 thorization in accordance with the schedule estab-
23 lished by the Commission under paragraph (1)—

24 “(A) the applicant may pursue remedies
25 under section 19(d); and

1 “(B) the head of the relevant Federal
2 agency (including, in the case of a failure by a
3 State agency, the Federal agency overseeing the
4 delegated authority) shall notify Congress and
5 the Commission of such failure and set forth a
6 recommended implementation plan to ensure
7 completion of the proceeding for an approval.”;

8 (3) by redesignating subsections (d) through (f)
9 as subsections (g) through (i), respectively; and
10 (4) by inserting after subsection (c) the fol-
11 lowing new subsections:

12 “(d) REMOTE SURVEYS.—If a Federal or State agen-
13 cy considering an aspect of an application for Federal au-
14 thorization requires the applicant to submit environmental
15 data, the agency shall consider any such data gathered
16 by aerial or other remote means that the applicant sub-
17 mits. The agency may grant a conditional approval for
18 Federal authorization, conditioned on the verification of
19 such data by subsequent onsite inspection.

20 “(e) APPLICATION PROCESSING.—The Commission,
21 and Federal and State agencies, may allow an applicant
22 seeking Federal authorization to fund a third-party con-
23 tractor to assist in reviewing the application.

24 “(f) ACCOUNTABILITY, TRANSPARENCY, EFFI-
25 CIENCY.—For applications requiring multiple Federal au-

1 thorizations, the Commission, with input from any Federal
2 or State agency considering an aspect of an application,
3 shall track and make available to the public on the Com-
4 mission’s website information related to the actions re-
5 quired to complete permitting, reviews, and other actions
6 required. Such information shall include the following:

7 “(1) The schedule established by the Commis-
8 sion under subsection (c)(1).

9 “(2) A list of all the actions required by each
10 applicable agency to complete permitting, reviews,
11 and other actions necessary to obtain a final decision
12 on the Federal authorization.

13 “(3) The expected completion date for each
14 such action.

15 “(4) A point of contact at the agency account-
16 able for each such action.

17 “(5) In the event that an action is still pending
18 as of the expected date of completion, a brief expla-
19 nation of the reasons for the delay.”.

20 **SEC. 1102. RESOLVING ENVIRONMENTAL AND GRID RELI-**
21 **ABILITY CONFLICTS.**

22 (a) COMPLIANCE WITH OR VIOLATION OF ENVIRON-
23 MENTAL LAWS WHILE UNDER EMERGENCY ORDER.—
24 Section 202(c) of the Federal Power Act (16 U.S.C.
25 824a(c)) is amended—

1 (1) by inserting “(1)” after “(c)”; and

2 (2) by adding at the end the following:

3 “(2) With respect to an order issued under this sub-
4 section that may result in a conflict with a requirement
5 of any Federal, State, or local environmental law or regu-
6 lation, the Commission shall ensure that such order re-
7 quires generation, delivery, interchange, or transmission
8 of electric energy only during hours necessary to meet the
9 emergency and serve the public interest, and, to the max-
10 imum extent practicable, is consistent with any applicable
11 Federal, State, or local environmental law or regulation
12 and minimizes any adverse environmental impacts.

13 “(3) To the extent any omission or action taken by
14 a party, that is necessary to comply with an order issued
15 under this subsection, including any omission or action
16 taken to voluntarily comply with such order, results in
17 noncompliance with, or causes such party to not comply
18 with, any Federal, State, or local environmental law or
19 regulation, such omission or action shall not be considered
20 a violation of such environmental law or regulation, or
21 subject such party to any requirement, civil or criminal
22 liability, or a citizen suit under such environmental law
23 or regulation.

24 “(4)(A) An order issued under this subsection that
25 may result in a conflict with a requirement of any Federal,

1 State, or local environmental law or regulation shall expire
2 not later than 90 days after it is issued. The Commission
3 may renew or reissue such order pursuant to paragraphs
4 (1) and (2) for subsequent periods, not to exceed 90 days
5 for each period, as the Commission determines necessary
6 to meet the emergency and serve the public interest.

7 “(B) In renewing or reissuing an order under sub-
8 paragraph (A), the Commission shall consult with the pri-
9 mary Federal agency with expertise in the environmental
10 interest protected by such law or regulation, and shall in-
11 clude in any such renewed or reissued order such condi-
12 tions as such Federal agency determines necessary to min-
13 imize any adverse environmental impacts to the extent
14 practicable. The conditions, if any, submitted by such Fed-
15 eral agency shall be made available to the public. The
16 Commission may exclude such a condition from the re-
17 newed or reissued order if it determines that such condi-
18 tion would prevent the order from adequately addressing
19 the emergency necessitating such order and provides in
20 the order, or otherwise makes publicly available, an expla-
21 nation of such determination.

22 “(5) If an order issued under this subsection is subse-
23 quently stayed, modified, or set aside by a court pursuant
24 to section 313 or any other provision of law, any omission
25 or action previously taken by a party that was necessary

1 to comply with the order while the order was in effect,
2 including any omission or action taken to voluntarily com-
3 ply with the order, shall remain subject to paragraph
4 (3).”.

5 (b) TEMPORARY CONNECTION OR CONSTRUCTION BY
6 MUNICIPALITIES.—Section 202(d) of the Federal Power
7 Act (16 U.S.C. 824a(d)) is amended by inserting “or mu-
8 nicipality” before “engaged in the transmission or sale of
9 electric energy”.

10 **SEC. 1103. EMERGENCY PREPAREDNESS FOR ENERGY SUP-**
11 **PLY DISRUPTIONS.**

12 (a) FINDING.—Congress finds that recent natural
13 disasters have underscored the importance of having resil-
14 ient oil and natural gas infrastructure and energy storage
15 and effective ways for industry and government to commu-
16 nicate to address energy supply disruptions.

17 (b) AUTHORIZATION FOR ACTIVITIES TO ENHANCE
18 EMERGENCY PREPAREDNESS FOR NATURAL DISAS-
19 TERS.—The Secretary of Energy shall develop and adopt
20 procedures to—

21 (1) improve communication and coordination
22 between the Department of Energy’s energy re-
23 sponse team, Federal partners, and industry;

24 (2) leverage the Energy Information Adminis-
25 tration’s subject matter expertise within the Depart-

1 ment's energy response team to improve supply
2 chain situation assessments;

3 (3) establish company liaisons and direct com-
4 munication with the Department's energy response
5 team to improve situation assessments;

6 (4) streamline and enhance processes for ob-
7 taining temporary regulatory relief to speed up
8 emergency response and recovery;

9 (5) facilitate and increase engagement among
10 States, the oil and natural gas industry, the energy
11 storage industry, and the Department in developing
12 State and local energy assurance plans;

13 (6) establish routine education and training
14 programs for key government emergency response
15 positions with the Department and States; and

16 (7) involve States, the energy storage industry,
17 and the oil and natural gas industry in comprehen-
18 sive drill and exercise programs.

19 (c) COOPERATION.—The activities carried out under
20 subsection (b) shall include collaborative efforts with State
21 and local government officials and the private sector.

22 (d) REPORT.—Not later than 180 days after the date
23 of enactment of this Act, the Secretary of Energy shall
24 submit to Congress a report describing the effectiveness
25 of the activities authorized under this section.

1 **SEC. 1104. CRITICAL ELECTRIC INFRASTRUCTURE SECUR-**
2 **RITY.**

3 (a) CRITICAL ELECTRIC INFRASTRUCTURE SECUR-
4 RITY.—Part II of the Federal Power Act (16 U.S.C. 824
5 et seq.) is amended by adding after section 215 the fol-
6 lowing new section:

7 **“SEC. 215A. CRITICAL ELECTRIC INFRASTRUCTURE SECUR-**
8 **RITY.**

9 “(a) DEFINITIONS.—For purposes of this section:

10 “(1) BULK-POWER SYSTEM; ELECTRIC RELI-
11 ABILITY ORGANIZATION; REGIONAL ENTITY.—The
12 terms ‘bulk-power system’, ‘Electric Reliability Or-
13 ganization’, and ‘regional entity’ have the meanings
14 given such terms in paragraphs (1), (2), and (7) of
15 section 215(a), respectively.

16 “(2) CRITICAL ELECTRIC INFRASTRUCTURE.—
17 The term ‘critical electric infrastructure’ means a
18 system or asset of the bulk-power system, whether
19 physical or virtual, the incapacity or destruction of
20 which would negatively affect national security, eco-
21 nomic security, public health or safety, or any com-
22 bination of such matters.

23 “(3) CRITICAL ELECTRIC INFRASTRUCTURE IN-
24 FORMATION.—The term ‘critical electric infrastruc-
25 ture information’ means information related to crit-
26 ical electric infrastructure, or proposed critical elec-

1 trical infrastructure, generated by or provided to the
2 Commission or other Federal agency, other than
3 classified national security information, that is des-
4 ignated as critical electric infrastructure information
5 by the Commission under subsection (d)(2). Such
6 term includes information that qualifies as critical
7 energy infrastructure information under the Com-
8 mission’s regulations.

9 “(4) DEFENSE CRITICAL ELECTRIC INFRA-
10 STRUCTURE.—The term ‘defense critical electric in-
11 frastructure’ means any electric infrastructure lo-
12 cated in the United States (including the territories)
13 that serves a facility designated by the Secretary
14 pursuant to subsection (c), but is not owned or oper-
15 ated by the owner or operator of such facility.

16 “(5) ELECTROMAGNETIC PULSE.—The term
17 ‘electromagnetic pulse’ means 1 or more pulses of
18 electromagnetic energy emitted by a device capable
19 of disabling or disrupting operation of, or destroy-
20 ing, electronic devices or communications networks,
21 including hardware, software, and data, by means of
22 such a pulse.

23 “(6) GEOMAGNETIC STORM.—The term ‘geo-
24 magnetic storm’ means a temporary disturbance of

1 the Earth’s magnetic field resulting from solar activ-
2 ity.

3 “(7) GRID SECURITY EMERGENCY.—The term
4 ‘grid security emergency’ means the occurrence or
5 imminent danger of—

6 “(A)(i) a malicious act using electronic
7 communication or an electromagnetic pulse, or
8 a geomagnetic storm event, that could disrupt
9 the operation of those electronic devices or com-
10 munications networks, including hardware, soft-
11 ware, and data, that are essential to the reli-
12 ability of critical electric infrastructure or of de-
13 fense critical electric infrastructure; and

14 “(ii) disruption of the operation of such
15 devices or networks, with significant adverse ef-
16 fects on the reliability of critical electric infra-
17 structure or of defense critical electric infra-
18 structure, as a result of such act or event; or

19 “(B)(i) a direct physical attack on critical
20 electric infrastructure or on defense critical
21 electric infrastructure; and

22 “(ii) significant adverse effects on the reli-
23 ability of critical electric infrastructure or of de-
24 fense critical electric infrastructure as a result
25 of such physical attack.

1 “(8) GRID SECURITY VULNERABILITY.—The
2 term ‘grid security vulnerability’ means a weakness
3 that, in the event of a malicious act using an electro-
4 magnetic pulse, would pose a substantial risk of dis-
5 ruption to the operation of those electrical or elec-
6 tronic devices or communications networks, includ-
7 ing hardware, software, and data, that are essential
8 to the reliability of the bulk-power system.

9 “(9) SECRETARY.—The term ‘Secretary’ means
10 the Secretary of Energy.

11 “(b) AUTHORITY TO ADDRESS GRID SECURITY
12 EMERGENCY.—

13 “(1) AUTHORITY.—Whenever the President
14 issues and provides to the Secretary a written direc-
15 tive or determination identifying a grid security
16 emergency, the Secretary may, with or without no-
17 tice, hearing, or report, issue such orders for emer-
18 gency measures as are necessary in the judgment of
19 the Secretary to protect or restore the reliability of
20 critical electric infrastructure or of defense critical
21 electric infrastructure during such emergency. As
22 soon as practicable but not later than 180 days after
23 the date of enactment of this section, the Secretary
24 shall, after notice and opportunity for comment, es-

1 tablish rules of procedure that ensure that such au-
2 thority can be exercised expeditiously.

3 “(2) NOTIFICATION OF CONGRESS.—Whenever
4 the President issues and provides to the Secretary a
5 written directive or determination under paragraph
6 (1), the President shall promptly notify congres-
7 sional committees of relevant jurisdiction, including
8 the Committee on Energy and Commerce of the
9 House of Representatives and the Committee on En-
10 ergy and Natural Resources of the Senate, of the
11 contents of, and justification for, such directive or
12 determination.

13 “(3) CONSULTATION.—Before issuing an order
14 for emergency measures under paragraph (1), the
15 Secretary shall, to the extent practicable in light of
16 the nature of the grid security emergency and the
17 urgency of the need for action, consult with appro-
18 priate governmental authorities in Canada and Mex-
19 ico, entities described in paragraph (4), the Elec-
20 tricity Sub-sector Coordinating Council, the Commis-
21 sion, and other appropriate Federal agencies regard-
22 ing implementation of such emergency measures.

23 “(4) APPLICATION.—An order for emergency
24 measures under this subsection may apply to—

25 “(A) the Electric Reliability Organization;

1 “(B) a regional entity; or

2 “(C) any owner, user, or operator of crit-
3 ical electric infrastructure or of defense critical
4 electric infrastructure within the United States.

5 “(5) EXPIRATION AND REISSUANCE.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), an order for emergency
8 measures issued under paragraph (1) shall ex-
9 pire no later than 15 days after its issuance.

10 “(B) EXTENSIONS.—The Secretary may
11 reissue an order for emergency measures issued
12 under paragraph (1) for subsequent periods,
13 not to exceed 15 days for each such period, pro-
14 vided that the President, for each such period,
15 issues and provides to the Secretary a written
16 directive or determination that the grid security
17 emergency identified under paragraph (1) con-
18 tinues to exist or that the emergency measure
19 continues to be required.

20 “(6) COST RECOVERY.—

21 “(A) CRITICAL ELECTRIC INFRASTRUC-
22 TURE.—If the Commission determines that
23 owners, operators, or users of critical electric
24 infrastructure have incurred substantial costs to
25 comply with an order for emergency measures

1 issued under this subsection and that such costs
2 were prudently incurred and cannot reasonably
3 be recovered through regulated rates or market
4 prices for the electric energy or services sold by
5 such owners, operators, or users, the Commis-
6 sion shall, consistent with the requirements of
7 section 205, after notice and an opportunity for
8 comment, establish a mechanism that permits
9 such owners, operators, or users to recover such
10 costs.

11 “(B) DEFENSE CRITICAL ELECTRIC INFRA-
12 STRUCTURE.—To the extent the owner or oper-
13 ator of defense critical electric infrastructure is
14 required to take emergency measures pursuant
15 to an order issued under this subsection, the
16 owners or operators of a critical defense facility
17 or facilities designated by the Secretary pursu-
18 ant to subsection (c) that rely upon such infra-
19 structure shall bear the full incremental costs of
20 the measures.

21 “(7) TEMPORARY ACCESS TO CLASSIFIED IN-
22 FORMATION.—The Secretary, and other appropriate
23 Federal agencies, shall, to the extent practicable and
24 consistent with their obligations to protect classified
25 information, provide temporary access to classified

1 information related to a grid security emergency for
2 which emergency measures are issued under para-
3 graph (1) to key personnel of any entity subject to
4 such emergency measures to enable optimum com-
5 munication between the entity and the Secretary and
6 other appropriate Federal agencies regarding the
7 grid security emergency.

8 “(c) DESIGNATION OF CRITICAL DEFENSE FACILI-
9 TIES.—Not later than 180 days after the date of enact-
10 ment of this section, the Secretary, in consultation with
11 other appropriate Federal agencies and appropriate own-
12 ers, users, or operators of infrastructure that may be de-
13 fense critical electric infrastructure, shall identify and des-
14 ignate facilities located in the United States (including the
15 territories) that are—

16 “(1) critical to the defense of the United States;
17 and

18 “(2) vulnerable to a disruption of the supply of
19 electric energy provided to such facility by an exter-
20 nal provider.

21 The Secretary may, in consultation with appropriate Fed-
22 eral agencies and appropriate owners, users, or operators
23 of defense critical electric infrastructure, periodically re-
24 vise the list of designated facilities as necessary.

1 “(d) PROTECTION AND SHARING OF CRITICAL ELEC-
2 TRIC INFRASTRUCTURE INFORMATION.—

3 “(1) PROTECTION OF CRITICAL ELECTRIC IN-
4 FRASTRUCTURE INFORMATION.—Critical electric in-
5 frastructure information—

6 “(A) shall be exempt from disclosure under
7 section 552(b)(3) of title 5, United States Code;
8 and

9 “(B) shall not be made available by any
10 Federal, State, political subdivision or tribal au-
11 thority pursuant to any Federal, State, political
12 subdivision or tribal law requiring public disclo-
13 sure of information or records.

14 “(2) DESIGNATION AND SHARING OF CRITICAL
15 ELECTRIC INFRASTRUCTURE INFORMATION.—Not
16 later than one year after the date of enactment of
17 this section, the Commission, in consultation with
18 the Secretary of Energy, shall promulgate such reg-
19 ulations and issue such orders as necessary to—

20 “(A) designate information as critical elec-
21 tric infrastructure information;

22 “(B) prohibit the unauthorized disclosure
23 of critical electric infrastructure information;

24 “(C) ensure there are appropriate sanc-
25 tions in place for Commissioners, officers, em-

1 employees, or agents of the Commission who
2 knowingly and willfully disclose critical electric
3 infrastructure information in a manner that is
4 not authorized under this section; and

5 “(D) taking into account standards of the
6 Electric Reliability Organization, facilitate vol-
7 untary sharing of critical electric infrastructure
8 information with, between, and by—

9 “(i) Federal, State, political subdivi-
10 sion, and tribal authorities;

11 “(ii) the Electric Reliability Organiza-
12 tion;

13 “(iii) regional entities;

14 “(iv) information sharing and analysis
15 centers established pursuant to Presi-
16 dential Decision Directive 63;

17 “(v) owners, operators, and users of
18 critical electric infrastructure in the United
19 States; and

20 “(vi) other entities determined appro-
21 priate by the Commission.

22 “(3) CONSIDERATIONS.—In promulgating regu-
23 lations and issuing orders under paragraph (2), the
24 Commission shall take into consideration the role of
25 State commissions in reviewing the prudence and

1 cost of investments, determining the rates and terms
2 of conditions for electric services, and ensuring the
3 safety and reliability of the bulk-power system and
4 distribution facilities within their respective jurisdic-
5 tions.

6 “(4) PROTOCOLS.—The Commission shall, in
7 consultation with Canadian and Mexican authorities,
8 develop protocols for the voluntary sharing of critical
9 electric infrastructure information with Canadian
10 and Mexican authorities and owners, operators, and
11 users of the bulk-power system outside the United
12 States.

13 “(5) NO REQUIRED SHARING OF INFORMA-
14 TION.—Nothing in this section shall require a person
15 or entity in possession of critical electric infrastruc-
16 ture information to share such information with
17 Federal, State, political subdivision, or tribal au-
18 thorities, or any other person or entity.

19 “(6) SUBMISSION OF INFORMATION TO CON-
20 GRESS.—Nothing in this section shall permit or au-
21 thorize the withholding of information from Con-
22 gress, any committee or subcommittee thereof, or
23 the Comptroller General.

24 “(7) DISCLOSURE OF PROTECTED INFORMA-
25 TION.—In implementing this section, the Commis-

1 sion shall segregate critical electric infrastructure in-
2 formation or information that reasonably could be
3 expected to lead to the disclosure of the critical elec-
4 tric infrastructure information within documents and
5 electronic communications, wherever feasible, to fa-
6 cilitate disclosure of information that is not des-
7 igned as critical electric infrastructure informa-
8 tion.

9 “(8) DURATION OF DESIGNATION.—Informa-
10 tion may not be designated as critical electric infra-
11 structure information for longer than 5 years, unless
12 specifically re-designated by the Commission.

13 “(9) REMOVAL OF DESIGNATION.—The Com-
14 mission shall remove the designation of critical elec-
15 tric infrastructure information, in whole or in part,
16 from a document or electronic communication if the
17 Commission determines that the unauthorized disclo-
18 sure of such information could no longer be used to
19 impair the security or reliability of the bulk-power
20 system or distribution facilities.

21 “(10) JUDICIAL REVIEW OF DESIGNATIONS.—
22 Notwithstanding section 313(b), any determination
23 by the Commission concerning the designation of
24 critical electric infrastructure information under this
25 subsection shall be subject to review under chapter

1 7 of title 5, United States Code, except that such re-
2 view shall be brought in the district court of the
3 United States in the district in which the complain-
4 ant resides, or has his principal place of business, or
5 in the District of Columbia. In such a case the court
6 shall examine in camera the contents of documents
7 or electronic communications that are the subject of
8 the determination under review to determine wheth-
9 er such documents or any part thereof were improper-
10 ly designated or not designated as critical electric
11 infrastructure information.

12 “(e) MEASURES TO ADDRESS GRID SECURITY
13 VULNERABILITIES.—

14 “(1) COMMISSION AUTHORITY.—

15 “(A) RELIABILITY STANDARDS.—If the
16 Commission, in consultation with appropriate
17 Federal agencies, identifies a grid security vul-
18 nerability that the Commission determines has
19 not adequately been addressed through a reli-
20 ability standard developed and approved under
21 section 215, the Commission shall, after notice
22 and opportunity for comment and after con-
23 sultation with the Secretary, other appropriate
24 Federal agencies, and appropriate governmental
25 authorities in Canada and Mexico, issue an

1 order directing the Electric Reliability Organi-
2 zation to submit to the Commission for ap-
3 proval under section 215, not later than 30
4 days after the issuance of such order, a reli-
5 ability standard requiring implementation, by
6 any owner, operator, or user of the bulk-power
7 system in the United States, of measures to
8 protect the bulk-power system against such vul-
9 nerability. Any such standard shall include a
10 protection plan, including automated hardware-
11 based solutions. The Commission shall approve
12 a reliability standard submitted pursuant to
13 this subparagraph, unless the Commission de-
14 termines that such reliability standard does not
15 adequately protect against such vulnerability or
16 otherwise does not satisfy the requirements of
17 section 215.

18 “(B) MEASURES TO ADDRESS GRID SECUR-
19 RITY VULNERABILITIES.—If the Commission,
20 after notice and opportunity for comment and
21 after consultation with the Secretary, other ap-
22 propriate Federal agencies, and appropriate
23 governmental authorities in Canada and Mex-
24 ico, determines that the reliability standard
25 submitted by the Electric Reliability Organiza-

1 tion to address a grid security vulnerability
2 identified under subparagraph (A) does not
3 adequately protect the bulk-power system
4 against such vulnerability, the Commission shall
5 promulgate a rule or issue an order requiring
6 implementation, by any owner, operator, or user
7 of the bulk-power system in the United States,
8 of measures to protect the bulk-power system
9 against such vulnerability. Any such rule or
10 order shall include a protection plan, including
11 automated hardware-based solutions. Before
12 promulgating a rule or issuing an order under
13 this subparagraph, the Commission shall, to the
14 extent practicable in light of the urgency of the
15 need for action to address the grid security vul-
16 nerability, request and consider recommenda-
17 tions from the Electric Reliability Organization
18 regarding such rule or order. The Commission
19 may establish an appropriate deadline for the
20 submission of such recommendations.

21 “(2) RESCISSION.—The Commission shall ap-
22 prove a reliability standard developed under section
23 215 that addresses a grid security vulnerability that
24 is the subject of a rule or order under paragraph
25 (1)(B), unless the Commission determines that such

1 reliability standard does not adequately protect
2 against such vulnerability or otherwise does not sat-
3 isfy the requirements of section 215. Upon such ap-
4 proval, the Commission shall rescind the rule pro-
5 mulgated or order issued under paragraph (1)(B)
6 addressing such vulnerability, effective upon the ef-
7 fective date of the newly approved reliability stand-
8 ard.

9 “(3) GEOMAGNETIC STORMS AND ELECTRO-
10 MAGNETIC PULSE.—Not later than 6 months after
11 the date of enactment of this section, the Commis-
12 sion shall, after notice and an opportunity for com-
13 ment and after consultation with the Secretary and
14 other appropriate Federal agencies, issue an order
15 directing the Electric Reliability Organization to
16 submit to the Commission for approval under section
17 215, not later than 6 months after the issuance of
18 such order, reliability standards adequate to protect
19 the bulk-power system from any reasonably foresee-
20 able geomagnetic storm or electromagnetic pulse
21 event. The Commission’s order shall specify the na-
22 ture and magnitude of the reasonably foreseeable
23 events against which such standards must protect.
24 Such standards shall appropriately balance the risks
25 to the bulk-power system associated with such

1 events, including any regional variation in such
2 risks, the costs of mitigating such risks, and the pri-
3 orities and timing associated with implementation. If
4 the Commission determines that the reliability
5 standards submitted by the Electric Reliability Or-
6 ganization pursuant to this paragraph are inad-
7 equate, the Commission shall promulgate a rule or
8 issue an order adequate to protect the bulk-power
9 system from geomagnetic storms or electromagnetic
10 pulse as required under paragraph (1)(B).

11 “(4) LARGE TRANSFORMER AVAILABILITY.—
12 Not later than 1 year after the date of enactment
13 of this section, the Commission shall, after notice
14 and an opportunity for comment and after consulta-
15 tion with the Secretary and other appropriate Fed-
16 eral agencies, issue an order directing the Electric
17 Reliability Organization to submit to the Commis-
18 sion for approval under section 215, not later than
19 1 year after the issuance of such order, reliability
20 standards addressing availability of large trans-
21 formers. Such standards shall require entities that
22 own or operate large transformers to ensure, individ-
23 ually or jointly, adequate availability of large trans-
24 formers to promptly restore the reliable operation of
25 the bulk-power system in the event that any such

1 transformer is destroyed or disabled as a result of
2 a geomagnetic storm event or electromagnetic pulse
3 event. The Commission’s order shall specify the na-
4 ture and magnitude of the reasonably foreseeable
5 events that shall provide the basis for such stand-
6 ards. Such standards shall—

7 “(A) provide entities subject to the stand-
8 ards with the option of meeting such standards
9 individually or jointly; and

10 “(B) appropriately balance the risks asso-
11 ciated with a reasonably foreseeable event, in-
12 cluding any regional variation in such risks, and
13 the costs of ensuring adequate availability of
14 spare transformers.

15 “(5) CERTAIN FEDERAL ENTITIES.—For the
16 11-year period commencing on the date of enact-
17 ment of this section, the Tennessee Valley Authority
18 and the Bonneville Power Administration shall be
19 exempt from any requirement under this subsection.

20 “(f) SECURITY CLEARANCES.—The Secretary shall
21 facilitate and, to the extent practicable, expedite the acqui-
22 sition of adequate security clearances by key personnel of
23 any entity subject to the requirements of this section, to
24 enable optimum communication with Federal agencies re-
25 garding threats to the security of the critical electric infra-

1 structure. The Secretary, the Commission, and other ap-
2 propriate Federal agencies shall, to the extent practicable
3 and consistent with their obligations to protect classified
4 and critical electric infrastructure information, share time-
5 ly actionable information regarding grid security with ap-
6 propriate key personnel of owners, operators, and users
7 of the critical electric infrastructure.

8 “(g) CLARIFICATIONS OF LIABILITY.—

9 “(1) COMPLIANCE WITH OR VIOLATION OF THIS
10 ACT.—Except as provided in paragraph (4), to the
11 extent any action or omission taken by an entity
12 that is necessary to comply with an order for emer-
13 gency measures issued under subsection (b)(1), in-
14 cluding any action or omission taken to voluntarily
15 comply with such order, results in noncompliance
16 with, or causes such entity not to comply with any
17 rule, order, regulation, or provision of this Act, in-
18 cluding any reliability standard approved by the
19 Commission pursuant to section 215, such action or
20 omission shall not be considered a violation of such
21 rule, order, regulation, or provision.

22 “(2) RELATION TO SECTION 202(c).—Except as
23 provided in paragraph (4), an action or omission
24 taken by an owner, operator, or user of critical elec-
25 tric infrastructure or of defense critical electric in-

1 frastructure to comply with an order for emergency
2 measures issued under subsection (b)(1) shall be
3 treated as an action or omission taken to comply
4 with an order issued under section 202(c) for pur-
5 poses of such section.

6 “(3) SHARING OR RECEIPT OF INFORMATION.—
7 No cause of action shall lie or be maintained in any
8 Federal or State court for the sharing or receipt of
9 information under, and that is conducted in accord-
10 ance with, subsection (d).

11 “(4) RULE OF CONSTRUCTION.—Nothing in
12 this subsection shall be construed to require dis-
13 missal of a cause of action against an entity that,
14 in the course of complying with an order for emer-
15 gency measures issued under subsection (b)(1) by
16 taking an action or omission for which they would
17 be liable but for paragraph (1) or (2), takes such ac-
18 tion or omission in a grossly negligent manner.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) JURISDICTION.—Section 201(b)(2) of the
21 Federal Power Act (16 U.S.C. 824(b)(2)) is amend-
22 ed by inserting “215A,” after “215,” each place it
23 appears.

1 (2) PUBLIC UTILITY.—Section 201(e) of the
2 Federal Power Act (16 U.S.C. 824(e)) is amended
3 by inserting “215A,” after “215,”.

4 **SEC. 1105. STRATEGIC TRANSFORMER RESERVE.**

5 (a) FINDING.—Congress finds that the storage of
6 strategically located spare large power transformers and
7 emergency mobile substations will reduce the vulnerability
8 of the United States to multiple risks facing electric grid
9 reliability, including physical attack, cyber attack, electro-
10 magnetic pulse, geomagnetic disturbances, severe weather,
11 and seismic events.

12 (b) DEFINITIONS.—In this section:

13 (1) BULK-POWER SYSTEM.—The term “bulk-
14 power system” has the meaning given such term in
15 section 215(a) of the Federal Power Act (16 U.S.C.
16 824o(a)).

17 (2) CRITICALLY DAMAGED LARGE POWER
18 TRANSFORMER.—The term “critically damaged large
19 power transformer” means a large power trans-
20 former that—

21 (A) has sustained extensive damage such
22 that—

23 (i) repair or refurbishment is not eco-
24 nomicallly viable; or

1 (ii) the extensive time to repair or re-
2 furbish the large power transformer would
3 create an extended period of instability in
4 the bulk-power system; and

5 (B) prior to sustaining such damage, was
6 part of the bulk-power system.

7 (3) CRITICAL ELECTRIC INFRASTRUCTURE.—
8 The term “critical electric infrastructure” has the
9 meaning given that term in section 215A of the Fed-
10 eral Power Act.

11 (4) ELECTRIC RELIABILITY ORGANIZATION.—
12 The term “Electric Reliability Organization” has the
13 meaning given such term in section 215(a) of the
14 Federal Power Act (16 U.S.C. 824o(a)).

15 (5) EMERGENCY MOBILE SUBSTATION.—The
16 term “emergency mobile substation” means a mobile
17 substation or mobile transformer that is—

18 (A) assembled and permanently mounted
19 on a trailer that is capable of highway travel
20 and meets relevant Department of Transpor-
21 tation regulations; and

22 (B) intended for express deployment and
23 capable of being rapidly placed into service.

24 (6) LARGE POWER TRANSFORMER.—The term
25 “large power transformer” means a power trans-

1 former with a maximum nameplate rating of 100
2 megavolt-amperes or higher, including related crit-
3 ical equipment, that is, or is intended to be, a part
4 of the bulk-power system.

5 (7) SECRETARY.—The term “Secretary” means
6 the Secretary of Energy.

7 (8) SPARE LARGE POWER TRANSFORMER.—The
8 term “spare large power transformer” means a large
9 power transformer that is stored within the Stra-
10 tegic Transformer Reserve to be available to tempo-
11 rarily replace a critically damaged large power trans-
12 former.

13 (c) STRATEGIC TRANSFORMER RESERVE PLAN.—

14 (1) PLAN.—Not later than 1 year after the date
15 of enactment of this Act, the Secretary, acting
16 through the Office of Electricity Delivery and En-
17 ergy Reliability, shall, in consultation with the Fed-
18 eral Energy Regulatory Commission, the Electricity
19 Sub-sector Coordinating Council, the Electric Reli-
20 ability Organization, and owners and operators of
21 critical electric infrastructure and defense and mili-
22 tary installations, prepare and submit to Congress a
23 plan to establish a Strategic Transformer Reserve
24 for the storage, in strategically located facilities, of
25 spare large power transformers and emergency mo-

1 bile substations in sufficient numbers to temporarily
2 replace critically damaged large power transformers
3 and substations that are critical electric infrastruc-
4 ture or serve defense and military installations.

5 (2) INCLUSIONS.—The Strategic Transformer
6 Reserve plan shall include a description of—

7 (A) the appropriate number and type of
8 spare large power transformers necessary to
9 provide or restore sufficient resiliency to the
10 bulk-power system, critical electric infrastruc-
11 ture, and defense and military installations to
12 mitigate significant impacts to the electric grid
13 resulting from—

- 14 (i) physical attack;
15 (ii) cyber attack;
16 (iii) electromagnetic pulse attack;
17 (iv) geomagnetic disturbances;
18 (v) severe weather; or
19 (vi) seismic events;

20 (B) other critical electric grid equipment
21 for which an inventory of spare equipment, in-
22 cluding emergency mobile substations, is nec-
23 essary to provide or restore sufficient resiliency
24 to the bulk-power system, critical electric infra-

1 structure, and defense and military installa-
2 tions;

3 (C) the degree to which utility sector ac-
4 tions or initiatives, including individual utility
5 ownership of spare equipment, joint ownership
6 of spare equipment inventory, sharing agree-
7 ments, or other spare equipment reserves or ar-
8 rangements, satisfy the needs identified under
9 subparagraphs (A) and (B);

10 (D) the potential locations for, and feasi-
11 bility and appropriate number of, strategic stor-
12 age locations for reserve equipment, including
13 consideration of—

14 (i) the physical security of such loca-
15 tions;

16 (ii) the protection of the confiden-
17 tiality of such locations; and

18 (iii) the proximity of such locations to
19 sites of potentially critically damaged large
20 power transformers and substations that
21 are critical electric infrastructure or serve
22 defense and military installations, so as to
23 enable efficient delivery of equipment to
24 such sites;

1 (E) the necessary degree of flexibility of
2 spare large power transformers to be included
3 in the Strategic Transformer Reserve to con-
4 form to different substation configurations, in-
5 cluding consideration of transformer—

6 (i) power and voltage rating for each
7 winding;

8 (ii) overload requirements;

9 (iii) impedance between windings;

10 (iv) configuration of windings; and

11 (v) tap requirements;

12 (F) an estimate of the direct cost of the
13 Strategic Transformer Reserve, as proposed, in-
14 cluding—

15 (i) the cost of storage facilities;

16 (ii) the cost of the equipment; and

17 (iii) management, maintenance, and
18 operation costs;

19 (G) the funding options available to estab-
20 lish, stock, manage, and maintain the Strategic
21 Transformer Reserve, including consideration of
22 fees on owners and operators of bulk-power sys-
23 tem facilities, critical electric infrastructure,
24 and defense and military installations relying on
25 the Strategic Transformer Reserve, use of Fed-

1 eral appropriations, and public-private cost-
2 sharing options;

3 (H) the ease and speed of transportation,
4 installation, and energization of spare large
5 power transformers to be included in the Stra-
6 tegic Transformer Reserve, including consider-
7 ation of factors such as—

8 (i) transformer transportation weight;

9 (ii) transformer size;

10 (iii) topology of critical substations;

11 (iv) availability of appropriate trans-
12 former mounting pads;

13 (v) flexibility of the spare large power
14 transformers as described in subparagraph
15 (E); and

16 (vi) ability to rapidly transition a
17 spare large power transformer from stor-
18 age to energization;

19 (I) eligibility criteria for withdrawal of
20 equipment from the Strategic Transformer Re-
21 serve;

22 (J) the process by which owners or opera-
23 tors of critically damaged large power trans-
24 formers or substations that are critical electric
25 infrastructure or serve defense and military in-

1 stallations may apply for a withdrawal from the
2 Strategic Transformer Reserve;

3 (K) the process by which equipment with-
4 drawn from the Strategic Transformer Reserve
5 is returned to the Strategic Transformer Re-
6 serve or is replaced;

7 (L) possible fees to be paid by users of
8 equipment withdrawn from the Strategic Trans-
9 former Reserve;

10 (M) possible fees to be paid by owners and
11 operators of large power transformers and sub-
12 stations that are critical electric infrastructure
13 or serve defense and military installations to
14 cover operating costs of the Strategic Trans-
15 former Reserve;

16 (N) the domestic and international large
17 power transformer supply chain;

18 (O) the potential reliability, cost, and oper-
19 ational benefits of including emergency mobile
20 substations in any Strategic Transformer Re-
21 serve established under this section; and

22 (P) other considerations for designing, con-
23 structing, stocking, funding, and managing the
24 Strategic Transformer Reserve.

1 (d) ESTABLISHMENT.—The Secretary may establish
2 a Strategic Transformer Reserve in accordance with the
3 plan prepared pursuant to subsection (c) after the date
4 that is 6 months after the date on which such plan is sub-
5 mitted to Congress.

6 (e) DISCLOSURE OF INFORMATION.—Any informa-
7 tion included in the Strategic Transformer Reserve plan,
8 or shared in the preparation and development of such
9 plan, the disclosure of which the agency reasonably fore-
10 sees would cause harm to critical electric infrastructure,
11 shall be deemed to be critical electric infrastructure infor-
12 mation for purposes of section 215A(d) of the Federal
13 Power Act.

14 **SEC. 1106. CYBER SENSE.**

15 (a) IN GENERAL.—The Secretary of Energy shall es-
16 tablish a voluntary Cyber Sense program to identify and
17 promote cyber-secure products intended for use in the
18 bulk-power system, as defined in section 215(a) of the
19 Federal Power Act (16 U.S.C. 824o(a)).

20 (b) PROGRAM REQUIREMENTS.—In carrying out sub-
21 section (a), the Secretary of Energy shall—

22 (1) establish a Cyber Sense testing process to
23 identify products and technologies intended for use
24 in the bulk-power system, including products relat-

1 ing to industrial control systems, such as supervisory
2 control and data acquisition systems;

3 (2) for products tested and identified under the
4 Cyber Sense program, establish and maintain cyber-
5 security vulnerability reporting processes and a re-
6 lated database;

7 (3) promulgate regulations regarding vulner-
8 ability reporting processes for products tested and
9 identified under the Cyber Sense program;

10 (4) provide technical assistance to utilities,
11 product manufacturers, and other electric sector
12 stakeholders to develop solutions to mitigate identi-
13 fied vulnerabilities in products tested and identified
14 under the Cyber Sense program;

15 (5) biennially review products tested and identi-
16 fied under the Cyber Sense program for
17 vulnerabilities and provide analysis with respect to
18 how such products respond to and mitigate cyber
19 threats;

20 (6) develop procurement guidance for utilities
21 for products tested and identified under the Cyber
22 Sense program;

23 (7) provide reasonable notice to the public, and
24 solicit comments from the public, prior to estab-
25 lishing or revising the Cyber Sense testing process;

1 (8) oversee Cyber Sense testing carried out by
2 third parties; and

3 (9) consider incentives to encourage the use in
4 the bulk-power system of products tested and identi-
5 fied under the Cyber Sense program.

6 (c) DISCLOSURE OF INFORMATION.—Any vulner-
7 ability reported pursuant to regulations promulgated
8 under subsection (b)(3), the disclosure of which the agency
9 reasonably foresees would cause harm to critical electric
10 infrastructure (as defined in section 215A of the Federal
11 Power Act), shall be deemed to be critical electric infra-
12 structure information for purposes of section 215A(d) of
13 the Federal Power Act.

14 (d) FEDERAL GOVERNMENT LIABILITY.—Consistent
15 with other voluntary Federal Government certification
16 programs, nothing in this section shall be construed to au-
17 thorize the commencement of an action against the United
18 States Government with respect to the testing and identi-
19 fication of a product under the Cyber Sense program.

20 **SEC. 1107. STATE COVERAGE AND CONSIDERATION OF**
21 **PURPA STANDARDS FOR ELECTRIC UTILI-**
22 **TIES.**

23 (a) STATE CONSIDERATION OF RESILIENCY AND AD-
24 VANCED ENERGY ANALYTICS TECHNOLOGIES AND RELI-
25 ABLE GENERATION.—

1 (1) CONSIDERATION.—Section 111(d) of the
2 Public Utility Regulatory Policies Act of 1978 (16
3 U.S.C. 2621(d)) is amended by adding the following
4 at the end:

5 “(20) IMPROVING THE RESILIENCE OF ELEC-
6 TRIC INFRASTRUCTURE.—

7 “(A) IN GENERAL.—Each electric utility
8 shall develop a plan to use resiliency-related
9 technologies, upgrades, measures, and other ap-
10 proaches designed to improve the resilience of
11 electric infrastructure, mitigate power outages,
12 continue delivery of vital services, and maintain
13 the flow of power to facilities critical to public
14 health, safety, and welfare, to the extent prac-
15 ticable using the most current data, metrics,
16 and frameworks related to current and future
17 threats, including physical and cyber attacks,
18 electromagnetic pulse attacks, geomagnetic dis-
19 turbances, seismic events, and severe weather
20 and other environmental stressors.

21 “(B) RESILIENCY-RELATED TECH-
22 NOLOGIES.—For purposes of this paragraph,
23 examples of resiliency-related technologies, up-
24 grades, measures, and other approaches in-
25 clude—

1 “(i) hardening, or other enhanced pro-
2 tection, of utility poles, wiring, cabling,
3 and other distribution components, facili-
4 ties, or structures;

5 “(ii) advanced grid technologies capa-
6 ble of isolating or repairing problems re-
7 motely, such as advanced metering infra-
8 structure, high-tech sensors, grid moni-
9 toring and control systems, and remote re-
10 configuration and redundancy systems;

11 “(iii) cybersecurity products and com-
12 ponents;

13 “(iv) distributed generation, including
14 back-up generation to power critical facili-
15 ties and essential services, and related inte-
16 gration components, such as advanced in-
17 verter technology;

18 “(v) microgrid systems, including hy-
19 brid microgrid systems for isolated commu-
20 nities;

21 “(vi) combined heat and power;

22 “(vii) waste heat resources;

23 “(viii) non-grid-scale energy storage
24 technologies;

1 “(ix) wiring, cabling, and other dis-
2 tribution components, including submers-
3 ible distribution components, and encl-
4 sures;

5 “(x) electronically controlled reclosers
6 and similar technologies for power restora-
7 tion, including emergency mobile sub-
8 stations, as defined in section 1105 of the
9 North American Energy Security and In-
10 frastructure Act of 2016;

11 “(xi) advanced energy analytics tech-
12 nology, such as Internet-based and cloud-
13 based computing solutions and subscription
14 licensing models;

15 “(xii) measures that enhance resil-
16 ience through planning, preparation, re-
17 sponse, and recovery activities;

18 “(xiii) operational capabilities to en-
19 hance resilience through rapid response re-
20 covery; and

21 “(xiv) measures to ensure availability
22 of key critical components through con-
23 tracts, cooperative agreements, stockpiling
24 and prepositioning, or other measures.

1 “(C) RATE RECOVERY.—Each State regu-
2 latory authority (with respect to each electric
3 utility for which it has ratemaking authority)
4 shall consider authorizing each such electric
5 utility to recover any capital, operating expendi-
6 ture, or other costs of the electric utility related
7 to the procurement, deployment, or use of resil-
8 iency-related technologies, including a reason-
9 able rate of return on the capital expenditures
10 of the electric utility for the procurement, de-
11 ployment, or use of resiliency-related tech-
12 nologies.

13 “(21) PROMOTING INVESTMENTS IN ADVANCED
14 ENERGY ANALYTICS TECHNOLOGY.—

15 “(A) IN GENERAL.—Each electric utility
16 shall develop and implement a plan for deploy-
17 ing advanced energy analytics technology.

18 “(B) RATE RECOVERY.—Each State regu-
19 latory authority (with respect to each electric
20 utility for which it has ratemaking authority)
21 shall consider confirming and clarifying, if nec-
22 essary, that each such electric utility is author-
23 ized to recover the costs of the electric utility
24 relating to the procurement, deployment, or use
25 of advanced energy analytics technology, includ-

1 ing a reasonable rate of return on all such costs
2 incurred by the electric utility for the procure-
3 ment, deployment, or use of advanced energy
4 analytics technology, provided such technology
5 is used by the electric utility for purposes of re-
6 alizing operational efficiencies, cost savings, en-
7 hanced energy management and customer en-
8 gagement, improvements in system reliability,
9 safety, and cybersecurity, or other benefits to
10 ratepayers.

11 “(C) ADVANCED ENERGY ANALYTICS
12 TECHNOLOGY.—For purposes of this para-
13 graph, examples of advanced energy analytics
14 technology include Internet-based and cloud-
15 based computing solutions and subscription li-
16 censing models, including software as a service
17 that uses cyber-physical systems to allow the
18 correlation of data aggregated from appropriate
19 data sources and smart grid sensor networks,
20 employs analytics and machine learning, or em-
21 ploys other advanced computing solutions and
22 models.

23 “(22) ASSURING ELECTRIC RELIABILITY WITH
24 RELIABLE GENERATION.—

1 “(A) ASSURANCE OF ELECTRIC RELI-
2 ABILITY.—Each electric utility shall adopt or
3 modify policies to ensure that such electric util-
4 ity incorporates reliable generation into its inte-
5 grated resource plan to assure the availability
6 of electric energy over a 10-year planning pe-
7 riod.

8 “(B) RELIABLE GENERATION.—For pur-
9 poses of this paragraph, ‘reliable generation’
10 means electric generation facilities with reli-
11 ability attributes that include—

12 “(i)(I) possession of adequate fuel on-
13 site to enable operation for an extended pe-
14 riod of time;

15 “(II) the operational ability to gen-
16 erate electric energy from more than one
17 source; or

18 “(III) fuel certainty, through firm
19 contractual obligations (which may not be
20 required to be for a period longer than one
21 year), that ensures adequate fuel supply to
22 enable operation, for an extended period of
23 time, for the duration of an emergency or
24 severe weather conditions;

1 “(ii) operational characteristics that
2 enable the generation of electric energy for
3 the duration of an emergency or severe
4 weather conditions; and

5 “(iii) unless procured through other
6 procurement mechanisms, essential reli-
7 ability services, including frequency sup-
8 port and regulation services.

9 “(23) SUBSIDIZATION OF CUSTOMER-SIDE
10 TECHNOLOGY.—

11 “(A) CONSIDERATION.—To the extent that
12 a State regulatory authority may require or
13 allow rates charged by any electric utility for
14 which it has ratemaking authority to electric
15 consumers that do not use a customer-side
16 technology to include any cost, fee, or charge
17 that directly or indirectly cross-subsidizes the
18 deployment, construction, maintenance, or oper-
19 ation of that customer-side technology, such au-
20 thority shall evaluate whether subsidizing the
21 deployment, construction, maintenance, or oper-
22 ation of a customer-side technology would—

23 “(i) result in benefits predominately
24 enjoyed by only the users of that customer-
25 side technology;

1 “(ii) shift costs of a customer-side
2 technology to electricity consumers that do
3 not use that customer-side technology, par-
4 ticularly where disparate economic or re-
5 source conditions exist among the elec-
6 tricity consumers cross-subsidizing the cus-
7 tomer-side technology;

8 “(iii) negatively affect resource utiliza-
9 tion, fuel diversity, or grid security;

10 “(iv) provide any unfair competitive
11 advantage to market the customer-side
12 technology; and

13 “(v) be necessary to fulfill an obliga-
14 tion to serve electric consumers.

15 “(B) PUBLIC NOTICE.—Each State regu-
16 latory authority shall make available to the pub-
17 lic the evaluation completed under subpara-
18 graph (A) at least 90 days prior to any pro-
19 ceedings in which such authority considers the
20 cross-subsidization of a customer-side tech-
21 nology.

22 “(C) CUSTOMER-SIDE TECHNOLOGY.—For
23 purposes of this paragraph, the term ‘customer-
24 side technology’ means a device connected to
25 the electricity distribution system—

1 “(i) at, or on the customer side of, the
2 meter; or

3 “(ii) that, if owned or operated by or
4 on behalf of an electric utility, would other-
5 wise be at, or on the customer side of, the
6 meter.”.

7 (2) COMPLIANCE.—

8 (A) TIME LIMITATIONS.—Section 112(b)
9 of the Public Utility Regulatory Policies Act of
10 1978 (16 U.S.C. 2622(b)) is amended by add-
11 ing at the end the following:

12 “(7)(A) Not later than 1 year after the date of
13 enactment of this paragraph, each State regulatory
14 authority (with respect to each electric utility for
15 which it has ratemaking authority) and each non-
16 regulated electric utility, as applicable, shall com-
17 mence the consideration referred to in section 111,
18 or set a hearing date for consideration, with respect
19 to the standards established by paragraphs (20),
20 (22), and (23) of section 111(d).

21 “(B) Not later than 2 years after the date of
22 the enactment of this paragraph, each State regu-
23 latory authority (with respect to each electric utility
24 for which it has ratemaking authority) and each
25 nonregulated electric utility, as applicable, shall com-

1 plete the consideration, and shall make the deter-
2 mination, referred to in section 111 with respect to
3 each standard established by paragraphs (20), (22),
4 and (23) of section 111(d).

5 “(8)(A) Not later than 6 months after the date
6 of enactment of this paragraph, each State regu-
7 latory authority (with respect to each electric utility
8 for which it has ratemaking authority) and each
9 nonregulated electric utility shall commence the con-
10 sideration referred to in section 111, or set a hear-
11 ing date for consideration, with respect to the stand-
12 ard established by paragraph (21) of section 111(d).

13 “(B) Not later than 1 year after the date of en-
14 actment of this paragraph, each State regulatory au-
15 thority (with respect to each electric utility for which
16 it has ratemaking authority) and each nonregulated
17 electric utility shall complete the consideration, and
18 shall make the determination, referred to in section
19 111 with respect to the standard established by
20 paragraph (21) of section 111(d).”.

21 (B) FAILURE TO COMPLY.—Section 112(c)
22 of the Public Utility Regulatory Policies Act of
23 1978 (16 U.S.C. 2622(c)) is amended by add-
24 ing the following at the end: “In the case of the
25 standards established by paragraphs (20)

1 through (23) of section 111(d), the reference
2 contained in this subsection to the date of en-
3 actment of this Act shall be deemed to be a ref-
4 erence to the date of enactment of such para-
5 graphs.”.

6 (C) PRIOR STATE ACTIONS.—Section 112
7 of the Public Utility Regulatory Policies Act of
8 1978 (16 U.S.C. 2622) is amended by adding
9 at the end the following new subsection:

10 “(g) PRIOR STATE ACTIONS.—Subsections (b) and
11 (c) of this section shall not apply to a standard established
12 by paragraph (20), (21), (22), or (23) of section 111(d)
13 in the case of any electric utility in a State if—

14 “(1) before the date of enactment of this sub-
15 section, the State has implemented for such utility
16 the standard concerned (or a comparable standard);

17 “(2) the State regulatory authority for such
18 State or relevant nonregulated electric utility has
19 conducted a proceeding to consider implementation
20 of the standard concerned (or a comparable stand-
21 ard) for such utility during the 3-year period ending
22 on the date of enactment of this subsection; or

23 “(3) the State legislature has voted on the im-
24 plementation of the standard concerned (or a com-
25 parable standard) for such utility during the 3-year

1 period ending on the date of enactment of this sub-
2 section.”.

3 (b) **COVERAGE FOR COMPETITIVE MARKETS.**—Sec-
4 tion 102 of the Public Utility Regulatory Policies Act of
5 1978 (16 U.S.C. 2612) is amended by adding at the end
6 the following:

7 “(d) **COVERAGE FOR COMPETITIVE MARKETS.**—The
8 requirements of this title do not apply to the operations
9 of an electric utility, or to proceedings respecting such op-
10 erations, to the extent that such operations or proceedings,
11 or any portion thereof, relate to the competitive sale of
12 retail electric energy that is unbundled or separated from
13 the regulated provision or sale of distribution service.”.

14 **SEC. 1108. RELIABILITY ANALYSIS FOR CERTAIN RULES**
15 **THAT AFFECT ELECTRIC GENERATING FA-**
16 **CILITIES.**

17 (a) **APPLICABILITY.**—This section shall apply with
18 respect to any proposed or final covered rule issued by
19 a Federal agency for which compliance with the rule may
20 impact an electric utility generating unit or units, includ-
21 ing by resulting in closure or interruption to operations
22 of such a unit or units.

23 (b) **RELIABILITY ANALYSIS.**—

24 (1) **ANALYSIS OF RULES.**—The Federal Energy
25 Regulatory Commission, in consultation with the

1 Electric Reliability Organization, shall conduct an
2 independent reliability analysis of a proposed or final
3 covered rule under this section to evaluate the antici-
4 pated effects of implementation and enforcement of
5 the rule on—

6 (A) electric reliability and resource ade-
7 quacy;

8 (B) the electricity generation portfolio of
9 the United States;

10 (C) the operation of wholesale electricity
11 markets; and

12 (D) energy delivery and infrastructure, in-
13 cluding electric transmission facilities and nat-
14 ural gas pipelines.

15 (2) RELEVANT INFORMATION.—

16 (A) MATERIALS FROM FEDERAL AGEN-
17 CIES.—A Federal agency shall provide to the
18 Commission materials and information relevant
19 to the analysis required under paragraph (1)
20 for a rule, including relevant data, modeling,
21 and resource adequacy and reliability assess-
22 ments, prepared or relied upon by such agency
23 in developing the rule.

24 (B) ANALYSES FROM OTHER ENTITIES.—

25 The Electric Reliability Organization, regional

1 entities, regional transmission organizations,
2 independent system operators, and other reli-
3 ability coordinators and planning authorities
4 shall timely conduct analyses and provide such
5 information as may be reasonably requested by
6 the Commission.

7 (3) NOTICE.—A Federal agency shall provide to
8 the Commission notice of the issuance of any pro-
9 posed or final covered rule not later than 15 days
10 after the date of such issuance.

11 (c) PROPOSED RULES.—Not later than 150 days
12 after the date of publication in the Federal Register of
13 a proposed rule described in subsection (a), the Federal
14 Energy Regulatory Commission shall make available to
15 the public an analysis of the proposed rule conducted in
16 accordance with subsection (b), and any relevant special
17 assessment or seasonal or long-term reliability assessment
18 completed by the Electric Reliability Organization.

19 (d) FINAL RULES.—

20 (1) INCLUSION.—A final rule described in sub-
21 section (a) shall include, if available at the time of
22 issuance, a copy of the analysis conducted pursuant
23 to subsection (c) of the rule as proposed.

24 (2) ANALYSIS.—Not later than 120 days after
25 the date of publication in the Federal Register of a

1 final rule described in subsection (a), the Federal
2 Energy Regulatory Commission shall make available
3 to the public an analysis of the final rule conducted
4 in accordance with subsection (b), and any relevant
5 special assessment or seasonal or long-term reli-
6 ability assessment completed by the Electric Reli-
7 ability Organization.

8 (e) DEFINITIONS.—In this section:

9 (1) ELECTRIC RELIABILITY ORGANIZATION.—
10 The term “Electric Reliability Organization” has the
11 meaning given to such term in section 215(a) of the
12 Federal Power Act (16 U.S.C. 824o(a)).

13 (2) FEDERAL AGENCY.—The term “Federal
14 agency” means an agency, as that term is defined
15 in section 551 of title 5, United States Code.

16 (3) COVERED RULE.—The term “covered rule”
17 means a proposed or final rule that is estimated by
18 the Federal agency issuing the rule, or the Director
19 of the Office of Management and Budget, to result
20 in an annual effect on the economy of
21 \$1,000,000,000 or more.

22 **SEC. 1109. INCREASED ACCOUNTABILITY WITH RESPECT**
23 **TO CARBON CAPTURE, UTILIZATION, AND SE-**
24 **QUESTRATION PROJECTS.**

25 (a) DOE EVALUATION.—

1 (1) IN GENERAL.—The Secretary of Energy (in
2 this section referred to as the “Secretary”) shall, in
3 accordance with this section, annually conduct an
4 evaluation, and make recommendations, with respect
5 to each project conducted by the Secretary for re-
6 search, development, demonstration, or deployment
7 of carbon capture, utilization, and sequestration
8 technologies (also known as carbon capture and stor-
9 age and utilization technologies).

10 (2) SCOPE.—For purposes of this section, a
11 project includes any contract, lease, cooperative
12 agreement, or other similar transaction with a public
13 agency or private organization or person, entered
14 into or performed, or any payment made, by the
15 Secretary for research, development, demonstration,
16 or deployment of carbon capture, utilization, and se-
17 questration technologies.

18 (b) REQUIREMENTS FOR EVALUATION.—In con-
19 ducting an evaluation of a project under this section, the
20 Secretary shall—

21 (1) examine if the project has made advance-
22 ments toward achieving any specific goal of the
23 project with respect to a carbon capture, utilization,
24 and sequestration technology; and

1 (2) evaluate and determine if the project has
2 made significant progress in advancing a carbon
3 capture, utilization, and sequestration technology.

4 (c) RECOMMENDATIONS.—For each evaluation of a
5 project conducted under this section, if the Secretary de-
6 termines that—

7 (1) significant progress in advancing a carbon
8 capture, utilization, and sequestration technology
9 has been made, the Secretary shall assess the fund-
10 ing of the project and make a recommendation as to
11 whether increased funding is necessary to advance
12 the project; or

13 (2) significant progress in advancing a carbon
14 capture, utilization, and sequestration technology
15 has not been made, the Secretary shall—

16 (A) assess the funding of the project and
17 make a recommendation as to whether in-
18 creased funding is necessary to advance the
19 project;

20 (B) assess and determine if the project has
21 reached its full potential; and

22 (C) make a recommendation as to whether
23 the project should continue.

24 (d) REPORTS.—

1 (1) REPORT ON EVALUATIONS AND REC-
2 COMMENDATIONS.—Not later than 2 years after the
3 date of enactment of this Act, and every 2 years
4 thereafter, the Secretary shall—

5 (A) issue a report on the evaluations con-
6 ducted and recommendations made during the
7 previous year pursuant to this section; and

8 (B) make each such report available on the
9 Internet website of the Department of Energy.

10 (2) REPORT.—Not later than 2 years after the
11 date of enactment of this Act, and every 3 years
12 thereafter, the Secretary shall submit to the Sub-
13 committee on Energy and Power of the Committee
14 on Energy and Commerce and the Committee on
15 Science, Space, and Technology of the House of
16 Representatives and the Committee on Energy and
17 Natural Resources and the Committee on Com-
18 merce, Science, and Transportation of the Senate a
19 report on—

20 (A) the evaluations conducted and rec-
21 ommendations made during the previous 3
22 years pursuant to this section; and

23 (B) the progress of the Department of En-
24 ergy in advancing carbon capture, utilization,
25 and sequestration technologies, including

1 progress in achieving the Department of Ener-
2 gy's goal of having an array of advanced carbon
3 capture and sequestration technologies ready by
4 2020 for large-scale demonstration.

5 **SEC. 1110. RELIABILITY AND PERFORMANCE ASSURANCE**
6 **IN REGIONAL TRANSMISSION ORGANIZA-**
7 **TIONS.**

8 Part II of the Federal Power Act (16 U.S.C. 824 et
9 seq.), as amended by section 1104, is further amended by
10 adding after section 215A the following new section:

11 **“SEC. 215B. RELIABILITY AND PERFORMANCE ASSURANCE**
12 **IN REGIONAL TRANSMISSION ORGANIZA-**
13 **TIONS.**

14 “(a) EXISTING CAPACITY MARKETS.—

15 “(1) ANALYSIS CONCERNING CAPACITY MARKET
16 DESIGN.—Not later than 180 days after the date of
17 enactment of this section, each Regional Trans-
18 mission Organization, and each Independent System
19 Operator, that operates a capacity market, or a com-
20 parable market intended to ensure the procurement
21 and availability of sufficient future electric energy
22 resources, that is subject to the jurisdiction of the
23 Commission, shall provide to the Commission an
24 analysis of how the structure of such market meets
25 the following criteria:

1 “(A) The structure of such market utilizes
2 competitive market forces to the extent prac-
3 ticable in procuring capacity resources.

4 “(B) Consistent with subparagraph (A),
5 the structure of such market includes resource-
6 neutral performance criteria that ensure the
7 procurement of sufficient capacity from physical
8 generation facilities that have reliability at-
9 tributes that include—

10 “(i)(I) possession of adequate fuel on-
11 site to enable operation for an extended pe-
12 riod of time;

13 “(II) the operational ability to gen-
14 erate electric energy from more than one
15 fuel source; or

16 “(III) fuel certainty, through firm
17 contractual obligations, that ensures ade-
18 quate fuel supply to enable operation, for
19 an extended period of time, for the dura-
20 tion of an emergency or severe weather
21 conditions;

22 “(ii) operational characteristics that
23 enable the generation of electric energy for
24 the duration of an emergency or severe
25 weather conditions; and

1 “(iii) unless procured through other
2 markets or procurement mechanisms, es-
3 sential reliability services, including fre-
4 quency support and regulation services.

5 “(2) COMMISSION EVALUATION AND REPORT.—
6 Not later than 1 year after the date of enactment
7 of this section, the Commission shall make publicly
8 available, and submit to the Committee on Energy
9 and Commerce in the House of Representatives and
10 the Committee on Energy and Natural Resources in
11 the Senate, a report containing—

12 “(A) evaluation of whether the structure of
13 each market addressed in an analysis submitted
14 pursuant to paragraph (1) meets the criteria
15 under such paragraph, based on the analysis;
16 and

17 “(B) to the extent a market so addressed
18 does not meet such criteria, any recommenda-
19 tions with respect to the procurement of suffi-
20 cient capacity, as described in paragraph
21 (1)(B).

22 “(b) COMMISSION EVALUATION AND REPORT FOR
23 NEW SCHEDULES.—

24 “(1) INCLUSION OF ANALYSIS IN FILING.—Ex-
25 cept as provided in subsection (a)(2), whenever a

1 Regional Transmission Organization or Independent
2 System Operator files a new schedule under section
3 205 to establish a market described in subsection
4 (a)(1), or that substantially modifies the capacity
5 market design of a market described in subsection
6 (a)(1), the Regional Transmission Organization or
7 Independent System Operator shall include in any
8 such filing the analysis required by subsection
9 (a)(1).

10 “(2) EVALUATION AND REPORT.—Not later
11 than 180 days of receiving an analysis under para-
12 graph (1), the Commission shall make publicly avail-
13 able, and submit to the Committee on Energy and
14 Commerce in the House of Representatives and the
15 Committee on Energy and Natural Resources in the
16 Senate, a report containing—

17 “(A) an evaluation of whether the struc-
18 ture of the market addressed in the analysis
19 meets the criteria under subsection (a)(1),
20 based on the analysis; and

21 “(B) to the extent the market does not
22 meet such criteria, any recommendations with
23 respect to the procurement of sufficient capac-
24 ity, as described in subsection (a)(1)(B).

1 “(c) EFFECT ON EXISTING APPROVALS.—Nothing in
2 this section shall be considered to—

3 “(1) require a modification of the Commission’s
4 approval of the capacity market design approved
5 pursuant to docket numbers ER15–623–000, EL15–
6 29–000, EL14–52–000, and ER14–2419–000; or

7 “(2) provide grounds for the Commission to
8 grant rehearing or otherwise modify orders issued in
9 those dockets.”.

10 **SEC. 1111. ETHANE STORAGE STUDY.**

11 (a) IN GENERAL.—The Secretary of Energy and the
12 Secretary of Commerce, in consultation with other rel-
13 evant agencies and stakeholders, shall conduct a study on
14 the feasibility of establishing an ethane storage and dis-
15 tribution hub in the United States.

16 (b) CONTENTS.—The study conducted under sub-
17 section (a) shall include—

18 (1) an examination of—

19 (A) potential locations;

20 (B) economic feasibility;

21 (C) economic benefits;

22 (D) geological storage capacity capabilities;

23 (E) above ground storage capabilities;

24 (F) infrastructure needs; and

1 (G) other markets and trading hubs, par-
2 ticularly related to ethane; and

3 (2) identification of potential additional benefits
4 to energy security.

5 (c) PUBLICATION OF RESULTS.—Not later than 2
6 years after the date of enactment of this Act, the Secre-
7 taries of Energy and Commerce shall publish the results
8 of the study conducted under subsection (a) on the
9 websites of the Departments of Energy and Commerce,
10 respectively, and shall submit such results to the Com-
11 mittee on Energy and Commerce of the House of Rep-
12 resentatives and the Committees on Energy and Natural
13 Resources and Commerce, Science, and Transportation of
14 the Senate.

15 **SEC. 1112. STATEMENT OF POLICY ON GRID MODERNIZA-**
16 **TION.**

17 It is the policy of the United States to promote and
18 advance—

19 (1) the modernization of the energy delivery in-
20 frastructure of the United States, and bolster the re-
21 liability, affordability, diversity, efficiency, security,
22 and resiliency of domestic energy supplies, through
23 advanced grid technologies;

24 (2) the modernization of the electric grid to en-
25 able a robust multi-directional power flow that

1 leverages centralized energy resources and distrib-
2 uted energy resources, enables robust retail trans-
3 actions, and facilitates the alignment of business and
4 regulatory models to achieve a grid that optimizes
5 the entire electric delivery system;

6 (3) relevant research and development in ad-
7 vanced grid technologies, including—

8 (A) energy storage;

9 (B) predictive tools and requisite real-time
10 data to enable the dynamic optimization of grid
11 operations;

12 (C) power electronics, including smart in-
13 verters, that ease the challenge of intermittent
14 renewable resources and distributed generation;

15 (D) real-time data and situational aware-
16 ness tools and systems; and

17 (E) tools to increase data security, physical
18 security, and cybersecurity awareness and pro-
19 tection;

20 (4) the leadership of the United States in basic
21 and applied sciences to develop a systems approach
22 to innovation and development of cyber-secure ad-
23 vanced grid technologies, architectures, and control
24 paradigms capable of managing diverse supplies and
25 loads;

1 (5) the safeguarding of the critical energy deliv-
2 ery infrastructure of the United States and the en-
3 hanced resilience of the infrastructure to all hazards,
4 including—

5 (A) severe weather events;

6 (B) cyber and physical threats; and

7 (C) other factors that affect energy deliv-
8 ery;

9 (6) the coordination of goals, investments to op-
10 timize the grid, and other measures for energy effi-
11 ciency, advanced grid technologies, interoperability,
12 and demand response-side management resources;

13 (7) partnerships with States and the private
14 sector—

15 (A) to facilitate advanced grid capabilities
16 and strategies; and

17 (B) to provide technical assistance, tools,
18 or other related information necessary to en-
19 hance grid integration, particularly in connec-
20 tion with the development at the State and local
21 levels of strategic energy, energy surety and as-
22 surance, and emergency preparedness, response,
23 and restoration planning;

1 (8) the deployment of information and commu-
2 nications technologies at all levels of the electric sys-
3 tem;

4 (9) opportunities to provide consumers with
5 timely information and advanced control options;

6 (10) sophisticated or advanced control options
7 to integrate distributed energy resources and associ-
8 ated ancillary services;

9 (11) open-source communications, database ar-
10 chitectures, and common information model stand-
11 ards, guidelines, and protocols that enable interoper-
12 ability to maximize efficiency gains and associated
13 benefits among—

14 (A) the grid;

15 (B) energy and building management sys-
16 tems; and

17 (C) residential, commercial, and industrial
18 equipment;

19 (12) private sector investment in the energy de-
20 livery infrastructure of the United States through
21 targeted demonstration and validation of advanced
22 grid technologies; and

23 (13) establishment of common valuation meth-
24 ods and tools for cost-benefit analysis of grid inte-
25 gration paradigms.

1 **SEC. 1113. GRID RESILIENCE REPORT.**

2 Not later than 120 days after the date of enactment
3 of this Act, the Secretary of Energy shall submit to the
4 Congress a report on methods to increase electric grid re-
5 silience with respect to all threats, including cyber attacks,
6 vandalism, terrorism, and severe weather.

7 **SEC. 1114. GAO REPORT ON IMPROVING NATIONAL RE-**
8 **SPONSE CENTER.**

9 The Comptroller General of the United States shall
10 conduct a study of ways in which the capabilities of the
11 National Response Center could be improved.

12 **SEC. 1115. DESIGNATION OF NATIONAL ENERGY SECURITY**
13 **CORRIDORS ON FEDERAL LANDS.**

14 (a) IN GENERAL.—Section 28 of the Mineral Leasing
15 Act (30 U.S.C. 185) is amended as follows:

16 (1) In subsection (b)—

17 (A) by striking “(b)(1) For the purposes of
18 this section ‘Federal lands’ means” and insert-
19 ing the following:

20 “(b)(1) For the purposes of this section ‘Federal
21 lands’—

22 “(A) except as provided in subparagraph (B),
23 means”;

24 (B) by striking the period at the end of
25 paragraph (1) and inserting “; and” and by

1 adding at the end of paragraph (1) the fol-
2 lowing:

3 “(B) for purposes of granting an application for
4 a natural gas pipeline right-of-way, means all lands
5 owned by the United States except—

6 “(i) such lands held in trust for an Indian
7 or Indian tribe; and

8 “(ii) lands on the Outer Continental
9 Shelf.”.

10 (2) By redesignating subsection (b), as so
11 amended, as subsection (z), and transferring such
12 subsection to appear after subsection (y) of that sec-
13 tion.

14 (3) By inserting after subsection (a) the fol-
15 lowing:

16 “(b) NATIONAL ENERGY SECURITY CORRIDORS.—

17 “(1) DESIGNATION.—In addition to other au-
18 thorities under this section, the Secretary shall—

19 “(A) identify and designate suitable Fed-
20 eral lands as National Energy Security Cor-
21 ridors (in this subsection referred to as a ‘Cor-
22 ridor’), which shall be used for construction, op-
23 eration, and maintenance of natural gas trans-
24 mission facilities; and

1 “(B) incorporate such Corridors upon des-
2 ignation into the relevant agency land use and
3 resource management plans or equivalent plans.

4 “(2) CONSIDERATIONS.—In evaluating Federal
5 lands for designation as a National Energy Security
6 Corridor, the Secretary shall—

7 “(A) employ the principle of multiple use
8 to ensure route decisions balance national en-
9 ergy security needs with existing land use prin-
10 ciples;

11 “(B) seek input from other Federal coun-
12 terparts, State, local, and tribal governments,
13 and affected utility and pipeline industries to
14 determine the best suitable, most cost-effective,
15 and commercially viable acreage for natural gas
16 transmission facilities;

17 “(C) focus on transmission routes that im-
18 prove domestic energy security through increas-
19 ing reliability, relieving congestion, reducing
20 natural gas prices, and meeting growing de-
21 mand for natural gas; and

22 “(D) take into account technological inno-
23 vations that reduce the need for surface dis-
24 turbance.

1 “(3) PROCEDURES.—The Secretary shall estab-
2 lish procedures to expedite and approve applications
3 for rights-of-way for natural gas pipelines across
4 National Energy Security Corridors, that—

5 “(A) ensure a transparent process for re-
6 view of applications for rights-of-way on such
7 corridors;

8 “(B) require an approval time of not more
9 than 1 year after the date of receipt of an ap-
10 plication for a right-of-way; and

11 “(C) require, upon receipt of such an ap-
12 plication, notice to the applicant of a predict-
13 able timeline for consideration of the applica-
14 tion, that clearly delineates important mile-
15 stones in the process of such consideration.

16 “(4) STATE INPUT.—

17 “(A) REQUESTS AUTHORIZED.—The Gov-
18 ernor of a State may submit requests to the
19 Secretary of the Interior to designate Corridors
20 on Federal land in that State.

21 “(B) CONSIDERATION OF REQUESTS.—
22 After receiving such a request, the Secretary
23 shall respond in writing, within 30 days—

24 “(i) acknowledging receipt of the re-
25 quest; and

1 “(ii) setting forth a timeline in which
2 the Secretary shall grant, deny, or modify
3 such request and state the reasons for
4 doing so.

5 “(5) SPATIAL DISTRIBUTION OF CORRIDORS.—
6 In implementing this subsection, the Secretary shall
7 coordinate with other Federal Departments to—

8 “(A) minimize the proliferation of duplica-
9 tive natural gas pipeline rights-of-way on Fed-
10 eral lands where feasible;

11 “(B) ensure Corridors can connect effec-
12 tively across Federal lands; and

13 “(C) utilize input from utility and pipeline
14 industries submitting applications for rights-of-
15 way to site corridors in economically feasible
16 areas that reduce impacts, to the extent prac-
17 ticable, on local communities.

18 “(6) NOT A MAJOR FEDERAL ACTION.—Des-
19 ignation of a Corridor under this subsection, and in-
20 corporation of Corridors into agency plans under
21 paragraph (1)(B), shall not be treated as a major
22 Federal action for purpose of section 102 of the Na-
23 tional Environmental Policy Act of 1969 (42 U.S.C.
24 4332).

1 “(7) NO LIMIT ON NUMBER OR LENGTH OF
2 CORRIDORS.—Nothing in this subsection limits the
3 number or physical dimensions of Corridors that the
4 Secretary may designate under this subsection.

5 “(8) OTHER AUTHORITY NOT AFFECTED.—
6 Nothing in this subsection affects the authority of
7 the Secretary to issue rights-of-way on Federal land
8 that is not located in a Corridor designated under
9 this subsection.

10 “(9) NEPA CLARIFICATION.—All applications
11 for rights-of-way for natural gas transmission facili-
12 ties across Corridors designated under this sub-
13 section shall be subject to the environmental protec-
14 tions outlined in subsection (h).”.

15 (b) APPLICATIONS RECEIVED BEFORE DESIGNATION
16 OF CORRIDORS.—Any application for a right-of-way under
17 section 28 of the Mineral Leasing Act (30 U.S.C. 185)
18 that is received by the Secretary of the Interior before des-
19 ignation of National Energy Security Corridors under the
20 amendment made by subsection (a) of this section shall
21 be reviewed and acted upon independently by the Sec-
22 retary without regard to the process for such designation.

23 (c) DEADLINE.—Within 2 years after the date of the
24 enactment of this Act, the Secretary of the Interior shall
25 designate at least 10 National Energy Security Corridors

1 under the amendment made by subsection (a) in States
2 referred to in section 368(b) of the Energy Policy Act of
3 2005 (42 U.S.C. 15926(b)).

4 **SEC. 1116. VEGETATION MANAGEMENT, FACILITY INSPEC-**
5 **TION, AND OPERATION AND MAINTENANCE**
6 **ON FEDERAL LANDS CONTAINING ELECTRIC**
7 **TRANSMISSION AND DISTRIBUTION FACILI-**
8 **TIES.**

9 (a) IN GENERAL.—Title V of the Federal Land Pol-
10 icy and Management Act of 1976 (43 U.S.C. 1761 et seq.)
11 is amended by adding at the end the following new section:

12 **“SEC. 512. VEGETATION MANAGEMENT, FACILITY INSPEC-**
13 **TION, AND OPERATION AND MAINTENANCE**
14 **RELATING TO ELECTRIC TRANSMISSION AND**
15 **DISTRIBUTION FACILITY RIGHTS-OF-WAY.**

16 “(a) GENERAL DIRECTION.—In order to enhance the
17 reliability of the electric grid and reduce the threat of
18 wildfires to and from electric transmission and distribu-
19 tion rights-of-way and related facilities and adjacent prop-
20 erty, the Secretary, with respect to public lands and other
21 lands under the jurisdiction of the Secretary, and the Sec-
22 retary of Agriculture, with respect to National Forest Sys-
23 tem lands, shall provide direction to ensure that all exist-
24 ing and future rights-of-way, however established (includ-
25 ing by grant, special use authorization, and easement), for

1 electric transmission and distribution facilities on such
2 lands include provisions for utility vegetation manage-
3 ment, facility inspection, and operation and maintenance
4 activities that, while consistent with applicable law—

5 “(1) are developed in consultation with the
6 holder of the right-of-way;

7 “(2) enable the owner or operator of an electric
8 transmission and distribution facility to operate and
9 maintain the facility in good working order and to
10 comply with Federal, State, and local electric system
11 reliability and fire safety requirements, including re-
12 liability standards established by the North Amer-
13 ican Electric Reliability Corporation and plans to
14 meet such reliability standards;

15 “(3) minimize the need for case-by-case or an-
16 nual approvals for—

17 “(A) routine vegetation management, facil-
18 ity inspection, and operation and maintenance
19 activities within existing electric transmission
20 and distribution rights-of-way; and

21 “(B) utility vegetation management activi-
22 ties that are necessary to control hazard trees
23 within or adjacent to electric transmission and
24 distribution rights-of-way; and

1 “(4) when review is required, provide for expedited review and approval of utility vegetation management, facility inspection, and operation and maintenance activities, especially activities requiring prompt action to avoid an adverse impact on human safety or electric reliability to avoid fire hazards.

2 “(b) VEGETATION MANAGEMENT, FACILITY INSPECTION, AND OPERATION AND MAINTENANCE PLANS.—

3 “(1) DEVELOPMENT AND SUBMISSION.—Consistent with subsection (a), the Secretary and the Secretary of Agriculture shall provide owners and operators of electric transmission and distribution facilities located on lands described in such subsection with the option to develop and submit a vegetation management, facility inspection, and operation and maintenance plan, that at each owner or operator’s discretion may cover some or all of the owner or operator’s electric transmission and distribution rights-of-way on Federal lands, for approval to the Secretary with jurisdiction over the lands. A plan under this paragraph shall enable the owner or operator of an electric transmission and distribution facility, at a minimum, to comply with applicable Federal, State, and local electric system reliability and fire safety requirements, as provided

1 in subsection (a)(2). The Secretaries shall not have
2 the authority to modify those requirements.

3 “(2) REVIEW AND APPROVAL PROCESS.—The
4 Secretary and the Secretary of Agriculture shall
5 jointly develop a consolidated and coordinated proc-
6 ess for review and approval of—

7 “(A) vegetation management, facility in-
8 spection, and operation and maintenance plans
9 submitted under paragraph (1) that—

10 “(i) assures prompt review and ap-
11 proval not to exceed 90 days;

12 “(ii) includes timelines and bench-
13 marks for agency comments on submitted
14 plans and final approval of such plans;

15 “(iii) is consistent with applicable law;
16 and

17 “(iv) minimizes the costs of the proc-
18 ess to the reviewing agency and the entity
19 submitting the plans; and

20 “(B) amendments to the plans in a prompt
21 manner if changed conditions necessitate a
22 modification to a plan.

23 “(3) NOTIFICATION.—The review and approval
24 process under paragraph (2) shall—

1 “(A) include notification by the agency of
2 any changed conditions that warrant a modi-
3 fication to a plan;

4 “(B) provide an opportunity for the owner
5 or operator to submit a proposed plan amend-
6 ment to address directly the changed condition;
7 and

8 “(C) allow the owner or operator to con-
9 tinue to implement those elements of the ap-
10 proved plan that do not directly and adversely
11 affect the condition precipitating the need for
12 modification.

13 “(4) CATEGORICAL EXCLUSION PROCESS.—The
14 Secretary and the Secretary of Agriculture shall
15 apply his or her categorical exclusion process under
16 the National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) to plans developed under this
18 subsection on existing electric transmission and dis-
19 tribution rights-of-way under this subsection.

20 “(5) IMPLEMENTATION.—A plan approved
21 under this subsection shall become part of the au-
22 thorization governing the covered right-of-way and
23 hazard trees adjacent to the right-of-way. If a vege-
24 tation management plan is proposed for an existing
25 electric transmission and distribution facility concur-

1 rent with the siting of a new electric transmission or
2 distribution facility, necessary reviews shall be com-
3 pleted as part of the siting process or sooner. Once
4 the plan is approved, the owner or operator shall
5 provide the agency with only a notification of activi-
6 ties anticipated to be undertaken in the coming year,
7 a description of those activities, and certification
8 that the activities are in accordance with the plan.

9 “(c) RESPONSE TO EMERGENCY CONDITIONS.—If
10 vegetation on Federal lands within, or hazard trees on
11 Federal lands adjacent to, an electric transmission or dis-
12 tribution right-of-way granted by the Secretary or the Sec-
13 retary of Agriculture has contacted or is in imminent dan-
14 ger of contacting one or more electric transmission or dis-
15 tribution lines, the owner or operator of the electric trans-
16 mission or distribution lines—

17 “(1) may prune or remove the vegetation to
18 avoid the disruption of electric service and risk of
19 fire; and

20 “(2) shall notify the appropriate local agent of
21 the relevant Secretary not later than 24 hours after
22 such removal.

23 “(d) COMPLIANCE WITH APPLICABLE RELIABILITY
24 AND SAFETY STANDARDS.—If vegetation on Federal
25 lands within or adjacent to an electric transmission or dis-

1 tribution right-of-way under the jurisdiction of each Sec-
2 retary does not meet clearance requirements under stand-
3 ards established by the North American Electric Reli-
4 ability Corporation, or by State and local authorities, and
5 the Secretary having jurisdiction over the lands has failed
6 to act to allow an electric transmission or distribution fa-
7 cility owner or operator to conduct vegetation manage-
8 ment activities within 3 business days after receiving a
9 request to allow such activities, the owner or operator
10 may, after notifying the Secretary, conduct such vegeta-
11 tion management activities to meet those clearance re-
12 quirements.

13 “(e) REPORTING REQUIREMENT.—The Secretary or
14 Secretary of Agriculture shall report requests and actions
15 made under subsections (c) and (d) annually on each Sec-
16 retary’s website.

17 “(f) LIABILITY.—An owner or operator of an electric
18 transmission or distribution facility shall not be held liable
19 for wildfire damage, loss, or injury, including the cost of
20 fire suppression, if—

21 “(1) the Secretary or the Secretary of Agri-
22 culture fails to allow the owner or operator to oper-
23 ate consistently with an approved vegetation man-
24 agement, facility inspection, and operation and
25 maintenance plan on Federal lands under the rel-

1 evant Secretary’s jurisdiction within or adjacent to
2 a right-of-way to comply with Federal, State, or
3 local electric system reliability and fire safety stand-
4 ards, including standards established by the North
5 American Electric Reliability Corporation; or

6 “(2) the Secretary or the Secretary of Agri-
7 culture fails to allow the owner or operator of the
8 electric transmission or distribution facility to per-
9 form appropriate vegetation management activities
10 in response to an identified hazard tree, or a tree in
11 imminent danger of contacting the owner’s or opera-
12 tor’s electric transmission or distribution facility.

13 “(g) TRAINING AND GUIDANCE.—In consultation
14 with the electric utility industry, the Secretary and the
15 Secretary of Agriculture are encouraged to develop a pro-
16 gram to train personnel of the Department of the Interior
17 and the Forest Service involved in vegetation management
18 decisions relating to electric transmission and distribution
19 facilities to ensure that such personnel—

20 “(1) understand electric system reliability and
21 fire safety requirements, including reliability stand-
22 ards established by the North American Electric Re-
23 liability Corporation;

24 “(2) assist owners and operators of electric
25 transmission and distribution facilities to comply

1 with applicable electric reliability and fire safety re-
2 quirements; and

3 “(3) encourage and assist willing owners and
4 operators of electric transmission and distribution
5 facilities to incorporate on a voluntary basis vegeta-
6 tion management practices to enhance habitats and
7 forage for pollinators and for other wildlife so long
8 as the practices are compatible with the integrated
9 vegetation management practices necessary for reli-
10 ability and safety.

11 “(h) IMPLEMENTATION.—The Secretary and the Sec-
12 retary of Agriculture shall—

13 “(1) not later than one year after the date of
14 the enactment of this section, propose regulations, or
15 amended existing regulations, to implement this sec-
16 tion; and

17 “(2) not later than two years after the date of
18 the enactment of this section, finalize regulations, or
19 amended existing regulations, to implement this sec-
20 tion.

21 “(i) EXISTING VEGETATION MANAGEMENT, FACIL-
22 ITY INSPECTION, AND OPERATION AND MAINTENANCE
23 PLANS.—Nothing in this section requires an owner or op-
24 erator to develop and submit a vegetation management,
25 facility inspection, and operation and maintenance plan if

1 one has already been approved by the Secretary or Sec-
2 retary of Agriculture before the date of the enactment of
3 this section.

4 “(j) DEFINITIONS.—In this section:

5 “(1) HAZARD TREE.—The term ‘hazard tree’
6 means any tree inside the right-of-way or located
7 outside the right-of-way that has been found by the
8 either the owner or operator of an electric trans-
9 mission or distribution facility, or the Secretary or
10 the Secretary of Agriculture, to be likely to fail and
11 cause a high risk of injury, damage, or disruption
12 within 10 feet of an electric power line or related
13 structure if it fell.

14 “(2) OWNER OR OPERATOR.—The terms
15 ‘owner’ and ‘operator’ include contractors or other
16 agents engaged by the owner or operator of an elec-
17 tric transmission and distribution facility.

18 “(3) VEGETATION MANAGEMENT, FACILITY IN-
19 SPECTION, AND OPERATION AND MAINTENANCE
20 PLAN.—The term ‘vegetation management, facility
21 inspection, and operation and maintenance plan’
22 means a plan that—

23 “(A) is prepared by the owner or operator
24 of one or more electric transmission or distribu-

1 tion facilities to cover one or more electric
2 transmission and distribution rights-of-way; and

3 “(B) provides for the long-term, cost-effective,
4 efficient, and timely management of facilities
5 and vegetation within the width of the
6 right-of-way and adjacent Federal lands to enhance
7 electric reliability, promote public safety,
8 and avoid fire hazards.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for the Federal Land Policy and Management Act of 1976
11 (43 U.S.C. 1761 et seq.), is amended by inserting after
12 the item relating to section 511 the following new item:

 “Sec. 512. Vegetation management, facility inspection, and operation and maintenance relating to electric transmission and distribution facility rights-of-way.”.

13 **Subtitle B—Hydropower**
14 **Regulatory Modernization**

15 **SEC. 1201. PROTECTION OF PRIVATE PROPERTY RIGHTS IN**
16 **HYDROPOWER LICENSING.**

17 (a) LICENCES.—Section 4(e) of the Federal Power
18 Act (16 U.S.C. 797(e)) is amended—

19 (1) by striking “and” after “recreational opportunities,”; and
20 (2) by inserting “, and minimizing infringement

21 on the useful exercise and enjoyment of property
22 rights held by nonlicensees” after “aspects of environmental
23 quality”.

1 (b) PRIVATE LANDOWNERSHIP.—Section 10 of the
2 Federal Power Act (16 U.S.C. 803) is amended—

3 (1) in subsection (a)(1), by inserting “, includ-
4 ing minimizing infringement on the useful exercise
5 and enjoyment of property rights held by non-
6 licensees” after “section 4(e)”; and

7 (2) by adding at the end the following:

8 “(k) PRIVATE LANDOWNERSHIP.—In developing any
9 recreational resource within the project boundary, the li-
10 censee shall consider private landownership as a means to
11 encourage and facilitate—

12 “(1) private investment; and

13 “(2) increased tourism and recreational use.”.

14 **SEC. 1202. EXTENSION OF TIME FOR FERC PROJECT IN-**
15 **VOLVING W. KERR SCOTT DAM.**

16 (a) IN GENERAL.—Notwithstanding the time period
17 specified in section 13 of the Federal Power Act (16
18 U.S.C. 806) that would otherwise apply to the Federal En-
19 ergy Regulatory Commission project numbered 12642, the
20 Commission may, at the request of the licensee for the
21 project, and after reasonable notice, in accordance with
22 the good faith, due diligence, and public interest require-
23 ments of that section and the Commission’s procedures
24 under that section, extend the time period during which
25 the licensee is required to commence the construction of

1 the project for up to 3 consecutive 2-year periods from
2 the date of the expiration of the extension originally issued
3 by the Commission.

4 (b) REINSTATEMENT OF EXPIRED LICENSE.—If the
5 period required for commencement of construction of the
6 project described in subsection (a) has expired prior to the
7 date of the enactment of this Act, the Commission may
8 reinstate the license effective as of the date of its expira-
9 tion and the first extension authorized under subsection
10 (a) shall take effect on the date of such expiration.

11 **SEC. 1203. HYDROPOWER LICENSING AND PROCESS IM-**
12 **PROVEMENTS.**

13 Part I of the Federal Power Act (16 U.S.C. 792 et
14 seq.) is amended by adding at the end the following:

15 **“SEC. 34. HYDROPOWER LICENSING AND PROCESS IM-**
16 **PROVEMENTS.**

17 “(a) DEFINITION.—In this section, the term ‘Federal
18 authorization’—

19 “(1) means any authorization required under
20 Federal law with respect to an application for a li-
21 cense, license amendment, or exemption under this
22 part; and

23 “(2) includes any permits, special use author-
24 izations, certifications, opinions, or other approvals
25 as may be required under Federal law to approve or

1 implement the license, license amendment, or exemp-
2 tion under this part.

3 “(b) DESIGNATION AS LEAD AGENCY.—

4 “(1) IN GENERAL.—The Commission shall act
5 as the lead agency for the purposes of coordinating
6 all applicable Federal authorizations and for the
7 purposes of complying with the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

9 “(2) OTHER AGENCIES AND INDIAN TRIBES.—

10 “(A) IN GENERAL.—Each Federal, State,
11 and local government agency and Indian tribe
12 considering an aspect of an application for Fed-
13 eral authorization shall coordinate with the
14 Commission and comply with the deadline es-
15 tablished in the schedule developed for the
16 project in accordance with the rule issued by
17 the Commission under subsection (c).

18 “(B) IDENTIFICATION.—The Commission
19 shall identify, as early as practicable after it is
20 notified by the applicant of a project or facility
21 requiring Commission action under this part,
22 any Federal or State agency, local government,
23 or Indian tribe that may consider an aspect of
24 an application for a Federal authorization.

25 “(C) NOTIFICATION.—

1 “(i) IN GENERAL.—The Commission
2 shall notify any agency and Indian tribe
3 identified under subparagraph (B) of the
4 opportunity to participate in the process of
5 reviewing an aspect of an application for a
6 Federal authorization.

7 “(ii) DEADLINE.—Each agency and
8 Indian tribe receiving a notice under clause
9 (i) shall submit a response acknowledging
10 receipt of the notice to the Commission
11 within 30 days of receipt of such notice
12 and request.

13 “(D) ISSUE IDENTIFICATION AND RESOLU-
14 TION.—

15 “(i) IDENTIFICATION OF ISSUES.—
16 Federal, State, and local government agen-
17 cies and Indian tribes that may consider
18 an aspect of an application for Federal au-
19 thorization shall identify, as early as pos-
20 sible, and share with the Commission and
21 the applicant, any issues of concern identi-
22 fied during the pendency of the Commis-
23 sion’s action under this part relating to
24 any Federal authorization that may delay
25 or prevent the granting of such authoriza-

1 tion, including any issues that may prevent
2 the agency or Indian tribe from meeting
3 the schedule established for the project in
4 accordance with the rule issued by the
5 Commission under subsection (c).

6 “(ii) ISSUE RESOLUTION.—The Com-
7 mission may forward any issue of concern
8 identified under clause (i) to the heads of
9 the relevant State and Federal agencies
10 (including, in the case of scheduling con-
11 cerns identified by a State or local govern-
12 ment agency or Indian tribe, the Federal
13 agency overseeing the delegated authority,
14 or the Secretary of the Interior with re-
15 gard to scheduling concerns identified by
16 an Indian tribe) for resolution. The Com-
17 mission and any relevant agency shall
18 enter into a memorandum of under-
19 standing to facilitate interagency coordina-
20 tion and resolution of such issues of con-
21 cern, as appropriate.

22 “(c) SCHEDULE.—

23 “(1) COMMISSION RULEMAKING TO ESTABLISH
24 PROCESS TO SET SCHEDULE.—Within 180 days of
25 the date of enactment of this section the Commis-

1 sion shall, in consultation with the appropriate Fed-
2 eral agencies, issue a rule, after providing for notice
3 and public comment, establishing a process for set-
4 ting a schedule following the filing of an application
5 under this part for the review and disposition of
6 each Federal authorization.

7 “(2) ELEMENTS OF SCHEDULING RULE.—In
8 issuing a rule under this subsection, the Commission
9 shall ensure that the schedule for each Federal au-
10 thorization—

11 “(A) includes deadlines for actions by—

12 “(i) any Federal or State agency, local
13 government, or Indian tribe that may con-
14 sider an aspect of an application for the
15 Federal authorization;

16 “(ii) the applicant;

17 “(iii) the Commission; and

18 “(iv) other participants in a pro-
19 ceeding;

20 “(B) is developed in consultation with the
21 applicant and any agency and Indian tribe that
22 submits a response under subsection
23 (b)(2)(C)(ii);

24 “(C) provides an opportunity for any Fed-
25 eral or State agency, local government, or In-

1 dian tribe that may consider an aspect of an
2 application for the applicable Federal authoriza-
3 tion to identify and resolve issues of concern, as
4 provided in subsection (b)(2)(D);

5 “(D) complies with applicable schedules es-
6 tablished under Federal and State law;

7 “(E) ensures expeditious completion of all
8 proceedings required under Federal and State
9 law, to the extent practicable; and

10 “(F) facilitates completion of Federal and
11 State agency studies, reviews, and any other
12 procedures required prior to, or concurrent
13 with, the preparation of the Commission’s envi-
14 ronmental document required under the Na-
15 tional Environmental Policy Act of 1969 (42
16 U.S.C. 4321 et seq.).

17 “(d) TRANSMISSION OF FINAL SCHEDULE.—

18 “(1) IN GENERAL.—For each application for a
19 license, license amendment, or exemption under this
20 part, the Commission shall establish a schedule in
21 accordance with the rule issued by the Commission
22 under subsection (c). The Commission shall publicly
23 notice and transmit the final schedule to the appli-
24 cant and each agency and Indian tribe identified
25 under subsection (b)(2)(B).

1 “(2) RESPONSE.—Each agency and Indian
2 tribe receiving a schedule under this subsection shall
3 acknowledge receipt of such schedule in writing to
4 the Commission within 30 days.

5 “(e) ADHERENCE TO SCHEDULE.—All applicants,
6 other licensing participants, and agencies and tribes con-
7 sidering an aspect of an application for a Federal author-
8 ization shall meet the deadlines set forth in the schedule
9 established pursuant to subsection (d)(1).

10 “(f) APPLICATION PROCESSING.—The Commission,
11 Federal, State, and local government agencies, and Indian
12 tribes may allow an applicant seeking a Federal authoriza-
13 tion to fund a third-party contractor selected by such
14 agency or tribe to assist in reviewing the application. All
15 costs of an agency or tribe incurred pursuant to direct
16 funding by the applicant, including all costs associated
17 with the third party contractor, shall not be considered
18 costs of the United States for the administration of this
19 part under section 10(e).

20 “(g) COMMISSION RECOMMENDATION ON SCOPE OF
21 ENVIRONMENTAL REVIEW.—For the purposes of coordi-
22 nating Federal authorizations for each project, the Com-
23 mission shall consult with and make a recommendation
24 to agencies and Indian tribes receiving a schedule under
25 subsection (d) on the scope of the environmental review

1 for all Federal authorizations for such project. Each Fed-
2 eral and State agency and Indian tribe shall give due con-
3 sideration and may give deference to the Commission’s
4 recommendations, to the extent appropriate under Federal
5 law.

6 “(h) **FAILURE TO MEET SCHEDULE.**—A Federal,
7 State, or local government agency or Indian tribe that an-
8 ticipates that it will be unable to complete its disposition
9 of a Federal authorization by the deadline set forth in the
10 schedule established under subsection (d)(1) may file for
11 an extension as provided under section 313(b)(2).

12 “(i) **CONSOLIDATED RECORD.**—The Commission
13 shall, with the cooperation of Federal, State, and local
14 government agencies and Indian tribes, maintain a com-
15 plete consolidated record of all decisions made or actions
16 taken by the Commission or by a Federal administrative
17 agency or officer (or State or local government agency or
18 officer or Indian tribe acting under delegated Federal au-
19 thority) with respect to any Federal authorization. Such
20 record shall constitute the record for judicial review under
21 section 313(b).”.

22 **SEC. 1204. JUDICIAL REVIEW OF DELAYED FEDERAL AU-**
23 **THORIZATIONS.**

24 Section 313(b) of the Federal Power Act (16 U.S.C.
25 825l(b)) is amended—

1 (1) by striking “(b) Any party” and inserting
2 the following:

3 “(b) JUDICIAL REVIEW.—

4 “(1) IN GENERAL.—Any party”; and

5 (2) by adding at the end the following:

6 “(2) DELAY OF A FEDERAL AUTHORIZATION.—

7 Any Federal, State, or local government agency or
8 Indian tribe that will not complete its disposition of
9 a Federal authorization by the deadline set forth in
10 the schedule by the Commission under section 34
11 may file for an extension in the United States court
12 of appeals for any circuit wherein the project or pro-
13 posed project is located, or in the United States
14 Court of Appeals for the District of Columbia. Such
15 petition shall be filed not later than 30 days prior
16 to such deadline. The court shall only grant an ex-
17 tension if the agency or tribe demonstrates, based on
18 the record maintained under section 34, that it oth-
19 erwise complied with the requirements of section 34
20 and that complying with the schedule set by the
21 Commission would have prevented the agency or
22 tribe from complying with applicable Federal or
23 State law. If the court grants the extension, the
24 court shall set a reasonable schedule and deadline,
25 not to exceed 90 days, for the agency to act on re-

1 mand. If the court denies the extension, or if an
2 agency or tribe does not file for an extension as pro-
3 vided in this subsection and does not complete its
4 disposition of a Federal authorization by the applica-
5 ble deadline, the Commission and applicant may
6 move forward with the proposed action.”.

7 **SEC. 1205. LICENSING STUDY IMPROVEMENTS.**

8 Part I of the Federal Power Act (16 U.S.C. 792 et
9 seq.), as amended by section 1203, is further amended by
10 adding at the end the following:

11 **“SEC. 35. LICENSING STUDY IMPROVEMENTS.**

12 “(a) IN GENERAL.—To facilitate the timely and effi-
13 cient completion of the license proceedings under this part,
14 the Commission shall, in consultation with applicable Fed-
15 eral and State agencies and interested members of the
16 public—

17 “(1) compile current and accepted best prac-
18 tices in performing studies required in such license
19 proceedings, including methodologies and the design
20 of studies to assess the full range of environmental
21 impacts of a project that reflect the most recent
22 peer-reviewed science;

23 “(2) compile a comprehensive collection of stud-
24 ies and data accessible to the public that could be

1 used to inform license proceedings under this part;
2 and

3 “(3) encourage license applicants, agencies, and
4 Indian tribes to develop and use, for the purpose of
5 fostering timely and efficient consideration of license
6 applications, a limited number of open-source meth-
7 odologies and tools applicable across a wide array of
8 projects, including water balance models and
9 streamflow analyses.

10 “(b) USE OF STUDIES.—To the extent practicable,
11 the Commission and other Federal, State, and local gov-
12 ernment agencies and Indian tribes considering an aspect
13 of an application for Federal authorization shall use cur-
14 rent, accepted science toward studies and data in support
15 of their actions. Any participant in a proceeding with re-
16 spect to a Federal authorization shall demonstrate a study
17 requested by the party is not duplicative of current, exist-
18 ing studies that are applicable to the project.

19 “(c) BASIN-WIDE OR REGIONAL REVIEW.—The
20 Commission shall establish a program to develop com-
21 prehensive plans, at the request of project applicants, on
22 a regional or basin-wide scale, in consultation with the ap-
23 plicants, appropriate Federal agencies, and affected
24 States, local governments, and Indian tribes, in basins or
25 regions with respect to which there are more than one

1 project or application for a project. Upon such a request,
2 the Commission, in consultation with the applicants, such
3 Federal agencies, and affected States, local governments,
4 and Indian tribes, may conduct or commission regional or
5 basin-wide environmental studies, with the participation of
6 at least 2 applicants. Any study conducted under this sub-
7 section shall apply only to a project with respect to which
8 the applicant participates.”.

9 **SEC. 1206. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

10 Part I of the Federal Power Act (16 U.S.C. 792 et
11 seq.), as amended by section 1205, is further amended by
12 adding at the end the following:

13 **“SEC. 36. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

14 “(a) DEFINITION.—For purposes of this section, a
15 closed-loop pumped storage project is a project—

16 “(1) in which the upper and lower reservoirs do
17 not impound or directly withdraw water from navi-
18 gable waters; or

19 “(2) that is not continuously connected to a
20 naturally flowing water feature.

21 “(b) IN GENERAL.—As provided in this section, the
22 Commission may issue and amend licenses and prelimi-
23 nary permits, as appropriate, for closed-loop pumped stor-
24 age projects.

1 “(c) DAM SAFETY.—Before issuing any license for a
2 closed-loop pumped storage project, the Commission shall
3 assess the safety of existing dams and other structures
4 related to the project (including possible consequences as-
5 sociated with failure of such structures).

6 “(d) LICENSE CONDITIONS.—With respect to a
7 closed-loop pumped storage project, the authority of the
8 Commission to impose conditions on a license under sec-
9 tions 4(e), 10(a), 10(g), and 10(j) shall not apply, and
10 any condition included in or applicable to a closed-loop
11 pumped storage project licensed under this section, includ-
12 ing any condition or other requirement of a Federal au-
13 thorization, shall be limited to those that are—

14 “(1) necessary to protect public safety; or

15 “(2) reasonable, economically feasible, and es-
16 sential to prevent loss of or damage to, or to miti-
17 gate adverse effects on, fish and wildlife resources
18 directly caused by the construction and operation of
19 the project, as compared to the environmental base-
20 line existing at the time the Commission completes
21 its environmental review.

22 “(e) TRANSFERS.—Notwithstanding section 5, and
23 regardless of whether the holder of a preliminary permit
24 for a closed-loop pumped storage project claimed munic-
25 ipal preference under section 7(a) when obtaining the per-

1 mit, the Commission may, to facilitate development of a
2 closed-loop pumped storage project—

3 “(1) add entities as joint permittees following
4 issuance of a preliminary permit; and

5 “(2) transfer a license in part to one or more
6 nonmunicipal entities as co-licensees with a municipi-
7 pality.”.

8 **SEC. 1207. LICENSE AMENDMENT IMPROVEMENTS.**

9 Part I of the Federal Power Act (16 U.S.C. 792 et
10 seq.), as amended by section 1206, is further amended by
11 adding at the end the following:

12 **“SEC. 37. LICENSE AMENDMENT IMPROVEMENTS.**

13 “(a) **QUALIFYING PROJECT UPGRADES.—**

14 “(1) **IN GENERAL.—**As provided in this section,
15 the Commission may approve an application for an
16 amendment to a license issued under this part for a
17 qualifying project upgrade.

18 “(2) **APPLICATION.—**A licensee filing an appli-
19 cation for an amendment to a project license under
20 this section shall include in such application infor-
21 mation sufficient to demonstrate that the proposed
22 change to the project described in the application is
23 a qualifying project upgrade.

24 “(3) **INITIAL DETERMINATION.—**Not later than
25 15 days after receipt of an application under para-

1 graph (2), the Commission shall make an initial de-
2 termination as to whether the proposed change to
3 the project described in the application for a license
4 amendment is a qualifying project upgrade. The
5 Commission shall publish its initial determination
6 and issue notice of the application filed under para-
7 graph (2). Such notice shall solicit public comment
8 on the initial determination within 45 days.

9 “(4) PUBLIC COMMENT ON QUALIFYING CRI-
10 TERIA.—The Commission shall accept public com-
11 ment regarding whether a proposed license amend-
12 ment is for a qualifying project upgrade for a period
13 of 45 days beginning on the date of publication of
14 a public notice described in paragraph (3), and
15 shall—

16 “(A) if no entity contests whether the pro-
17 posed license amendment is for a qualifying
18 project upgrade during such comment period,
19 immediately publish a notice stating that the
20 initial determination has not been contested; or

21 “(B) if an entity contests whether the pro-
22 posed license amendment is for a qualifying
23 project upgrade during the comment period,
24 issue a written determination in accordance
25 with paragraph (5).

1 “(5) WRITTEN DETERMINATION.—If an entity
2 contests whether the proposed license amendment is
3 for a qualifying project upgrade during the comment
4 period under paragraph (4), the Commission shall,
5 not later than 30 days after the date of publication
6 of the public notice of the initial determination
7 under paragraph (3), issue a written determination
8 as to whether the proposed license amendment is for
9 a qualifying project upgrade.

10 “(6) PUBLIC COMMENT ON AMENDMENT APPLI-
11 CATION.—If no entity contests whether the proposed
12 license amendment is for a qualifying project up-
13 grade during the comment period under paragraph
14 (4) or the Commission issues a written determina-
15 tion under paragraph (5) that a proposed license
16 amendment is a qualifying project upgrade, the
17 Commission shall—

18 “(A) during the 60-day period beginning
19 on the date of publication of a notice under
20 paragraph (4)(A) or the date on which the
21 Commission issues the written determination
22 under paragraph (5), as applicable, solicit com-
23 ments from each Federal, State, and local gov-
24 ernment agency and Indian tribe considering an
25 aspect of an application for Federal authoriza-

1 tion (as defined in section 34) with respect to
2 the proposed license amendment, as well as
3 other interested agencies, Indian tribes, and
4 members of the public; and

5 “(B) during the 90-day period beginning
6 on the date of publication of a notice under
7 paragraph (4)(A) or the date on which the
8 Commission issues the written determination
9 under paragraph (5), as applicable, consult
10 with—

11 “(i) appropriate Federal agencies and
12 the State agency exercising administrative
13 control over the fish and wildlife resources,
14 and water quality and supply, of the State
15 in which the qualifying project upgrade is
16 located;

17 “(ii) any Federal department super-
18 vising any public lands or reservations oc-
19 cupied by the qualifying project upgrade;
20 and

21 “(iii) any Indian tribe affected by the
22 qualifying project upgrade.

23 “(7) FEDERAL AUTHORIZATIONS.—The sched-
24 ule established by the Commission under section 34
25 for any project upgrade under this subsection shall

1 require final disposition on all necessary Federal au-
2 thorizations (as defined in section 34), other than
3 final action by the Commission, by not later than
4 120 days after the date on which the Commission
5 issues a notice under paragraph (4)(A) or a written
6 determination under paragraph (5), as applicable.

7 “(8) COMMISSION ACTION.—Not later than 150
8 days after the date on which the Commission issues
9 a notice under paragraph (4)(A) or a written deter-
10 mination under paragraph (5), as applicable, the
11 Commission shall take final action on the license
12 amendment application.

13 “(9) LICENSE AMENDMENT CONDITIONS.—Any
14 condition included in or applicable to a license
15 amendment approved under this subsection, includ-
16 ing any condition or other requirement of a Federal
17 authorization, shall be limited to those that are—

18 “(A) necessary to protect public safety; or

19 “(B) reasonable, economically feasible, and
20 essential to prevent loss of or damage to, or to
21 mitigate adverse effects on, fish and wildlife re-
22 sources, water supply, and water quality that
23 are directly caused by the construction and op-
24 eration of the qualifying project upgrade, as
25 compared to the environmental baseline existing

1 at the time the Commission approves the appli-
2 cation for the license amendment.

3 “(10) PROPOSED LICENSE AMENDMENTS THAT
4 ARE NOT QUALIFYING PROJECT UPGRADES.—If the
5 Commission determines under paragraph (3) or (5)
6 that a proposed license amendment is not for a
7 qualifying project upgrade, the procedures under
8 paragraphs (6) through (9) shall not apply to the
9 application.

10 “(11) RULEMAKING.—Not later than 180 days
11 after the date of enactment of this section, the Com-
12 mission shall, after notice and opportunity for public
13 comment, issue a rule to implement this subsection.

14 “(12) DEFINITIONS.—For purposes of this sub-
15 section:

16 “(A) QUALIFYING PROJECT UPGRADE.—
17 The term ‘qualifying project upgrade’ means a
18 change to a project licensed under this part
19 that meets the qualifying criteria, as deter-
20 mined by the Commission.

21 “(B) QUALIFYING CRITERIA.—The term
22 ‘qualifying criteria’ means, with respect to a
23 project license under this part, a change to the
24 project that—

1 “(i) if carried out, would be unlikely
2 to adversely affect any species listed as
3 threatened or endangered under the En-
4 dangered Species Act of 1973 or result in
5 the destruction or adverse modification of
6 critical habitat, as determined in consulta-
7 tion with the Secretary of the Interior or
8 Secretary of Commerce, as appropriate, in
9 accordance with section 7 of the Endan-
10 gered Species Act of 1973;

11 “(ii) is consistent with any applicable
12 comprehensive plan under section 10(a)(2);

13 “(iii) includes only changes to project
14 lands, waters, or operations that, in the
15 judgment of the Commission, would result
16 in only insignificant or minimal cumulative
17 adverse environmental effects;

18 “(iv) would be unlikely to adversely
19 affect water quality and water supply; and

20 “(v) proposes to implement—

21 “(I) capacity increases, efficiency
22 improvements, or other enhancements
23 to hydropower generation at the li-
24 censed project;

1 “(II) environmental protection,
2 mitigation, or enhancement measures
3 to benefit fish and wildlife resources
4 or other natural and cultural re-
5 sources; or

6 “(III) improvements to public
7 recreation at the licensed project.

8 “(b) AMENDMENT APPROVAL PROCESSES.—

9 “(1) RULE.—Not later than 1 year after the
10 date of enactment of this section, the Commission
11 shall, after notice and opportunity for public com-
12 ment, issue a rule establishing new standards and
13 procedures for license amendment applications under
14 this part. In issuing such rule, the Commission shall
15 seek to develop the most efficient and expedient
16 process, consultation, and review requirements, com-
17 mensurate with the scope of different categories of
18 proposed license amendments. Such rule shall ac-
19 count for differences in environmental effects across
20 a wide range of categories of license amendment ap-
21 plications.

22 “(2) CAPACITY.—In issuing a rule under this
23 subsection, the Commission shall take into consider-
24 ation that a change in generating or hydraulic ca-
25 pacity may indicate the potential environmental ef-

1 fects of a proposed amendment but is not determina-
2 tive of such effects.

3 “(3) PROCESS OPTIONS.—In issuing a rule
4 under this subsection, the Commission shall take
5 into consideration the range of process options avail-
6 able under the Commission’s regulations for new
7 and original license applications and adapt such op-
8 tions to amendment applications, where appro-
9 priate.”.

10 **SEC. 1208. PROMOTING HYDROPOWER DEVELOPMENT AT**
11 **EXISTING NONPOWERED DAMS.**

12 Part I of the Federal Power Act (16 U.S.C. 792 et
13 seq.), as amended by section 1207, is further amended by
14 adding at the end the following:

15 **“SEC. 38. PROMOTING HYDROPOWER DEVELOPMENT AT**
16 **EXISTING NONPOWERED DAMS.**

17 “(a) EXEMPTIONS FOR QUALIFYING FACILITIES.—

18 “(1) EXEMPTION QUALIFICATIONS.—Subject to
19 the requirements of this subsection, the Commission
20 may grant an exemption in whole or in part from
21 the requirements of this part, including any license
22 requirements contained in this part, to any facility
23 the Commission determines is a qualifying facility.

1 “(2) CONSULTATION WITH FEDERAL AND
2 STATE AGENCIES.—In granting any exemption under
3 this subsection, the Commission shall consult with—

4 “(A) the United States Fish and Wildlife
5 Service, the National Marine Fisheries Service,
6 and the State agency exercising administrative
7 control over the fish and wildlife resources of
8 the State in which the facility will be located,
9 in the manner provided by the Fish and Wild-
10 life Coordination Act;

11 “(B) any Federal department supervising
12 any public lands or reservations occupied by the
13 project; and

14 “(C) any Indian tribe affected by the
15 project.

16 “(3) EXEMPTION CONDITIONS.—

17 “(A) IN GENERAL.—The Commission shall
18 include in any exemption granted under this
19 subsection only such terms and conditions that
20 the Commission determines are—

21 “(i) necessary to protect public safety;

22 or

23 “(ii) reasonable, economically feasible,
24 and essential to prevent loss of or damage
25 to, or to mitigate adverse effects on, fish

1 and wildlife resources directly caused by
2 the construction and operation of the
3 qualifying facility, as compared to the envi-
4 ronmental baseline existing at the time the
5 Commission grants the exemption.

6 “(B) NO CHANGES TO RELEASE RE-
7 GIME.—No Federal authorization required with
8 respect to a qualifying facility described in
9 paragraph (1), including an exemption granted
10 by the Commission under this subsection, may
11 include any condition or other requirement that
12 results in any material change to the storage,
13 control, withdrawal, diversion, release, or flow
14 operations of the associated qualifying nonpow-
15 ered dam.

16 “(4) ENVIRONMENTAL REVIEW.—The Commis-
17 sion’s environmental review under the National En-
18 vironmental Policy Act of 1969 of a proposed ex-
19 emption under this subsection shall consist only of
20 an environmental assessment, unless the Commis-
21 sion determines, by rule or order, that the Commis-
22 sion’s obligations under such Act for granting ex-
23 emptions under this subsection can be met through
24 a categorical exclusion.

1 “(5) VIOLATION OF TERMS OF EXEMPTION.—

2 Any violation of a term or condition of any exemp-
3 tion granted under this subsection shall be treated
4 as a violation of a rule or order of the Commission
5 under this Act.

6 “(6) ANNUAL CHARGES FOR ENHANCEMENT

7 ACTIVITIES.—Exemptees under this subsection for
8 any facility located at a non-Federal dam shall pay
9 to the United States reasonable annual charges in
10 an amount to be fixed by the Commission for the
11 purpose of funding environmental enhancement
12 projects in watersheds in which facilities exempted
13 under this subsection are located. Such annual
14 charges shall be equivalent to the annual charges for
15 use of a Government dam under section 10(e), un-
16 less the Commission determines, by rule, that a
17 lower charge is appropriate to protect exemptees’ in-
18 vestment in the project or avoid increasing the price
19 to consumers of power due to such charges. The pro-
20 ceeds of charges made by the Commission under this
21 paragraph shall be paid into the Treasury of the
22 United States and credited to miscellaneous receipts.
23 Subject to annual appropriation Acts, such proceeds
24 shall be available to Federal and State fish and wild-
25 life agencies for purposes of carrying out specific en-

1 vironmental enhancement projects in watersheds in
2 which one or more facilities exempted under this
3 subsection are located. Not later than 180 days after
4 the date of enactment of this section, the Commis-
5 sion shall establish rules, after notice and oppor-
6 tunity for public comment, for the collection and ad-
7 ministration of annual charges under this para-
8 graph.

9 “(7) EFFECT OF JURISDICTION.—The jurisdic-
10 tion of the Commission over any qualifying facility
11 exempted under this subsection shall extend only to
12 the qualifying facility exempted and any associated
13 primary transmission line, and shall not extend to
14 any conduit, dam, impoundment, shoreline or other
15 land, or any other project work associated with the
16 qualifying facility exempted under this subsection.

17 “(b) DEFINITIONS.—For purposes of this section—

18 “(1) FEDERAL AUTHORIZATION.—The term
19 ‘Federal authorization’ has the same meaning as
20 provided in section 34.

21 “(2) QUALIFYING CRITERIA.—The term ‘quali-
22 fying criteria’ means, with respect to a facility—

23 “(A) as of the date of enactment of this
24 section, the facility is not licensed under, or ex-

1 empted from the license requirements contained
2 in, this part;

3 “(B) the facility will be associated with a
4 qualifying nonpowered dam;

5 “(C) the facility will be constructed, oper-
6 ated, and maintained for the generation of elec-
7 tric power;

8 “(D) the facility will use for such genera-
9 tion any withdrawals, diversions, releases, or
10 flows from the associated qualifying nonpow-
11 ered dam, including its associated impoundment
12 or other infrastructure; and

13 “(E) the operation of the facility will not
14 result in any material change to the storage,
15 control, withdrawal, diversion, release, or flow
16 operations of the associated qualifying nonpow-
17 ered dam.

18 “(3) QUALIFYING FACILITY.—The term ‘quali-
19 fying facility’ means a facility that is determined
20 under this section to meet the qualifying criteria.

21 “(4) QUALIFYING NONPOWERED DAM.—The
22 term ‘qualifying nonpowered dam’ means any dam,
23 dike, embankment, or other barrier—

1 “(A) the construction of which was com-
2 pleted on or before the date of enactment of
3 this section;

4 “(B) that is operated for the control, re-
5 lease, or distribution of water for agricultural,
6 municipal, navigational, industrial, commercial,
7 environmental, recreational, aesthetic, or flood
8 control purposes;

9 “(C) that, as of the date of enactment of
10 this section, is not equipped with hydropower
11 generating works that are licensed under, or ex-
12 empted from the license requirements contained
13 in, this part; and

14 “(D) that, in the case of a non-Federal
15 dam, has been certified by an independent con-
16 sultant approved by the Commission as com-
17 plying with the Commission’s dam safety re-
18 quirements.”.

19 **TITLE II—ENERGY SECURITY**
20 **AND DIPLOMACY**

21 **SEC. 2001. SENSE OF CONGRESS.**

22 Congress finds the following:

23 (1) North America’s energy revolution has sig-
24 nificantly enhanced energy security in the United

1 States, and fundamentally changed the Nation's en-
2 ergy future from that of scarcity to abundance.

3 (2) North America's energy abundance has in-
4 creased global energy supplies and reduced the price
5 of energy for consumers in the United States and
6 abroad.

7 (3) Allies and trading partners of the United
8 States, including in Europe and Asia, are seeking
9 stable and affordable energy supplies from North
10 America to enhance their energy security.

11 (4) The United States has an opportunity to
12 improve its energy security and promote greater sta-
13 bility and affordability of energy supplies for its al-
14 lies and trading partners through a more integrated,
15 secure, and competitive North American energy sys-
16 tem.

17 (5) The United States also has an opportunity
18 to promote such objectives by supporting the free
19 flow of energy commodities and more open, trans-
20 parent, and competitive global energy markets, and
21 through greater Federal agency coordination relating
22 to regulations or agency actions that significantly af-
23 fect the supply, distribution, or use of energy.

1 **SEC. 2002. ENERGY SECURITY VALUATION.**

2 (a) ESTABLISHMENT OF ENERGY SECURITY VALU-
3 ATION METHODS.—Not later than 1 year after the date
4 of enactment of this Act, the Secretary of Energy, in col-
5 laboration with the Secretary of State, shall develop and
6 transmit, after public notice and comment, to the Com-
7 mittee on Energy and Commerce, the Committee on
8 Science, Space, and Technology, and the Committee on
9 Foreign Affairs of the House of Representatives and the
10 Committee on Energy and Natural Resources, the Com-
11 mittee on Commerce, Science, and Transportation, and
12 the Committee on Foreign Relations of the Senate a re-
13 port that develops recommended United States energy se-
14 curity valuation methods. In developing the report, the
15 Secretaries may consider the recommendations of the Ad-
16 ministration’s Quadrennial Energy Review released on
17 April 21, 2015. The report shall—

18 (1) evaluate and define United States energy
19 security to reflect modern domestic and global en-
20 ergy markets and the collective needs of the United
21 States and its allies and partners;

22 (2) identify transparent and uniform or coordi-
23 nated procedures and criteria to ensure that energy-
24 related actions that significantly affect the supply,
25 distribution, transportation, or use of energy are

1 evaluated with respect to their potential impact on
2 energy security, including their impact on—

3 (A) consumers and the economy;

4 (B) energy supply diversity and resiliency;

5 (C) well-functioning and competitive en-
6 ergy markets;

7 (D) United States trade balance; and

8 (E) national security objectives; and

9 (3) include a recommended implementation
10 strategy that identifies and aims to ensure that the
11 procedures and criteria referred to in paragraph (2)
12 are—

13 (A) evaluated consistently across the Fed-
14 eral Government; and

15 (B) weighed appropriately and balanced
16 with environmental considerations required by
17 Federal law.

18 (b) PARTICIPATION.—In developing the report re-
19 ferred to in subsection (a), the Secretaries may consult
20 with relevant Federal, State, private sector, and inter-
21 national participants, as appropriate and consistent with
22 applicable law.

23 **SEC. 2003. NORTH AMERICAN ENERGY SECURITY PLAN.**

24 (a) REQUIREMENT.—Not later than 1 year after the
25 date of enactment of this Act, the Secretary of Energy,

1 in collaboration with the Secretary of State, shall develop
2 and transmit to the Committee on Energy and Commerce
3 and the Committee on Foreign Affairs of the House of
4 Representatives and the Committee on Energy and Nat-
5 ural Resources and the Committee on Foreign Relations
6 of the Senate the plan described in subsection (b).

7 (b) PURPOSE.—The plan referred to in subsection (a)
8 shall include—

9 (1) a recommended framework and implementa-
10 tion strategy to—

11 (A) improve planning and coordination
12 with Canada and Mexico to enhance energy in-
13 tegration, strengthen North American energy
14 security, and promote efficiencies in the explo-
15 ration, production, storage, supply, distribution,
16 marketing, pricing, and regulation of North
17 American energy resources; and

18 (B) address—

19 (i) North American energy public
20 data, statistics, and mapping collaboration;

21 (ii) responsible and sustainable best
22 practices for the development of unconven-
23 tional oil and natural gas; and

24 (iii) modern, resilient energy infra-
25 structure for North America, including

1 physical infrastructure as well as institu-
2 tional infrastructure such as policies, regu-
3 lations, and practices relating to energy de-
4 velopment; and

5 (2) a recommended framework and implementa-
6 tion strategy to improve collaboration with Carib-
7 bean and Central American partners on energy secu-
8 rity, including actions to support—

9 (A) more open, transparent, and competi-
10 tive energy markets;

11 (B) regulatory capacity building;

12 (C) improvements to energy transmission
13 and storage; and

14 (D) improvements to the performance of
15 energy infrastructure and efficiency.

16 (c) PARTICIPATION.—In developing the plan referred
17 to in subsection (a), the Secretaries may consult with
18 other Federal, State, private sector, and international par-
19 ticipants, as appropriate and consistent with applicable
20 law.

21 **SEC. 2004. COLLECTIVE ENERGY SECURITY.**

22 (a) IN GENERAL.—The Secretary of Energy and the
23 Secretary of State shall collaborate to strengthen domestic
24 energy security and the energy security of the allies and

1 trading partners of the United States, including through
2 actions that support or facilitate—

3 (1) energy diplomacy;

4 (2) the delivery of United States assistance, in-
5 cluding energy resources and technologies, to pre-
6 vent or mitigate an energy security crisis;

7 (3) the development of environmentally and
8 commercially sustainable energy resources;

9 (4) open, transparent, and competitive energy
10 markets; and

11 (5) regulatory capacity building.

12 (b) ENERGY SECURITY FORUMS.—Not later than 1
13 year after the date of enactment of this Act, the Secretary
14 of Energy, in collaboration with the Secretary of State,
15 shall convene not less than 2 forums to promote the collec-
16 tive energy security of the United States and its allies and
17 trading partners. The forums shall include participation
18 by the Secretary of Energy and the Secretary of State.

19 In addition, an invitation shall be extended to—

20 (1) appropriate representatives of foreign gov-
21 ernments that are allies or trading partners of the
22 United States; and

23 (2) independent experts and industry represent-
24 atives.

25 (c) REQUIREMENTS.—The forums shall—

1 (1) consist of at least 1 Trans-Atlantic and 1
2 Trans-Pacific energy security forum;

3 (2) be designed to foster dialogue among gov-
4 ernment officials, independent experts, and industry
5 representatives regarding—

6 (A) the current state of global energy mar-
7 kets;

8 (B) trade and investment issues relevant to
9 energy; and

10 (C) barriers to more open, competitive, and
11 transparent energy markets; and

12 (3) be recorded and made publicly available on
13 the Department of Energy's website, including, not
14 later than 30 days after each forum, publication on
15 the website any significant outcomes.

16 (d) NOTIFICATION.—At least 30 days before each of
17 the forums referred to in subsection (b), the Secretary of
18 Energy shall send a notification regarding the forum to—

19 (1) the chair and the ranking minority member
20 of the Committee on Energy and Commerce and the
21 Committee on Foreign Affairs of the House of Rep-
22 resentatives; and

23 (2) the chair and ranking minority member of
24 the Committee on Energy and Natural Resources

1 and the Committee on Foreign Relations of the Sen-
2 ate.

3 **SEC. 2005. AUTHORIZATION TO EXPORT NATURAL GAS.**

4 (a) **DECISION DEADLINE.**—For proposals that must
5 also obtain authorization from the Federal Energy Regu-
6 latory Commission or the United States Maritime Admin-
7 istration to site, construct, expand, or operate LNG export
8 facilities, the Department of Energy shall issue a final de-
9 cision on any application for the authorization to export
10 natural gas under section 3 of the Natural Gas Act (15
11 U.S.C. 717b) not later than 30 days after the later of—

12 (1) the conclusion of the review to site, con-
13 struct, expand, or operate the LNG facilities re-
14 quired by the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.); or

16 (2) the date of enactment of this Act.

17 (b) **CONCLUSION OF REVIEW.**—For purposes of sub-
18 section (a), review required by the National Environ-
19 mental Policy Act of 1969 shall be considered concluded—

20 (1) for a project requiring an Environmental
21 Impact Statement, 30 days after publication of a
22 Final Environmental Impact Statement;

23 (2) for a project for which an Environmental
24 Assessment has been prepared, 30 days after publi-

1 cation by the Department of Energy of a Finding of
2 No Significant Impact; and

3 (3) upon a determination by the lead agency
4 that an application is eligible for a categorical exclu-
5 sion pursuant to National Environmental Policy Act
6 of 1969 implementing regulations.

7 (c) PUBLIC DISCLOSURE OF EXPORT DESTINA-
8 TIONS.—Section 3 of the Natural Gas Act (15 U.S.C.
9 717b) is amended by adding at the end the following:

10 “(g) PUBLIC DISCLOSURE OF LNG EXPORT DES-
11 TINATIONS.—As a condition for approval of any authoriza-
12 tion to export LNG, the Secretary of Energy shall require
13 the applicant to publicly disclose the specific destination
14 or destinations of any such authorized LNG exports.”.

15 **SEC. 2006. ENVIRONMENTAL REVIEW FOR ENERGY EXPORT**
16 **FACILITIES.**

17 Notwithstanding any other provision of law, including
18 any other provision of this Act and any amendment made
19 by this Act, to the extent that the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies to
21 the issuance of a permit for the construction, operation,
22 or maintenance of a facility for the export of bulk com-
23 modities, no such permit may be denied until each applica-
24 ble Federal agency has completed all reviews required for
25 the facility under such Act.

1 **SEC. 2007. AUTHORIZATION OF CROSS-BORDER INFRA-**
2 **STRUCTURE PROJECTS.**

3 (a) FINDING.—Congress finds that the United States
4 should establish a more uniform, transparent, and modern
5 process for the construction, connection, operation, and
6 maintenance of pipelines and electric transmission facili-
7 ties for the import and export of liquid products, including
8 water and petroleum, and natural gas and the trans-
9 mission of electricity to and from Canada and Mexico.

10 (b) AUTHORIZATION OF CERTAIN INFRASTRUCTURE
11 PROJECTS AT THE NATIONAL BOUNDARY OF THE
12 UNITED STATES.—

13 (1) REQUIREMENT.—No person may construct,
14 connect, operate, or maintain a cross-border segment
15 of a pipeline or electric transmission facility for the
16 import or export of liquid products or natural gas,
17 or the transmission of electricity, to or from Canada
18 or Mexico without obtaining a certificate of crossing
19 for such construction, connection, operation, or
20 maintenance under this subsection.

21 (2) CERTIFICATE OF CROSSING.—

22 (A) ISSUANCE.—

23 (i) IN GENERAL.—Not later than 120
24 days after final action is taken under the
25 National Environmental Policy Act of
26 1969 (42 U.S.C. 4321 et seq.) with respect

1 to a cross-border segment described in
2 paragraph (1), the relevant official identi-
3 fied under subparagraph (B), in consulta-
4 tion with appropriate Federal agencies,
5 shall issue a certificate of crossing for the
6 cross-border segment unless the relevant
7 official finds that the construction, connec-
8 tion, operation, or maintenance of the
9 cross-border segment is not in the public
10 interest of the United States.

11 (ii) NATURAL GAS.—For the purposes
12 of natural gas pipelines, a finding with re-
13 spect to the public interest under section
14 3(a) of the Natural Gas Act (15 U.S.C.
15 717b(a)) shall serve as a finding under
16 clause (i) of this subparagraph.

17 (B) RELEVANT OFFICIAL.—The relevant
18 official referred to in subparagraph (A) is—

19 (i) the Secretary of State with respect
20 to liquid pipelines;

21 (ii) the Federal Energy Regulatory
22 Commission with respect to natural gas
23 pipelines; and

24 (iii) the Secretary of Energy with re-
25 spect to electric transmission facilities.

1 (C) ADDITIONAL REQUIREMENT FOR
2 ELECTRIC TRANSMISSION FACILITIES.—The
3 Secretary of Energy shall require, as a condi-
4 tion of issuing a certificate of crossing for an
5 electric transmission facility, that the cross-bor-
6 der segment be constructed, connected, oper-
7 ated, or maintained consistent with all applica-
8 ble policies and standards of—

9 (i) the Electric Reliability Organiza-
10 tion and the applicable regional entity; and

11 (ii) any Regional Transmission Orga-
12 nization or Independent System Operator
13 with operational or functional control over
14 the cross-border segment of the electric
15 transmission facility.

16 (3) MODIFICATIONS TO EXISTING PROJECTS.—
17 No certificate of crossing shall be required under
18 this subsection for a change in ownership, volume
19 expansion, downstream or upstream interconnection,
20 or adjustment to maintain flow (such as a reduction
21 or increase in the number of pump or compressor
22 stations) with respect to a liquid or natural gas pipe-
23 line or electric transmission facility unless such
24 modification would result in a significant impact at
25 the national boundary.

1 (4) EFFECT OF OTHER LAWS.—Nothing in this
2 subsection shall affect the application of any other
3 Federal statute (including the Natural Gas Act and
4 the Energy Policy and Conservation Act) to a
5 project for which a certificate of crossing is sought
6 under this subsection.

7 (c) IMPORTATION OR EXPORTATION OF NATURAL
8 GAS TO CANADA AND MEXICO.—Section 3(c) of the Nat-
9 ural Gas Act (15 U.S.C. 717b(c)) is amended by adding
10 at the end the following: “In the case of an application
11 for the importation or exportation of natural gas to or
12 from Canada or Mexico, the Commission shall grant the
13 application not later than 30 days after the date of receipt
14 of the complete application.”.

15 (d) TRANSMISSION OF ELECTRIC ENERGY TO CAN-
16 ADA AND MEXICO.—

17 (1) REPEAL OF REQUIREMENT TO SECURE
18 ORDER.—Section 202(e) of the Federal Power Act
19 (16 U.S.C. 824a(e)) is repealed.

20 (2) CONFORMING AMENDMENTS.—

21 (A) STATE REGULATIONS.—Section 202(f)
22 of the Federal Power Act (16 U.S.C. 824a(f))
23 is amended by striking “insofar as such State
24 regulation does not conflict with the exercise of

1 the Commission’s powers under or relating to
2 subsection 202(e)”.

3 (B) SEASONAL DIVERSITY ELECTRICITY
4 EXCHANGE.—Section 602(b) of the Public Util-
5 ity Regulatory Policies Act of 1978 (16 U.S.C.
6 824a–4(b)) is amended by striking “the Com-
7 mission has conducted hearings and made the
8 findings required under section 202(e) of the
9 Federal Power Act” and all that follows
10 through the period at the end and inserting
11 “the Secretary has conducted hearings and
12 finds that the proposed transmission facilities
13 would not impair the sufficiency of electric sup-
14 ply within the United States or would not im-
15 pede or tend to impede the coordination in the
16 public interest of facilities subject to the juris-
17 diction of the Secretary”.

18 (e) EFFECTIVE DATE; RULEMAKING DEADLINES.—

19 (1) EFFECTIVE DATE.—Subsections (b)
20 through (d), and the amendments made by such
21 subsections, shall take effect on January 20, 2017.

22 (2) RULEMAKING DEADLINES.—Each relevant
23 official described in subsection (b)(2)(B) shall—

24 (A) not later than 180 days after the date
25 of enactment of this Act, publish in the Federal

1 Register notice of a proposed rulemaking to
2 carry out the applicable requirements of sub-
3 section (b); and

4 (B) not later than 1 year after the date of
5 enactment of this Act, publish in the Federal
6 Register a final rule to carry out the applicable
7 requirements of subsection (b).

8 (f) DEFINITIONS.—In this section—

9 (1) the term “cross-border segment” means the
10 portion of a liquid or natural gas pipeline or electric
11 transmission facility that is located at the national
12 boundary of the United States with either Canada or
13 Mexico;

14 (2) the terms “Electric Reliability Organiza-
15 tion” and “regional entity” have the meanings given
16 those terms in section 215 of the Federal Power Act
17 (16 U.S.C. 824o);

18 (3) the terms “Independent System Operator”
19 and “Regional Transmission Organization” have the
20 meanings given those terms in section 3 of the Fed-
21 eral Power Act (16 U.S.C. 796);

22 (4) the term “liquid” includes water, petroleum,
23 petroleum product, and any other substance that
24 flows through a pipeline other than natural gas; and

1 (5) the term “natural gas” has the meaning
2 given that term in section 2 of the Natural Gas Act
3 (15 U.S.C. 717a).

4 **SEC. 2008. REPORT ON SMART METER SECURITY CON-**
5 **CERNS.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Secretary of Energy shall transmit to Con-
8 gress a report on the weaknesses in currently available
9 smart meters’ security architecture and features, including
10 an absence of event logging, as described in the Govern-
11 ment Accountability Office testimony entitled “Critical In-
12 frastructure Protection: Cybersecurity of the Nation’s
13 Electricity Grid Requires Continued Attention” on Octo-
14 ber 21, 2015.

15 **TITLE III—ENERGY EFFICIENCY**
16 **AND ACCOUNTABILITY**

17 **Subtitle A—Energy Efficiency**

18 **CHAPTER 1—FEDERAL AGENCY ENERGY**

19 **EFFICIENCY**

20 **SEC. 3111. ENERGY-EFFICIENT AND ENERGY-SAVING IN-**
21 **FORMATION TECHNOLOGIES.**

22 (a) AMENDMENT.—Subtitle C of title V of the En-
23 ergy Independence and Security Act of 2007 (Public Law
24 110–140; 121 Stat. 1661) is amended by adding at the
25 end the following:

1 **“SEC. 530. ENERGY-EFFICIENT AND ENERGY-SAVING INFOR-**
2 **MATION TECHNOLOGIES.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) DIRECTOR.—The term ‘Director’ means
5 the Director of the Office of Management and Budg-
6 et.

7 “(2) INFORMATION TECHNOLOGY.—The term
8 ‘information technology’ has the meaning given that
9 term in section 11101 of title 40, United States
10 Code.

11 “(b) DEVELOPMENT OF IMPLEMENTATION STRAT-
12 EGY.—Not later than 1 year after the date of enactment
13 of this section, each Federal agency shall coordinate with
14 the Director, the Secretary, and the Administrator of the
15 Environmental Protection Agency to develop an implemen-
16 tation strategy (that includes best practices and measure-
17 ment and verification techniques) for the maintenance,
18 purchase, and use by the Federal agency of energy-effi-
19 cient and energy-saving information technologies, taking
20 into consideration the performance goals established under
21 subsection (d).

22 “(c) ADMINISTRATION.—In developing an implemen-
23 tation strategy under subsection (b), each Federal agency
24 shall consider—

25 “(1) advanced metering infrastructure;

1 “(2) energy-efficient data center strategies and
2 methods of increasing asset and infrastructure utili-
3 zation;

4 “(3) advanced power management tools;

5 “(4) building information modeling, including
6 building energy management;

7 “(5) secure telework and travel substitution
8 tools; and

9 “(6) mechanisms to ensure that the agency re-
10 realizes the energy cost savings brought about through
11 increased efficiency and utilization.

12 “(d) PERFORMANCE GOALS.—

13 “(1) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this section, the Di-
15 rector, in consultation with the Secretary, shall es-
16 tablish performance goals for evaluating the efforts
17 of Federal agencies in improving the maintenance,
18 purchase, and use of energy-efficient and energy-sav-
19 ing information technology.

20 “(2) BEST PRACTICES.—The Chief Information
21 Officers Council established under section 3603 of
22 title 44, United States Code, shall recommend best
23 practices for the attainment of the performance
24 goals, which shall include Federal agency consider-

1 ation of, to the extent applicable by law, the use
2 of—

3 “(A) energy savings performance con-
4 tracting; and

5 “(B) utility energy services contracting.

6 “(e) REPORTS.—

7 “(1) AGENCY REPORTS.—Each Federal agency
8 shall include in the report of the agency under sec-
9 tion 527 a description of the efforts and results of
10 the agency under this section.

11 “(2) OMB GOVERNMENT EFFICIENCY REPORTS
12 AND SCORECARDS.—Effective beginning not later
13 than October 1, 2017, the Director shall include in
14 the annual report and scorecard of the Director re-
15 quired under section 528 a description of the efforts
16 and results of Federal agencies under this section.”.

17 (b) CONFORMING AMENDMENT.—The table of con-
18 tents for the Energy Independence and Security Act of
19 2007 is amended by adding after the item relating to sec-
20 tion 529 the following:

 “Sec. 530. Energy-efficient and energy-saving information technologies.”.

21 **SEC. 3112. ENERGY EFFICIENT DATA CENTERS.**

22 Section 453 of the Energy Independence and Security
23 Act of 2007 (42 U.S.C. 17112) is amended—

1 (1) in subsection (b)(2)(D)(iv), by striking “de-
2 termined by the organization” and inserting “pro-
3 posed by the stakeholders”;

4 (2) by striking subsection (b)(3); and

5 (3) by striking subsections (e) through (g) and
6 inserting the following:

7 “(c) **STAKEHOLDER INVOLVEMENT.**—The Secretary
8 and the Administrator shall carry out subsection (b) in
9 collaboration with the information technology industry and
10 other key stakeholders, with the goal of producing results
11 that accurately reflect the most relevant and useful infor-
12 mation available. In such collaboration, the Secretary and
13 the Administrator shall pay particular attention to organi-
14 zations that—

15 “(1) have members with expertise in energy ef-
16 ficiency and in the development, operation, and
17 functionality of data centers, information technology
18 equipment, and software, such as representatives of
19 hardware manufacturers, data center operators, and
20 facility managers;

21 “(2) obtain and address input from Department
22 of Energy National Laboratories or any college, uni-
23 versity, research institution, industry association,
24 company, or public interest group with applicable ex-
25 pertise;

1 “(3) follow—

2 “(A) commonly accepted procedures for
3 the development of specifications; and

4 “(B) accredited standards development
5 processes; and

6 “(4) have a mission to promote energy effi-
7 ciency for data centers and information technology.

8 “(d) MEASUREMENTS AND SPECIFICATIONS.—The
9 Secretary and the Administrator shall consider and assess
10 the adequacy of the specifications, measurements, best
11 practices, and benchmarks described in subsection (b) for
12 use by the Federal Energy Management Program, the En-
13 ergy Star Program, and other efficiency programs of the
14 Department of Energy or the Environmental Protection
15 Agency.

16 “(e) STUDY.—The Secretary, in collaboration with
17 the Administrator, shall, not later than 18 months after
18 the date of enactment of the North American Energy Se-
19 curity and Infrastructure Act of 2016, make available to
20 the public an update to the Report to Congress on Server
21 and Data Center Energy Efficiency published on August
22 2, 2007, under section 1 of Public Law 109–431 (120
23 Stat. 2920), that provides—

24 “(1) a comparison and gap analysis of the esti-
25 mates and projections contained in the original re-

1 port with new data regarding the period from 2008
2 through 2015;

3 “(2) an analysis considering the impact of in-
4 formation technologies, including virtualization and
5 cloud computing, in the public and private sectors;

6 “(3) an evaluation of the impact of the com-
7 bination of cloud platforms, mobile devices, social
8 media, and big data on data center energy usage;

9 “(4) an evaluation of water usage in data cen-
10 ters and recommendations for reductions in such
11 water usage; and

12 “(5) updated projections and recommendations
13 for best practices through fiscal year 2020.

14 “(f) DATA CENTER ENERGY PRACTITIONER PRO-
15 GRAM.—The Secretary, in collaboration with key stake-
16 holders and the Director of the Office of Management and
17 Budget, shall maintain a data center energy practitioner
18 program that leads to the certification of energy practi-
19 tioners qualified to evaluate the energy usage and effi-
20 ciency opportunities in Federal data centers. Each Federal
21 agency shall consider having the data centers of the agen-
22 cy evaluated every 4 years, in accordance with section
23 543(f) of the National Energy Conservation Policy Act (42
24 U.S.C. 8253), by energy practitioners certified pursuant
25 to such program.

1 “(g) OPEN DATA INITIATIVE.—The Secretary, in col-
2 laboration with key stakeholders and the Director of the
3 Office of Management and Budget, shall establish an open
4 data initiative for Federal data center energy usage data,
5 with the purpose of making such data available and acces-
6 sible in a manner that encourages further data center in-
7 novation, optimization, and consolidation. In establishing
8 the initiative, the Secretary shall consider the use of the
9 online Data Center Maturity Model.

10 “(h) INTERNATIONAL SPECIFICATIONS AND
11 METRICS.—The Secretary, in collaboration with key
12 stakeholders, shall actively participate in efforts to har-
13 monize global specifications and metrics for data center
14 energy and water efficiency.

15 “(i) DATA CENTER UTILIZATION METRIC.—The Sec-
16 retary, in collaboration with key stakeholders, shall facili-
17 tate the development of an efficiency metric that measures
18 the energy efficiency of a data center (including equipment
19 and facilities).

20 “(j) PROTECTION OF PROPRIETARY INFORMATION.—
21 The Secretary and the Administrator shall not disclose
22 any proprietary information or trade secrets provided by
23 any individual or company for the purposes of carrying
24 out this section or the programs and initiatives established
25 under this section.”.

1 **SEC. 3113. REPORT ON ENERGY AND WATER SAVINGS PO-**
2 **TENTIAL FROM THERMAL INSULATION.**

3 (a) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Secretary of Energy, in con-
5 sultation with appropriate Federal agencies and relevant
6 stakeholders, shall submit to the Committee on Energy
7 and Natural Resources of the Senate and the Committee
8 on Energy and Commerce of the House of Representatives
9 a report on the impact of thermal insulation on both en-
10 ergy and water use systems for potable hot and chilled
11 water in Federal buildings, and the return on investment
12 of installing such insulation.

13 (b) CONTENTS.—The report shall include—

14 (1) an analysis based on the cost of municipal
15 or regional water for delivered water and the avoided
16 cost of new water; and

17 (2) a summary of energy and water savings, in-
18 cluding short-term and long-term (20 years) projec-
19 tions of such savings.

20 **SEC. 3114. BATTERY STORAGE REPORT.**

21 Not later than 1 year after the date of enactment
22 of this Act, the Comptroller General shall transmit to Con-
23 gress a report on the potential of battery energy storage
24 that answers the following questions:

1 (1) How do existing Federal standards impact
2 the development and deployment of battery storage
3 systems?

4 (2) What are the benefits of using existing bat-
5 tery storage technology, and what challenges exist to
6 their widespread use? What are some examples of
7 existing battery storage projects providing these ben-
8 efits?

9 (3) What potential impact could large-scale bat-
10 tery storage and behind-the-meter battery storage
11 have on renewable energy utilization?

12 (4) What is the potential of battery technology
13 for grid-scale use nationwide? What is the potential
14 impact of battery technology on the national grid ca-
15 pabilities?

16 (5) How much economic activity associated with
17 large-scale and behind-the-meter battery storage
18 technology is located in the United States? How
19 many jobs do these industries account for?

20 (6) What policies other than the Renewable En-
21 ergy Investment Tax Credit have research and avail-
22 able data shown to promote renewable energy use
23 and storage technology deployment by State and
24 local governments or private end-users?

1 **SEC. 3115. FEDERAL PURCHASE REQUIREMENT.**

2 (a) DEFINITIONS.—Section 203(b) of the Energy
3 Policy Act of 2005 (42 U.S.C. 15852(b)) is amended by
4 striking paragraph (2) and inserting the following:

5 “(2) RENEWABLE ENERGY.—The term ‘renew-
6 able energy’ means electric energy, or thermal en-
7 ergy if resulting from a thermal energy project
8 placed in service after December 31, 2014, gen-
9 erated from, or avoided by, solar, wind, biomass,
10 landfill gas, ocean (including tidal, wave, current,
11 and thermal), geothermal, municipal solid waste (in
12 accordance with subsection (e)), qualified waste heat
13 resource, or new hydroelectric generation capacity
14 achieved from increased efficiency or additions of
15 new capacity at an existing hydroelectric project.

16 “(3) QUALIFIED WASTE HEAT RESOURCE.—The
17 term ‘qualified waste heat resource’ means—

18 “(A) exhaust heat or flared gas from any
19 industrial process;

20 “(B) waste gas or industrial tail gas that
21 would otherwise be flared, incinerated, or vent-
22 ed;

23 “(C) a pressure drop in any gas for an in-
24 dustrial or commercial process; or

25 “(D) such other forms of waste heat as the
26 Secretary determines appropriate.”.

1 (b) PAPER RECYCLING.—Section 203 of the Energy
2 Policy Act of 2005 (42 U.S.C. 15852) is amended by add-
3 ing at the end the following:

4 “(e) PAPER RECYCLING.—

5 “(1) SEPARATE COLLECTION.—For purposes of
6 this section, any Federal agency may consider elec-
7 tric energy generation purchased from a facility to
8 be renewable energy if the municipal solid waste
9 used by the facility to generate the electricity is—

10 “(A) separately collected (within the mean-
11 ing of section 246.101(z) of title 40, Code of
12 Federal Regulations, as in effect on the date of
13 enactment of the North American Energy Secu-
14 rity and Infrastructure Act of 2016) from
15 paper that is commonly recycled; and

16 “(B) processed in a way that keeps paper
17 that is commonly recycled segregated from non-
18 recyclable solid waste.

19 “(2) INCIDENTAL INCLUSION.—Municipal solid
20 waste used to generate electric energy that meets the
21 conditions described in paragraph (1) shall be con-
22 sidered renewable energy even if the municipal solid
23 waste contains incidental commonly recycled paper.

24 “(3) NO EFFECT ON EXISTING PROCESSES.—
25 Nothing in paragraph (1) shall be interpreted to re-

1 require a State or political subdivision of a State, di-
2 rectly or indirectly, to change the systems, processes,
3 or equipment it uses to collect, treat, dispose of, or
4 otherwise use municipal solid waste, within the
5 meaning of the Solid Waste Disposal Act (42 U.S.C.
6 6901 et seq.), nor require a change to the regula-
7 tions that implement subtitle D of such Act (42
8 U.S.C. 6941 et seq.).”.

9 **SEC. 3116. ENERGY PERFORMANCE REQUIREMENT FOR**
10 **FEDERAL BUILDINGS.**

11 Section 543 of the National Energy Conservation
12 Policy Act (42 U.S.C. 8253) is amended—

13 (1) by striking subsection (a) and inserting the
14 following:

15 “(a) ENERGY PERFORMANCE REQUIREMENT FOR
16 FEDERAL BUILDINGS.—

17 “(1) REQUIREMENT.—Subject to paragraph
18 (2), each agency shall apply energy conservation
19 measures to, and shall improve the design for the
20 construction of, the Federal buildings of the agency
21 (including each industrial or laboratory facility) so
22 that the energy consumption per gross square foot
23 of the Federal buildings of the agency in fiscal years
24 2006 through 2017 is reduced, as compared with the
25 energy consumption per gross square foot of the

1 Federal buildings of the agency in fiscal year 2003,
 2 by the percentage specified in the following table:

“Fiscal Year	Percentage Reduction
2006	2
2007	4
2008	9
2009	12
2010	15
2011	18
2012	21
2013	24
2014	27
2015	30
2016	33
2017	36.

3 “(2) EXCLUSION FOR BUILDINGS WITH ENERGY
 4 INTENSIVE ACTIVITIES.—

5 “(A) IN GENERAL.—An agency may ex-
 6 clude from the requirements of paragraph (1)
 7 any building (including the associated energy
 8 consumption and gross square footage) in which
 9 energy intensive activities are carried out.

10 “(B) REPORTS.—Each agency shall iden-
 11 tify and list in each report made under section
 12 548(a) the buildings designated by the agency
 13 for exclusion under subparagraph (A).

14 “(3) REVIEW.—Not later than December 31,
 15 2017, the Secretary shall—

16 “(A) review the results of the implementa-
 17 tion of the energy performance requirements es-
 18 tablished under paragraph (1); and

1 “(B) based on the review conducted under
2 subparagraph (A), submit to Congress a report
3 that addresses the feasibility of requiring each
4 agency to apply energy conservation measures
5 to, and improve the design for the construction
6 of, the Federal buildings of the agency (includ-
7 ing each industrial or laboratory facility) so
8 that the energy consumption per gross square
9 foot of the Federal buildings of the agency in
10 each of fiscal years 2018 through 2030 is re-
11 duced, as compared with the energy consump-
12 tion per gross square foot of the Federal build-
13 ings of the agency in the prior fiscal year, by
14 3 percent.”; and

15 (2) in subsection (f)—

16 (A) in paragraph (1)—

17 (i) by redesignating subparagraphs
18 (E), (F), and (G) as subparagraphs (F),
19 (G), and (H), respectively; and

20 (ii) by inserting after subparagraph
21 (D) the following:

22 “(E) ONGOING COMMISSIONING.—The
23 term ‘ongoing commissioning’ means an ongo-
24 ing process of commissioning using monitored
25 data, the primary goal of which is to ensure

1 continuous optimum performance of a facility,
2 in accordance with design or operating needs,
3 over the useful life of the facility, while meeting
4 facility occupancy requirements.”;

5 (B) in paragraph (2), by adding at the end
6 the following:

7 “(C) ENERGY MANAGEMENT SYSTEM.—An
8 energy manager designated under subparagraph
9 (A) shall consider use of a system to manage
10 energy use at the facility and certification of
11 the facility in accordance with the International
12 Organization for Standardization standard
13 numbered 50001 and entitled ‘Energy Manage-
14 ment Systems’.”;

15 (C) by striking paragraphs (3) and (4) and
16 inserting the following:

17 “(3) ENERGY AND WATER EVALUATIONS AND
18 COMMISSIONING.—

19 “(A) EVALUATIONS.—Except as provided
20 in subparagraph (B), effective beginning on the
21 date that is 180 days after the date of enact-
22 ment of the North American Energy Security
23 and Infrastructure Act of 2016, and annually
24 thereafter, each energy manager shall complete,
25 for each calendar year, a comprehensive energy

1 and water evaluation and recommissioning or
2 retrocommissioning for approximately 25 per-
3 cent of the facilities of that energy manager’s
4 agency that meet the criteria under paragraph
5 (2)(B) in a manner that ensures that an eval-
6 uation of each facility is completed at least once
7 every 4 years.

8 “(B) EXCEPTIONS.—An evaluation and re-
9 comissioning or recommissioning shall not be
10 required under subparagraph (A) with respect
11 to a facility that—

12 “(i) has had a comprehensive energy
13 and water evaluation during the 8-year pe-
14 riod preceding the date of the evaluation;

15 “(ii)(I) has been commissioned, re-
16 commissioned, or retrocommissioned dur-
17 ing the 10-year period preceding the date
18 of the evaluation; or

19 “(II) is under ongoing commissioning,
20 recommissioning, or retrocommissioning;

21 “(iii) has not had a major change in
22 function or use since the previous evalua-
23 tion and commissioning, recommissioning,
24 or retrocommissioning;

1 “(iv) has been benchmarked with pub-
2 lic disclosure under paragraph (8) within
3 the year preceding the evaluation; and

4 “(v)(I) based on the benchmarking,
5 has achieved at a facility level the most re-
6 cent cumulative energy savings target
7 under subsection (a) compared to the ear-
8 lier of—

9 “(aa) the date of the most recent
10 evaluation; or

11 “(bb) the date—

12 “(AA) of the most recent
13 commissioning, recommissioning,
14 or retrocommissioning; or

15 “(BB) on which ongoing
16 commissioning, recommissioning,
17 or retrocommissioning began; or

18 “(II) has a long-term contract in
19 place guaranteeing energy savings at least
20 as great as the energy savings target under
21 subclause (I).

22 “(4) IMPLEMENTATION OF IDENTIFIED ENERGY
23 AND WATER EFFICIENCY MEASURES.—

24 “(A) IN GENERAL.—Not later than 2 years
25 after the date of completion of each evaluation

1 under paragraph (3), each energy manager
2 may—

3 “(i) implement any energy- or water-
4 saving measure that the Federal agency
5 identified in the evaluation conducted
6 under paragraph (3) that is life-cycle cost
7 effective; and

8 “(ii) bundle individual measures of
9 varying paybacks together into combined
10 projects.

11 “(B) MEASURES NOT IMPLEMENTED.—
12 Each energy manager, as part of the certifi-
13 cation system under paragraph (7) and using
14 guidelines developed by the Secretary, shall pro-
15 vide an explanation regarding any life-cycle
16 cost-effective measures described in subpara-
17 graph (A)(i) that have not been implemented.”;
18 and

19 (D) in paragraph (7)(C), by adding at the
20 end the following:

21 “(iii) SUMMARY REPORT.—The Sec-
22 retary shall make publicly available a re-
23 port that summarizes the information
24 tracked under subparagraph (B)(i) by each

1 agency and, as applicable, by each type of
2 measure.”.

3 **SEC. 3117. FEDERAL BUILDING ENERGY EFFICIENCY PER-**
4 **FORMANCE STANDARDS; CERTIFICATION**
5 **SYSTEM AND LEVEL FOR FEDERAL BUILD-**
6 **INGS.**

7 (a) DEFINITIONS.—Section 303 of the Energy Con-
8 servation and Production Act (42 U.S.C. 6832) is amend-
9 ed—

10 (1) in paragraph (6), by striking “to be con-
11 structed” and inserting “constructed or altered”;
12 and

13 (2) by adding at the end the following:

14 “(17) MAJOR RENOVATION.—The term ‘major
15 renovation’ means a modification of building energy
16 systems sufficiently extensive that the whole building
17 can meet energy standards for new buildings, based
18 on criteria to be established by the Secretary
19 through notice and comment rulemaking.”.

20 (b) FEDERAL BUILDING EFFICIENCY STANDARDS.—
21 Section 305 of the Energy Conservation and Production
22 Act (42 U.S.C. 6834) is amended—

23 (1) in subsection (a)(3)—

1 (A) by striking “(3)(A) Not later than”
2 and all that follows through the end of subpara-
3 graph (B) and inserting the following:

4 “(3) REVISED FEDERAL BUILDING ENERGY EF-
5 FICIENCY PERFORMANCE STANDARDS; CERTIFI-
6 CATION FOR GREEN BUILDINGS.—

7 “(A) REVISED FEDERAL BUILDING EN-
8 ERGY EFFICIENCY PERFORMANCE STAND-
9 ARDS.—

10 “(i) IN GENERAL.—Not later than 1
11 year after the date of enactment of the
12 North American Energy Security and In-
13 frastructure Act of 2016, the Secretary
14 shall establish, by rule, revised Federal
15 building energy efficiency performance
16 standards that require that—

17 “(I) new Federal buildings and
18 alterations and additions to existing
19 Federal buildings—

20 “(aa) meet or exceed the
21 most recent revision of the IECC
22 (in the case of residential build-
23 ings) or ASHRAE Standard 90.1
24 (in the case of commercial build-
25 ings) as of the date of enactment

1 of the North American Energy
2 Security and Infrastructure Act
3 of 2016; and

4 “(bb) meet or exceed the en-
5 ergy provisions of State and local
6 building codes applicable to the
7 building, if the codes are more
8 stringent than the IECC or
9 ASHRAE Standard 90.1, as ap-
10 plicable;

11 “(II) unless demonstrated not to
12 be life-cycle cost effective for new
13 Federal buildings and Federal build-
14 ings with major renovations—

15 “(aa) the buildings be de-
16 signed to achieve energy con-
17 sumption levels that are at least
18 30 percent below the levels estab-
19 lished in the version of the
20 ASHRAE Standard or the IECC,
21 as appropriate, that is applied
22 under subclause (I)(aa), includ-
23 ing updates under subparagraph
24 (B); and

1 “(bb) sustainable design
2 principles are applied to the loca-
3 tion, siting, design, and construc-
4 tion of all new Federal buildings
5 and replacement Federal build-
6 ings;

7 “(III) if water is used to achieve
8 energy efficiency, water conservation
9 technologies shall be applied to the ex-
10 tent that the technologies are life-
11 cycle cost effective; and

12 “(IV) if life-cycle cost effective,
13 as compared to other reasonably avail-
14 able technologies, not less than 30
15 percent of the hot water demand for
16 each new Federal building or Federal
17 building undergoing a major renova-
18 tion be met through the installation
19 and use of solar hot water heaters.

20 “(ii) LIMITATION.—Clause (i)(I) shall
21 not apply to unaltered portions of existing
22 Federal buildings and systems that have
23 been added to or altered.

24 “(B) UPDATES.—Not later than 1 year
25 after the date of approval of each subsequent

1 revision of ASHRAE Standard 90.1 or the
2 IECC, as appropriate, the Secretary shall deter-
3 mine whether the revised standards established
4 under subparagraph (A) should be updated to
5 reflect the revisions, based on the energy sav-
6 ings and life-cycle cost effectiveness of the revi-
7 sions.”;

8 (B) in subparagraph (C), by striking “(C)
9 In the budget request” and inserting the fol-
10 lowing:

11 “(C) BUDGET REQUEST.—In the budget
12 request”; and

13 (C) in subparagraph (D)—

14 (i) by striking “(D) Not later than”
15 and all that follows through the end of the
16 first sentence of clause (i)(III) and insert-
17 ing the following:

18 “(D) CERTIFICATION FOR GREEN BUILD-
19 INGS.—

20 “(i) IN GENERAL.—”;

21 (ii) by striking clause (ii);

22 (iii) in clause (iii), by striking “(iii) In
23 identifying” and inserting the following:

24 “(ii) CONSIDERATIONS.—In identi-
25 fying”;

1 (iv) in clause (iv)—

2 (I) by striking “(iv) At least
3 once” and inserting the following:

4 “(iii) STUDY.—At least once”; and

5 (II) by striking “clause (iii)” and
6 inserting “clause (ii)”;

7 (v) in clause (v)—

8 (I) by striking “(v) The Sec-
9 retary may” and inserting the fol-
10 lowing:

11 “(iv) INTERNAL CERTIFICATION PROC-
12 ESSES.—The Secretary may”; and

13 (II) by striking “clause (i)(III)”
14 each place it appears and inserting
15 “clause (i)”;

16 (vi) in clause (vi)—

17 (I) by striking “(vi) With re-
18 spect” and inserting the following:

19 “(v) PRIVATIZED MILITARY HOUS-
20 ING.—With respect”; and

21 (II) by striking “develop alter-
22 native criteria to those established by
23 subclauses (I) and (III) of clause (i)
24 that achieve an equivalent result in
25 terms of energy savings, sustainable

1 design, and” and inserting “develop
2 alternative certification systems and
3 levels than the systems and levels
4 identified under clause (i) that achieve
5 an equivalent result in terms of”; and
6 (vii) in clause (vii), by striking “(vii)

7 In addition to” and inserting the following:

8 “(vi) WATER CONSERVATION TECH-
9 NOLOGIES.—In addition to”; and

10 (2) by striking subsections (c) and (d) and in-
11 serting the following:

12 “(c) PERIODIC REVIEW.—The Secretary shall—

13 “(1) every 5 years, review the Federal building
14 energy standards established under this section; and

15 “(2) on completion of a review under paragraph
16 (1), if the Secretary determines that significant en-
17 ergy savings would result, upgrade the standards to
18 include all new energy efficiency and renewable en-
19 ergy measures that are technologically feasible and
20 economically justified.”.

21 **SEC. 3118. OPERATION OF BATTERY RECHARGING STA-**
22 **TIONS IN PARKING AREAS USED BY FEDERAL**
23 **EMPLOYEES.**

24 (a) AUTHORIZATION.—

1 (1) IN GENERAL.—The head of any office of
2 the Federal Government which owns or operates a
3 parking area for the use of its employees (either di-
4 rectly or indirectly through a contractor) may in-
5 stall, construct, operate, and maintain on a reim-
6 bursable basis a battery recharging station in such
7 area for the use of privately owned vehicles of em-
8 ployees of the office and others who are authorized
9 to park in such area.

10 (2) USE OF VENDORS.—The head of an office
11 may carry out paragraph (1) through a contract
12 with a vendor, under such terms and conditions (in-
13 cluding terms relating to the allocation between the
14 office and the vendor of the costs of carrying out the
15 contract) as the head of the office and the vendor
16 may agree to.

17 (b) IMPOSITION OF FEES TO COVER COSTS.—

18 (1) FEES.—The head of an office of the Fed-
19 eral Government which operates and maintains a
20 battery recharging station under this section shall
21 charge fees to the individuals who use the station in
22 such amount as is necessary to ensure that office re-
23 covers all of the costs it incurs in installing, con-
24 structing, operating, and maintaining the station.

1 (2) DEPOSIT AND AVAILABILITY OF FEES.—

2 Any fees collected by the head of an office under this
3 subsection shall be—

4 (A) deposited monthly in the Treasury to
5 the credit of the appropriations account for sal-
6 aries and expenses of the office; and

7 (B) available for obligation without further
8 appropriation during—

9 (i) the fiscal year collected; and

10 (ii) the fiscal year following the fiscal
11 year collected.

12 (c) NO EFFECT ON EXISTING PROGRAMS FOR
13 HOUSE AND SENATE.—Nothing in this section may be
14 construed to affect the installation, construction, oper-
15 ation, or maintenance of battery recharging stations by
16 the Architect of the Capitol—

17 (1) under Public Law 112–170 (2 U.S.C.
18 2171), relating to employees of the House of Rep-
19 resentatives and individuals authorized to park in
20 any parking area under the jurisdiction of the House
21 of Representatives on the Capitol Grounds; or

22 (2) under Public Law 112–167 (2 U.S.C.
23 2170), relating to employees of the Senate and indi-
24 viduals authorized to park in any parking area

1 under the jurisdiction of the Senate on the Capitol
2 Grounds.

3 (d) EFFECTIVE DATE.—This section shall apply with
4 respect to fiscal year 2016 and each succeeding fiscal year.

5 **SEC. 3119. REPORT ON ENERGY SAVINGS AND GREEN-**
6 **HOUSE GAS EMISSIONS REDUCTION FROM**
7 **CONVERSION OF CAPTURED METHANE TO**
8 **ENERGY.**

9 (a) REPORT.—Not later than 1 year after the date
10 of enactment of this Act, the Secretary of Energy, in con-
11 sultation with appropriate Federal agencies and relevant
12 stakeholders, shall submit to the Committee on Energy
13 and Natural Resources of the Senate and the Committee
14 on Energy and Commerce of the House of Representatives
15 a report on the impact of captured methane converted for
16 energy and power generation on Federal lands, Federal
17 buildings, and relevant municipalities that use such gen-
18 eration, and the return on investment and reduction in
19 greenhouse gas emissions of utilizing such power genera-
20 tion.

21 (b) CONTENTS.—The report shall include—

22 (1) a summary of energy performance and sav-
23 ings resulting from the utilization of such power
24 generation, including short-term and long-term (20
25 years) projections of such savings; and

1 (2) an analysis of the reduction in greenhouse
2 emissions resulting from the utilization of such
3 power generation.

4 **CHAPTER 2—ENERGY EFFICIENT**
5 **TECHNOLOGY AND MANUFACTURING**

6 **SEC. 3121. INCLUSION OF SMART GRID CAPABILITY ON EN-**
7 **ERGY GUIDE LABELS.**

8 Section 324(a)(2) of the Energy Policy and Conserva-
9 tion Act (42 U.S.C. 6294(a)(2)) is amended by adding the
10 following at the end:

11 “(J) SMART GRID CAPABILITY ON ENERGY
12 GUIDE LABELS.—

13 “(i) RULE.—Not later than 1 year
14 after the date of enactment of this sub-
15 paragraph, the Commission shall initiate a
16 rulemaking to consider making a special
17 note in a prominent manner on any En-
18 ergy Guide label for any product that in-
19 cludes Smart Grid capability that—

20 “(I) Smart Grid capability is a
21 feature of that product;

22 “(II) the use and value of that
23 feature depend on the Smart Grid ca-
24 pability of the utility system in which
25 the product is installed and the active

1 utilization of that feature by the cus-
2 tomer; and

3 “(III) on a utility system with
4 Smart Grid capability, the use of the
5 product’s Smart Grid capability could
6 reduce the customer’s cost of the
7 product’s annual operation as a result
8 of the incremental energy and elec-
9 tricity cost savings that would result
10 from the customer taking full advan-
11 tage of such Smart Grid capability.

12 “(ii) DEADLINE.—Not later than 3
13 years after the date of enactment of this
14 subparagraph, the Commission shall com-
15 plete the rulemaking initiated under clause
16 (i).”.

17 **SEC. 3122. VOLUNTARY VERIFICATION PROGRAMS FOR AIR**
18 **CONDITIONING, FURNACE, BOILER, HEAT**
19 **PUMP, AND WATER HEATER PRODUCTS.**

20 Section 326(b) of the Energy Policy and Conserva-
21 tion Act (42 U.S.C. 6296(b)) is amended by adding at
22 the end the following:

23 “(6) VOLUNTARY VERIFICATION PROGRAMS FOR
24 AIR CONDITIONING, FURNACE, BOILER, HEAT PUMP,
25 AND WATER HEATER PRODUCTS.—

1 “(A) RELIANCE ON VOLUNTARY PRO-
2 GRAMS.—For the purpose of verifying compli-
3 ance with energy conservation standards estab-
4 lished under sections 325 and 342 for covered
5 products described in paragraphs (3), (4), (5),
6 (9), and (11) of section 322(a) and covered
7 equipment described in subparagraphs (B), (C),
8 (D), (F), (I), (J), and (K) of section 340(1),
9 the Secretary shall rely on testing conducted by
10 recognized voluntary verification programs that
11 are recognized by the Secretary in accordance
12 with subparagraph (B).

13 “(B) RECOGNITION OF VOLUNTARY
14 VERIFICATION PROGRAMS.—

15 “(i) IN GENERAL.—Not later than
16 180 days after the date of enactment of
17 this paragraph, the Secretary shall initiate
18 a negotiated rulemaking in accordance
19 with subchapter III of chapter 5 of title 5,
20 United States Code (commonly known as
21 the ‘Negotiated Rulemaking Act of 1990’)
22 to develop criteria that have consensus
23 support for achieving recognition by the
24 Secretary as an approved voluntary
25 verification program. Any subsequent

1 amendment to such criteria may be made
2 only pursuant to a subsequent negotiated
3 rulemaking in accordance with subchapter
4 III of chapter 5 of title 5, United States
5 Code.

6 “(ii) MINIMUM REQUIREMENTS.—The
7 criteria developed under clause (i) shall, at
8 a minimum, ensure that a voluntary
9 verification program—

10 “(I) is nationally recognized;

11 “(II) is operated by a third party
12 and not directly operated by a pro-
13 gram participant;

14 “(III) satisfies any applicable ele-
15 ments of—

16 “(aa) International Organi-
17 zation for Standardization stand-
18 ard numbered 17025; and

19 “(bb) any other relevant
20 International Organization for
21 Standardization standards identi-
22 fied and agreed to through the
23 negotiated rulemaking under
24 clause (i);

1 “(IV) at least annually tests
2 independently obtained products fol-
3 lowing the test procedures established
4 under this title to verify the certified
5 rating of a representative sample of
6 products and equipment within the
7 scope of the program;

8 “(V) maintains a publicly avail-
9 able list of all ratings of products sub-
10 ject to verification;

11 “(VI) requires the changing of
12 the performance rating or removal of
13 the product or equipment from the
14 program if testing determines that the
15 performance rating does not meet the
16 levels the manufacturer has certified
17 to the Secretary;

18 “(VII) requires new program
19 participants to substantiate ratings
20 through test data generated in accord-
21 ance with Department of Energy reg-
22 ulations;

23 “(VIII) allows for challenge test-
24 ing of products and equipment within
25 the scope of the program;

1 “(IX) requires program partici-
2 pants to disclose the performance rat-
3 ing of all covered products and equip-
4 ment within the scope of the program
5 for the covered product or equipment;

6 “(X) provides to the Secretary—

7 “(aa) an annual report of all
8 test results, the contents of which
9 shall be determined through the
10 negotiated rulemaking process
11 under clause (i); and

12 “(bb) test reports, on the re-
13 quest of the Secretary, that note
14 any instructions specified by the
15 manufacturer or the representa-
16 tive of the manufacturer for the
17 purpose of conducting the
18 verification testing; and

19 “(XI) satisfies any additional re-
20 quirements or standards that the Sec-
21 retary shall establish consistent with
22 this subparagraph.

23 “(iii) CESSATION OF RECOGNITION.—

24 The Secretary may only cease recognition
25 of a voluntary verification program as an

1 approved program described in subpara-
2 graph (A) upon a finding that the program
3 is not meeting its obligations for compli-
4 ance through program review criteria de-
5 veloped during the negotiated rulemaking
6 conducted under subparagraph (B).

7 “(C) ADMINISTRATION.—

8 “(i) IN GENERAL.—The Secretary
9 shall not require—

10 “(I) manufacturers to participate
11 in a recognized voluntary verification
12 program described in subparagraph
13 (A); or

14 “(II) participating manufacturers
15 to provide information that has al-
16 ready been provided to the Secretary.

17 “(ii) LIST OF COVERED PRODUCTS.—
18 The Secretary may maintain a publicly
19 available list of covered products and
20 equipment that distinguishes between
21 products that are and are not covered
22 products and equipment verified through a
23 recognized voluntary verification program
24 described in subparagraph (A).

1 “(iii) PERIODIC VERIFICATION TEST-
2 ING.—The Secretary—

3 “(I) shall not subject products or
4 equipment that have been verification
5 tested under a recognized voluntary
6 verification program described in sub-
7 paragraph (A) to periodic verification
8 testing to verify the accuracy of the
9 certified performance rating of the
10 products or equipment; but

11 “(II) may require testing of prod-
12 ucts or equipment described in sub-
13 clause (I)—

14 “(aa) if the testing is nec-
15 essary—

16 “(AA) to assess the
17 overall performance of a vol-
18 untary verification program;

19 “(BB) to address spe-
20 cific performance issues;

21 “(CC) for use in updat-
22 ing test procedures and
23 standards; or

1 “(DD) for other pur-
2 poses consistent with this
3 title; or

4 “(bb) if such testing is
5 agreed to during the negotiated
6 rulemaking conducted under sub-
7 paragraph (B).

8 “(D) EFFECT ON OTHER AUTHORITY.—
9 Nothing in this paragraph limits the authority
10 of the Secretary to enforce compliance with any
11 law.”.

12 **SEC. 3123. FACILITATING CONSENSUS FURNACE STAND-**
13 **ARDS.**

14 (a) CONGRESSIONAL FINDINGS AND DECLARATION
15 OF PURPOSE.—

16 (1) FINDINGS.—Congress finds that—

17 (A) acting pursuant to the requirements of
18 section 325 of the Energy Policy and Conserva-
19 tion Act (42 U.S.C. 6295), the Secretary of En-
20 ergy is considering amending the energy con-
21 servation standards applicable to residential
22 nonweatherized gas furnaces and mobile home
23 gas furnaces;

24 (B) numerous stakeholders, representing
25 manufacturers, distributors, and installers of

1 residential nonweatherized gas furnaces and
2 mobile home furnaces, natural gas utilities,
3 home builders, multifamily property owners,
4 and energy efficiency, environmental, and con-
5 sumer advocates have begun negotiations in an
6 attempt to agree on a consensus recommenda-
7 tion to the Secretary on levels for such stand-
8 ards that will meet the statutory criteria; and

9 (C) the stakeholders believe these negotia-
10 tions are likely to result in a consensus rec-
11 ommendation, but several of the stakeholders
12 do not support suspending the current rule-
13 making.

14 (2) PURPOSE.—It is the purpose of this section
15 to provide the stakeholders described in paragraph
16 (1) with an opportunity to continue negotiations for
17 a limited time period to facilitate the proposal for
18 adoption of standards that enjoy consensus support,
19 while not delaying the current rulemaking except to
20 the extent necessary to provide such opportunity.

21 (b) OPPORTUNITY FOR A NEGOTIATED FURNACE
22 STANDARD.—Section 325(f)(4) of the Energy Policy and
23 Conservation Act (42 U.S.C. 6295(f)(4)) is amended by
24 adding after subparagraph (D) the following:

1 “(E)(i) Unless the Secretary has published such a no-
2 tice prior to the date of enactment of this Act, the Sec-
3 retary shall publish, not later than October 31, 2015, a
4 supplemental notice of proposed rulemaking or a notice
5 of data availability updating the proposed rule entitled
6 ‘Energy Conservation Program for Consumer Products:
7 Energy Conservation Standards for Residential Furnaces’
8 and published in the Federal Register on March 12, 2015
9 (80 Fed. Reg. 13119), to provide notice and an oppor-
10 tunity for comment on—

11 “(I) dividing nonweatherized gas furnaces into
12 two or more product classes with separate energy
13 conservation standards based on capacity; and

14 “(II) any other matters the Secretary deter-
15 mines appropriate.

16 “(ii) On receipt of a statement that is submitted on
17 or before January 1, 2016, jointly by interested persons
18 that are fairly representative of relevant points of view,
19 that contains recommended standards for nonweatherized
20 gas furnaces and mobile home gas furnaces that are con-
21 sistent with the requirements of this part (except that the
22 date on which such standards will apply may be earlier
23 or later than the date required under this part), the Sec-
24 retary shall evaluate the standards proposed in the joint
25 statement for consistency with the requirements of sub-

1 section (o), and shall publish notice of the potential adop-
2 tion of the standards proposed in the joint statement,
3 modified as necessary to ensure consistency with sub-
4 section (o). The Secretary shall solicit public comment for
5 a period of at least 30 days with respect to such notice.

6 “(iii) Not later than July 31, 2016, but not before
7 July 1, 2016, the Secretary shall publish a final rule con-
8 taining a determination of whether the standards for non-
9 weatherized gas furnaces and mobile home gas furnaces
10 should be amended. Such rule shall contain any such
11 amendments to the standards.”.

12 **SEC. 3124. NO WARRANTY FOR CERTAIN CERTIFIED EN-**
13 **ERGY STAR PRODUCTS.**

14 Section 324A of the Energy Policy and Conservation
15 Act (42 U.S.C. 6294a) is amended by adding at the end
16 the following new subsection:

17 “(e) NO WARRANTY.—

18 “(1) IN GENERAL.—Any disclosure relating to
19 participation of a product in the Energy Star pro-
20 gram shall not create an express or implied warranty
21 or give rise to any private claims or rights of action
22 under State or Federal law relating to the disquali-
23 fication of that product from Energy Star if—

1 “(A) the product has been certified by a
2 certification body recognized by the Energy
3 Star program;

4 “(B) the Administrator has approved cor-
5 rective measures, including a determination of
6 whether or not consumer compensation is ap-
7 propriate; and

8 “(C) the responsible party has fully com-
9 plied with all approved corrective measures.

10 “(2) CONSTRUAL.—Nothing in this subsection
11 shall be construed to require the Administrator to
12 modify any procedure or take any other action.”.

13 **SEC. 3125. CLARIFICATION TO EFFECTIVE DATE FOR RE-**
14 **GIONAL STANDARDS.**

15 Section 325(o)(6)(E)(ii) of the Energy Policy and
16 Conservation Act (42 U.S.C. 6295(o)(6)(E)(ii)) is amend-
17 ed by striking “installed” and inserting “manufactured or
18 imported into the United States”.

19 **SEC. 3126. INTERNET OF THINGS REPORT.**

20 The Secretary of Energy shall, not later than 18
21 months after the date of enactment of this Act, report to
22 the Committee on Energy and Commerce of the House
23 of Representatives and the Committee on Energy and
24 Natural Resources of the Senate on the efforts made to
25 take advantage of, and promote, the utilization of ad-

1 vanced technologies such as Internet of Things end-to-end
2 platform solutions to provide real-time actionable analytics
3 and enable predictive maintenance and asset management
4 to improve energy efficiency wherever feasible. In doing
5 so, the Secretary shall look to encourage and utilize Inter-
6 net of Things energy management solutions that have se-
7 curity tightly integrated into the hardware and software
8 from the outset. The Secretary shall also encourage the
9 use of Internet of Things solutions that enable seamless
10 connectivity and that are interoperable, open standards-
11 based, and built on a repeatable foundation for ease of
12 scalability.

13 **SEC. 3127. ENERGY SAVINGS FROM LUBRICATING OIL.**

14 Not later than 1 year after the date of enactment
15 of this Act, the Secretary of Energy, in cooperation with
16 the Administrator of the Environmental Protection Agen-
17 cy and the Director of Management and Budget, shall—

18 (1) review and update the report prepared pur-
19 suant to section 1838 of the Energy Policy Act of
20 2005;

21 (2) after consultation with relevant Federal,
22 State, and local agencies and affected industry and
23 stakeholder groups, update data that was used in
24 preparing that report; and

1 (3) prepare and submit to Congress a coordi-
2 nated Federal strategy to increase the beneficial
3 reuse of used lubricating oil, that—

4 (A) is consistent with national policy as es-
5 tablished pursuant to section 2 of the Used Oil
6 Recycling Act of 1980 (Public Law 96–463);
7 and

8 (B) addresses measures needed to—

9 (i) increase the responsible collection
10 of used oil;

11 (ii) disseminate public information
12 concerning sustainable reuse options for
13 used oil; and

14 (iii) promote sustainable reuse of used
15 oil by Federal agencies, recipients of Fed-
16 eral grant funds, entities contracting with
17 the Federal Government, and the general
18 public.

19 **SEC. 3128. DEFINITION OF EXTERNAL POWER SUPPLY.**

20 Section 321(36)(A) of the Energy Policy and Con-
21 servation Act (42 U.S.C. 6291(36)(A)) is amended—

22 (1) by striking the subparagraph designation
23 and all that follows through “The term” and insert-
24 ing the following:

25 “(A) EXTERNAL POWER SUPPLY.—

1 “(i) IN GENERAL.—The term”; and

2 (2) by adding at the end the following:

3 “(ii) EXCLUSION.—The term ‘external
4 power supply’ does not include a power
5 supply circuit, driver, or device that is de-
6 signed exclusively to be connected to, and
7 power—

8 “(I) light-emitting diodes pro-
9 viding illumination; or

10 “(II) organic light-emitting di-
11 odes providing illumination.”.

12 **SEC. 3129. STANDARDS FOR POWER SUPPLY CIRCUITS CON-**
13 **NECTED TO LEDS OR OLEDS.**

14 (a) IN GENERAL.—Section 325(u) of the Energy Pol-
15 icy and Conservation Act (42 U.S.C. 6295(u)) is amended
16 by adding at the end the following:

17 “(6) POWER SUPPLY CIRCUITS CONNECTED TO
18 LEDS OR OLEDS.—Notwithstanding the exclusion de-
19 scribed in section 321(36)(A)(ii), the Secretary may
20 prescribe, in accordance with subsections (o) and (p)
21 and section 322(b), an energy conservation standard
22 for a power supply circuit, driver, or device that is
23 designed primarily to be connected to, and power,
24 light-emitting diodes or organic light-emitting diodes
25 providing illumination.”.

1 (b) ENERGY CONSERVATION STANDARDS.—Section
2 346 of the Energy Policy and Conservation Act (42 U.S.C.
3 6317) is amended by adding at the end the following:

4 “(g) ENERGY CONSERVATION STANDARD FOR
5 POWER SUPPLY CIRCUITS CONNECTED TO LEDS OR
6 OLEDs.—Not earlier than 1 year after applicable testing
7 requirements are prescribed under section 343, the Sec-
8 retary may prescribe an energy conservation standard for
9 a power supply circuit, driver, or device that is designed
10 primarily to be connected to, and power, light-emitting di-
11 odes or organic light-emitting diodes providing illumina-
12 tion.”.

13 **CHAPTER 3—SCHOOL BUILDINGS**

14 **SEC. 3131. COORDINATION OF ENERGY RETROFITTING AS-** 15 **SISTANCE FOR SCHOOLS.**

16 Section 392 of the Energy Policy and Conservation
17 Act (42 U.S.C. 6371a) is amended by adding at the end
18 the following:

19 “(e) COORDINATION OF ENERGY RETROFITTING AS-
20 SISTANCE FOR SCHOOLS.—

21 “(1) DEFINITION OF SCHOOL.—Notwith-
22 standing section 391(6), for the purposes of this
23 subsection, the term ‘school’ means—

24 “(A) an elementary school or secondary
25 school (as defined in section 9101 of the Ele-

1 mentary and Secondary Education Act of 1965
2 (20 U.S.C. 7801));

3 “(B) an institution of higher education (as
4 defined in section 102(a) of the Higher Edu-
5 cation Act of 1965 (20 U.S.C. 1002(a)));

6 “(C) a school of the defense dependents’
7 education system under the Defense Depend-
8 ents’ Education Act of 1978 (20 U.S.C. 921 et
9 seq.) or established under section 2164 of title
10 10, United States Code;

11 “(D) a school operated by the Bureau of
12 Indian Affairs;

13 “(E) a tribally controlled school (as de-
14 fined in section 5212 of the Tribally Controlled
15 Schools Act of 1988 (25 U.S.C. 2511)); and

16 “(F) a Tribal College or University (as de-
17 fined in section 316(b) of the Higher Education
18 Act of 1965 (20 U.S.C. 1059e(b))).

19 “(2) ESTABLISHMENT OF CLEARINGHOUSE.—
20 The Secretary, acting through the Office of Energy
21 Efficiency and Renewable Energy, shall establish a
22 clearinghouse to disseminate information regarding
23 available Federal programs and financing mecha-
24 nisms that may be used to help initiate, develop, and

1 finance energy efficiency, distributed generation, and
2 energy retrofitting projects for schools.

3 “(3) REQUIREMENTS.—In carrying out para-
4 graph (2), the Secretary shall—

5 “(A) consult with appropriate Federal
6 agencies to develop a list of Federal programs
7 and financing mechanisms that are, or may be,
8 used for the purposes described in paragraph
9 (2); and

10 “(B) coordinate with appropriate Federal
11 agencies to develop a collaborative education
12 and outreach effort to streamline communica-
13 tions and promote available Federal programs
14 and financing mechanisms described in sub-
15 paragraph (A), which may include the develop-
16 ment and maintenance of a single online re-
17 source that includes contact information for rel-
18 evant technical assistance in the Office of En-
19 ergy Efficiency and Renewable Energy that
20 States, local education agencies, and schools
21 may use to effectively access and use such Fed-
22 eral programs and financing mechanisms.”.

1 **CHAPTER 4—BUILDING ENERGY CODES**

2 **SEC. 3141. GREATER ENERGY EFFICIENCY IN BUILDING**
3 **CODES.**

4 (a) DEFINITIONS.—Section 303 of the Energy Con-
5 servation and Production Act (42 U.S.C. 6832), as
6 amended by section 3116, is further amended—

7 (1) by striking paragraph (14) and inserting
8 the following:

9 “(14) MODEL BUILDING ENERGY CODE.—The
10 term ‘model building energy code’ means a voluntary
11 building energy code or standard developed and up-
12 dated through a consensus process among interested
13 persons, such as the IECC or ASHRAE Standard
14 90.1 or a code used by other appropriate organiza-
15 tions regarding which the Secretary has issued a de-
16 termination that buildings subject to it would
17 achieve greater energy efficiency than under a pre-
18 viously developed code.”; and

19 (2) by adding at the end the following:

20 “(18) ASHRAE STANDARD 90.1.—The term
21 ‘ASHRAE Standard 90.1’ means the American So-
22 ciety of Heating, Refrigerating and Air-Conditioning
23 Engineers ANSI/ASHRAE/IES Standard 90/1 En-
24 ergy Standard for Buildings Except Low-Rise Resi-
25 dential Buildings.

1 “(19) COST-EFFECTIVE.—The term ‘cost-effec-
2 tive’ means having a simple payback of 10 years or
3 less.

4 “(20) IECC.—The term ‘IECC’ means the
5 International Energy Conservation Code as pub-
6 lished by the International Code Council.

7 “(21) INDIAN TRIBE.—The term ‘Indian tribe’
8 has the meaning given the term in section 4 of the
9 Native American Housing Assistance and Self-De-
10 termination Act of 1996 (25 U.S.C. 4103).

11 “(22) SIMPLE PAYBACK.—The term ‘simple
12 payback’ means the time in years that is required
13 for energy savings to exceed the incremental first
14 cost of a new requirement or code.

15 “(23) TECHNICALLY FEASIBLE.—The term
16 ‘technically feasible’ means capable of being
17 achieved, based on widely available appliances,
18 equipment, technologies, materials, and construction
19 practices.”.

20 (b) STATE BUILDING ENERGY EFFICIENCY
21 CODES.—Section 304 of the Energy Conservation and
22 Production Act (42 U.S.C. 6833) is amended to read as
23 follows:

1 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-**
2 **CIENCY CODES.**

3 “(a) IN GENERAL.—The Secretary shall provide tech-
4 nical assistance, as described in subsection (e), for the
5 purposes of—

6 “(1) implementation of building energy codes
7 by States, Indian tribes, and, as appropriate, by
8 local governments, that are technically feasible and
9 cost-effective; and

10 “(2) supporting full compliance with the State,
11 tribal, and local codes.

12 “(b) STATE AND INDIAN TRIBE CERTIFICATION OF
13 BUILDING ENERGY CODE UPDATES.—

14 “(1) REVIEW AND UPDATING OF CODES BY
15 EACH STATE AND INDIAN TRIBE.—

16 “(A) IN GENERAL.—Not later than 3 years
17 after the date on which a model building energy
18 code is published, each State or Indian tribe
19 shall certify whether or not the State or Indian
20 tribe, respectively, has reviewed and updated
21 the energy provisions of the building code of the
22 State or Indian tribe, respectively.

23 “(B) DEMONSTRATION.—The certification
24 shall include a statement of whether or not the
25 energy savings for the code provisions that are

1 in effect throughout the State or Indian tribal
2 territory meet or exceed—

3 “(i) the energy savings of the most re-
4 cently published model building energy
5 code; or

6 “(ii) the targets established under sec-
7 tion 307(b)(2).

8 “(C) NO MODEL BUILDING ENERGY CODE
9 UPDATE.—If a model building energy code is
10 not updated by a target date established under
11 section 307(b)(2)(D), each State or Indian tribe
12 shall, not later than 3 years after the specified
13 date, certify whether or not the State or Indian
14 tribe, respectively, has reviewed and updated
15 the energy provisions of the building code of the
16 State or Indian tribe, respectively, to meet or
17 exceed the target in section 307(b)(2).

18 “(2) VALIDATION BY SECRETARY.—Not later
19 than 90 days after a State or Indian tribe certifi-
20 cation under paragraph (1), the Secretary shall—

21 “(A) determine whether the code provi-
22 sions of the State or Indian tribe, respectively,
23 meet the criteria specified in paragraph (1);

1 “(B) determine whether the certification
2 submitted by the State or Indian tribe, respec-
3 tively, is complete; and

4 “(C) if the requirements of subparagraph
5 (B) are satisfied, validate the certification.

6 “(3) LIMITATION.—Nothing in this section
7 shall be interpreted to require a State or Indian
8 tribe to adopt any building code or provision within
9 a code.

10 “(c) IMPROVEMENTS IN COMPLIANCE WITH BUILD-
11 ING ENERGY CODES.—

12 “(1) REQUIREMENT.—

13 “(A) IN GENERAL.—Not later than 3 years
14 after the date of a certification under sub-
15 section (b), each State and Indian tribe shall
16 certify whether or not the State or Indian tribe,
17 respectively, has—

18 “(i) achieved full compliance under
19 paragraph (3) with the applicable certified
20 State or Indian tribe building energy code
21 or with the associated model building en-
22 ergy code; or

23 “(ii) made significant progress under
24 paragraph (4) toward achieving compliance
25 with the applicable certified State or In-

1 dian tribe building energy code or with the
2 associated model building energy code.

3 “(B) REPEAT CERTIFICATIONS.—If the
4 State or Indian tribe certifies progress toward
5 achieving compliance, the State or Indian tribe
6 shall repeat the certification until the State or
7 Indian tribe certifies that the State or Indian
8 tribe has achieved full compliance.

9 “(2) MEASUREMENT OF COMPLIANCE.—A cer-
10 tification under paragraph (1) shall include docu-
11 mentation of the rate of compliance based on—

12 “(A) inspections of a random sample of the
13 buildings covered by the code in the preceding
14 year; or

15 “(B) an alternative method that yields an
16 accurate measure of compliance.

17 “(3) ACHIEVEMENT OF COMPLIANCE.—A State
18 or Indian tribe shall be considered to achieve full
19 compliance under paragraph (1) if—

20 “(A) at least 90 percent of building space
21 covered by the code in the preceding year sub-
22 stantially meets all the requirements of the ap-
23 plicable code specified in paragraph (1), or
24 achieves equivalent or greater energy savings
25 level; or

1 “(B) the estimated excess energy use of
2 buildings that did not meet the applicable code
3 specified in paragraph (1) in the preceding
4 year, compared to a baseline of comparable
5 buildings that meet this code, is not more than
6 5 percent of the estimated energy use of all
7 buildings covered by this code during the pre-
8 ceding year.

9 “(4) SIGNIFICANT PROGRESS TOWARD
10 ACHIEVEMENT OF COMPLIANCE.—A State or Indian
11 tribe shall be considered to have made significant
12 progress toward achieving compliance for purposes
13 of paragraph (1) if the State or Indian tribe—

14 “(A) has developed and is implementing a
15 plan for achieving compliance during the 8-year
16 period beginning on the date of enactment of
17 this paragraph, including annual targets for
18 compliance and active training and enforcement
19 programs; and

20 “(B) has met the most recent target under
21 subparagraph (A).

22 “(5) VALIDATION BY SECRETARY.—Not later
23 than 90 days after a State or Indian tribe certifi-
24 cation under paragraph (1), the Secretary shall—

1 “(A) determine whether the State or In-
2 dian tribe has demonstrated meeting the cri-
3 teria of this subsection, including accurate
4 measurement of compliance;

5 “(B) determine whether the certification
6 submitted by the State or Indian tribe is com-
7 plete; and

8 “(C) if the requirements of subparagraph
9 (B) are satisfied, validate the certification.

10 “(6) LIMITATION.—Nothing in this section
11 shall be interpreted to require a State or Indian
12 tribe to adopt any building code or provision within
13 a code.

14 “(d) STATES OR INDIAN TRIBES THAT DO NOT
15 ACHIEVE COMPLIANCE.—

16 “(1) REPORTING.—A State or Indian tribe that
17 has not made a certification required under sub-
18 section (b) or (c) by the applicable deadline shall
19 submit to the Secretary a report on the status of the
20 State or Indian tribe with respect to meeting the re-
21 quirements and submitting the certification.

22 “(2) STATE SOVEREIGNTY.—Nothing in this
23 section shall be interpreted to require a State or In-
24 dian tribe to adopt any building code or provision
25 within a code.

1 “(3) LOCAL GOVERNMENT.—In any State or
2 Indian tribe for which the Secretary has not vali-
3 dated a certification under subsection (b) or (c), a
4 local government may be eligible for Federal support
5 by meeting the certification requirements of sub-
6 sections (b) and (c).

7 “(4) ANNUAL REPORTS BY SECRETARY.—

8 “(A) IN GENERAL.—The Secretary shall
9 annually submit to Congress, and publish in the
10 Federal Register, a report on—

11 “(i) the status of model building en-
12 ergy codes;

13 “(ii) the status of code adoption and
14 compliance in the States and Indian tribes;

15 “(iii) implementation of this section;
16 and

17 “(iv) improvements in energy savings
18 over time as a result of the targets estab-
19 lished under section 307(b)(2).

20 “(B) IMPACTS.—The report shall include
21 estimates of impacts of past action under this
22 section, and potential impacts of further action,
23 on—

24 “(i) upfront financial and construction
25 costs, cost benefits and returns (using a

1 return on investment analysis), and life-
2 time energy use for buildings;

3 “(ii) resulting energy costs to individ-
4 uals and businesses; and

5 “(iii) resulting overall annual building
6 ownership and operating costs.

7 “(e) TECHNICAL ASSISTANCE TO STATES AND IN-
8 DIAN TRIBES.—

9 “(1) IN GENERAL.—The Secretary shall, upon
10 request, provide technical assistance to States and
11 Indian tribes to implement the goals and require-
12 ments of this section—

13 “(A) to implement State residential and
14 commercial building energy codes; and

15 “(B) to document the rate of compliance
16 with a building energy code.

17 “(2) TECHNICAL ASSISTANCE.—The assistance
18 shall include, as requested by the State or Indian
19 tribe, technical assistance in—

20 “(A) evaluating the energy savings of
21 building energy codes;

22 “(B) assessing the economic consider-
23 ations, referenced in section 307(b)(4), of im-
24 plementing building energy codes;

1 “(C) building energy analysis and design
2 tools;

3 “(D) energy simulation models;

4 “(E) building demonstrations;

5 “(F) developing the definitions of energy
6 use intensity and building types for use in
7 model building energy codes to evaluate the effi-
8 ciency impacts of the model building energy
9 codes; and

10 “(G) complying with a performance-based
11 pathway referenced in the model code.

12 “(3) EXCLUSION.—For purposes of this section,
13 ‘technical assistance’ shall not include actions that
14 promote or discourage the adoption of a particular
15 building energy code, code provision, or energy sav-
16 ings target to a State or Indian tribe.

17 “(4) INFORMATION QUALITY AND TRANS-
18 PARENCY.—For purposes of this section, information
19 provided by the Secretary, attendant to any tech-
20 nical assistance provided to a State or Indian tribe,
21 is ‘influential information’ and shall satisfy the
22 guidelines established by the Office of Management
23 and Budget and published at 67 Federal Register
24 8,452 (February 22, 2002).

25 “(f) FEDERAL SUPPORT.—

1 “(1) IN GENERAL.—The Secretary shall provide
2 support to States and Indian tribes—

3 “(A) to implement the reporting require-
4 ments of this section; and

5 “(B) to implement residential and commer-
6 cial building energy codes, including increasing
7 and verifying compliance with the codes and
8 training of State, tribal, and local building code
9 officials to implement and enforce the codes.

10 “(2) EXCLUSION.—Support shall not be given
11 to support adoption and implementation of model
12 building energy codes for which the Secretary has
13 made a determination under section 307(g)(1)(C)
14 that the code is not cost-effective.

15 “(3) TRAINING.—Support shall be offered to
16 States to train State and local building code officials
17 to implement and enforce codes described in para-
18 graph (1)(B).

19 “(4) LOCAL GOVERNMENTS.—States may work
20 under this subsection with local governments that
21 implement and enforce codes described in paragraph
22 (1)(B).

23 “(g) VOLUNTARY PROGRAMS TO EXCEED MODEL
24 BUILDING ENERGY CODE.—

1 “(1) IN GENERAL.—The Secretary shall provide
2 technical assistance, as described in subsection (e),
3 for the development of voluntary programs that ex-
4 ceed the model building energy codes for residential
5 and commercial buildings for use as—

6 “(A) voluntary incentive programs adopted
7 by local, tribal, or State governments; and

8 “(B) nonbinding guidelines for energy-effi-
9 cient building design.

10 “(2) TARGETS.—The voluntary programs de-
11 scribed in paragraph (1) shall be designed—

12 “(A) to achieve substantial energy savings
13 compared to the model building energy codes;
14 and

15 “(B) to meet targets under section 307(b),
16 if available, up to 3 to 6 years in advance of the
17 target years.

18 “(h) STUDIES.—

19 “(1) GAO STUDY.—

20 “(A) IN GENERAL.—The Comptroller Gen-
21 eral of the United States shall conduct a study
22 of the impacts of updating the national model
23 building energy codes for residential and com-
24 mercial buildings. In conducting the study, the

1 Comptroller General shall consider and report,
2 at a minimum—

3 “(i) the actual energy consumption
4 savings stemming from updated energy
5 codes compared to the energy consumption
6 savings predicted during code development;

7 “(ii) the actual consumer cost savings
8 stemming from updated energy codes com-
9 pared to predicted consumer cost savings;
10 and

11 “(iii) an accounting of expenditures of
12 the Federal funds under each program au-
13 thorized by this title.

14 “(B) REPORT TO CONGRESS.—Not later
15 than 3 years after the date of enactment of the
16 North American Energy Security and Infra-
17 structure Act of 2016, the Comptroller General
18 of the United States shall submit a report to
19 the Committee on Energy and Natural Re-
20 sources of the Senate and the Committee on
21 Energy and Commerce of the House of Rep-
22 resentatives including the study findings and
23 conclusions.

24 “(2) FEASIBILITY STUDY.—The Secretary, in
25 consultation with building science experts from the

1 National Laboratories and institutions of higher
2 education, designers and builders of energy-efficient
3 residential and commercial buildings, code officials,
4 and other stakeholders, shall undertake a study of
5 the feasibility, impact, economics, and merit of—

6 “(A) code improvements that would require
7 that buildings be designed, sited, and con-
8 structed in a manner that makes the buildings
9 more adaptable in the future to become zero-
10 net-energy after initial construction, as ad-
11 vances are achieved in energy-saving tech-
12 nologies;

13 “(B) code procedures to incorporate a ten-
14 year payback, not just first-year energy use, in
15 trade-offs and performance calculations; and

16 “(C) legislative options for increasing en-
17 ergy savings from building energy codes, includ-
18 ing additional incentives for effective State and
19 local verification of compliance with and en-
20 forcement of a code.

21 “(3) ENERGY DATA IN MULTITENANT BUILD-
22 INGS.—The Secretary, in consultation with appro-
23 priate representatives of the utility, utility regu-
24 latory, building ownership, and other stakeholders,
25 shall—

1 “(A) undertake a study of best practices
2 regarding delivery of aggregated energy con-
3 sumption information to owners and managers
4 of residential and commercial buildings with
5 multiple tenants and uses; and

6 “(B) consider the development of a memo-
7 randum of understanding between and among
8 affected stakeholders to reduce barriers to the
9 delivery of aggregated energy consumption in-
10 formation to such owners and managers.

11 “(i) EFFECT ON OTHER LAWS.—Nothing in this sec-
12 tion or section 307 supersedes or modifies the application
13 of sections 321 through 346 of the Energy Policy and
14 Conservation Act (42 U.S.C. 6291 et seq.).

15 “(j) FUNDING LIMITATIONS.—No Federal funds
16 shall be—

17 “(1) used to support actions by the Secretary,
18 or States, to promote or discourage the adoption of
19 a particular building energy code, code provision, or
20 energy saving target to a State or Indian tribe; or

21 “(2) provided to private third parties or non-
22 governmental organizations to engage in such activi-
23 ties.”.

24 (c) FEDERAL BUILDING ENERGY EFFICIENCY
25 STANDARDS.—Section 305 of the Energy Conservation

1 and Production Act (42 U.S.C. 6834) is amended by strik-
2 ing “voluntary building energy code” in subsections
3 (a)(2)(B) and (b) and inserting “model building energy
4 code”.

5 (d) MODEL BUILDING ENERGY CODES.—

6 (1) AMENDMENT.—Section 307 of the Energy
7 Conservation and Production Act (42 U.S.C. 6836)
8 is amended to read as follows:

9 **“SEC. 307. SUPPORT FOR MODEL BUILDING ENERGY**
10 **CODES.**

11 “(a) IN GENERAL.—The Secretary shall provide tech-
12 nical assistance, as described in subsection (c), for updat-
13 ing of model building energy codes.

14 “(b) TARGETS.—

15 “(1) IN GENERAL.—The Secretary shall provide
16 technical assistance, for updating the model building
17 energy codes.

18 “(2) TARGETS.—

19 “(A) IN GENERAL.—The Secretary shall
20 provide technical assistance to States, Indian
21 tribes, local governments, nationally recognized
22 code and standards developers, and other inter-
23 ested parties for updating of model building en-
24 ergy codes by establishing one or more aggre-
25 gate energy savings targets through rulemaking

1 in accordance with section 553 of title 5,
2 United States Code, to achieve the purposes of
3 this section.

4 “(B) SEPARATE TARGETS.—Separate tar-
5 gets may be established for commercial and res-
6 idential buildings.

7 “(C) BASELINES.—The baseline for updat-
8 ing model building energy codes shall be the
9 2009 IECC for residential buildings and
10 ASHRAE Standard 90.1–2010 for commercial
11 buildings.

12 “(D) SPECIFIC YEARS.—

13 “(i) IN GENERAL.—Targets for spe-
14 cific years shall be established and revised
15 by the Secretary through rulemaking in ac-
16 cordance with section 553 of title 5,
17 United States Code, and coordinated with
18 nationally recognized code and standards
19 developers at a level that—

20 “(I) is at the maximum level of
21 energy efficiency that is technically
22 feasible and cost effective, while ac-
23 counting for the economic consider-
24 ations under paragraph (4); and

1 “(II) promotes the achievement
2 of commercial and residential high
3 performance buildings through high
4 performance energy efficiency (within
5 the meaning of section 401 of the En-
6 ergy Independence and Security Act
7 of 2007 (42 U.S.C. 17061)).

8 “(ii) INITIAL TARGETS.—Not later
9 than 1 year after the date of enactment of
10 this clause, the Secretary shall establish
11 initial targets under this subparagraph.

12 “(iii) DIFFERENT TARGET YEARS.—
13 Subject to clause (i), prior to the applica-
14 ble year, the Secretary may set a later tar-
15 get year for any of the model building en-
16 ergy codes described in subparagraph (A)
17 if the Secretary determines that a target
18 cannot be met.

19 “(E) SMALL BUSINESS.—When estab-
20 lishing targets under this paragraph through
21 rulemaking, the Secretary shall ensure compli-
22 ance with the Small Business Regulatory En-
23 forcement Fairness Act of 1996 (5 U.S.C. 601
24 note; Public Law 104–121) for any indirect eco-

1 nomic effect on small entities that is reasonably
2 foreseeable and a result of such rule.

3 “(3) APPLIANCE STANDARDS AND OTHER FAC-
4 TORS AFFECTING BUILDING ENERGY USE.—In es-
5 tablishing energy savings targets under paragraph
6 (2), the Secretary shall develop and adjust the tar-
7 gets in recognition of potential savings and costs re-
8 lating to—

9 “(A) efficiency gains made in appliances,
10 lighting, windows, insulation, and building enve-
11 lope sealing;

12 “(B) advancement of distributed genera-
13 tion and on-site renewable power generation
14 technologies;

15 “(C) equipment improvements for heating,
16 cooling, and ventilation systems and water heat-
17 ing systems;

18 “(D) building management systems and
19 smart grid technologies to reduce energy use;
20 and

21 “(E) other technologies, practices, and
22 building systems regarding building plug load
23 and other energy uses.

24 In developing and adjusting the targets, the Sec-
25 retary shall use climate zone weighted averages for

1 equipment efficiency for heating, cooling, ventilation,
2 and water heating systems, using equipment that is
3 actually installed.

4 “(4) ECONOMIC CONSIDERATIONS.—In estab-
5 lishing and revising energy savings targets under
6 paragraph (2), the Secretary shall consider the eco-
7 nomic feasibility of achieving the proposed targets
8 established under this section and the potential costs
9 and savings for consumers and building owners, by
10 conducting a return on investment analysis, using a
11 simple payback methodology over a 3-, 5-, and 7-
12 year period. The Secretary shall not propose or pro-
13 vide technical or financial assistance for any code,
14 provision in the code, or energy target, or amend-
15 ment thereto, that has a payback greater than 10
16 years.

17 “(c) TECHNICAL ASSISTANCE TO MODEL BUILDING
18 ENERGY CODE-SETTING AND STANDARD DEVELOPMENT
19 ORGANIZATIONS.—

20 “(1) IN GENERAL.—The Secretary shall, on a
21 timely basis, provide technical assistance to model
22 building energy code-setting and standard develop-
23 ment organizations consistent with the goals of this
24 section.

1 “(2) TECHNICAL ASSISTANCE.—The assistance
2 shall include, as requested by the organizations,
3 technical assistance in—

4 “(A) evaluating the energy savings of
5 building energy codes;

6 “(B) assessing the economic consider-
7 ations, under subsection (b)(4), of code or
8 standards proposals or revisions;

9 “(C) building energy analysis and design
10 tools;

11 “(D) energy simulation models;

12 “(E) building demonstrations;

13 “(F) developing definitions of energy use
14 intensity and building types for use in model
15 building energy codes to evaluate the efficiency
16 impacts of the model building energy codes;

17 “(G) developing a performance-based path-
18 way for compliance;

19 “(H) developing model building energy
20 codes by Indian tribes in accordance with tribal
21 law; and

22 “(I) code development meetings, including
23 through direct Federal employee participation
24 in committee meetings, hearings and online
25 communication, voting, and presenting research

1 and technical or economic analyses during such
2 meetings.

3 “(3) EXCLUSION.—Except as provided in para-
4 graph (2)(I), for purposes of this section, ‘technical
5 assistance’ shall not include actions that promote or
6 discourage the adoption of a particular building en-
7 ergy code, code provision, or energy savings target.

8 “(4) INFORMATION QUALITY AND TRANS-
9 PARENCY.—For purposes of this section, information
10 provided by the Secretary, attendant to development
11 of any energy savings targets, is influential informa-
12 tion and shall satisfy the guidelines established by
13 the Office of Management and Budget and published
14 at 67 Federal Register 8,452 (February 22, 2002).

15 “(d) AMENDMENT PROPOSALS.—

16 “(1) IN GENERAL.—The Secretary may submit
17 timely model building energy code amendment pro-
18 posals that are technically feasible, cost-effective,
19 and technology-neutral to the model building energy
20 code-setting and standard development organiza-
21 tions, with supporting evidence, sufficient to enable
22 the model building energy codes to meet the targets
23 established under subsection (b)(2).

24 “(2) PROCESS AND FACTORS.—All amendment
25 proposals submitted by the Secretary shall be pub-

1 lished in the Federal Register and made available on
2 the Department of Energy website 90 days prior to
3 any submittal to a code development body, and shall
4 be subject to a public comment period of not less
5 than 60 days. Information provided by the Sec-
6 retary, attendant to submission of any amendment
7 proposals, is influential information and shall satisfy
8 the guidelines established by the Office of Manage-
9 ment and Budget and published at 67 Federal Reg-
10 ister 8,452 (February 22, 2002). When calculating
11 the costs and benefits of an amendment, the Sec-
12 retary shall use climate zone weighted averages for
13 equipment efficiency for heating, cooling, ventilation,
14 and water heating systems, using equipment that is
15 actually installed.

16 “(e) ANALYSIS METHODOLOGY.—The Secretary shall
17 make publicly available the entire calculation methodology
18 (including input assumptions and data) used by the Sec-
19 retary to estimate the energy savings of code or standard
20 proposals and revisions.

21 “(f) METHODOLOGY DEVELOPMENT.—The Secretary
22 shall establish a methodology for evaluating cost effective-
23 ness of energy code changes in multifamily buildings that
24 incorporates economic parameters representative of typical
25 multifamily buildings.

1 “(g) DETERMINATION.—

2 “(1) REVISION OF MODEL BUILDING ENERGY
3 CODES.—If the provisions of the IECC or ASHRAE
4 Standard 90.1 regarding building energy use are re-
5 vised, the Secretary shall make a preliminary deter-
6 mination not later than 90 days after the date of the
7 revision, and a final determination not later than 15
8 months after the date of the revision, on whether or
9 not the revision—

10 “(A) improves energy efficiency in build-
11 ings compared to the existing IECC or
12 ASHRAE Standard 90.1, as applicable;

13 “(B) meets the applicable targets under
14 subsection (b)(2); and

15 “(C) is technically feasible and cost-effec-
16 tive.

17 “(2) CODES OR STANDARDS NOT MEETING CRI-
18 TERIA.—

19 “(A) IN GENERAL.—If the Secretary
20 makes a preliminary determination under para-
21 graph (1)(B) that a revised IECC or ASHRAE
22 Standard 90.1 does not meet the targets estab-
23 lished under subsection (b)(2), is not technically
24 feasible, or is not cost-effective, the Secretary
25 may at the same time provide technical assist-

1 ance, as described in subsection (c), to the
2 International Code Council or ASHRAE, as ap-
3 plicable, with proposed changes that would re-
4 sult in a model building energy code or stand-
5 ard that meets the criteria, and with supporting
6 evidence. Proposed changes submitted by the
7 Secretary shall be published in the Federal
8 Register and made available on the Department
9 of Energy website 90 days prior to any sub-
10 mittal to a code development body, and shall be
11 subject to a public comment period of not less
12 than 60 days. Information provided by the Sec-
13 retary, attendant to submission of any amend-
14 ment proposals, is influential information and
15 shall satisfy the guidelines established by the
16 Office of Management and Budget and pub-
17 lished at 67 Federal Register 8,452 (February
18 22, 2002).

19 “(B) INCORPORATION OF CHANGES.—

20 “(i) IN GENERAL.—On receipt of the
21 technical assistance, as described in sub-
22 section (c), the International Code Council
23 or ASHRAE, as applicable, shall, prior to
24 the Secretary making a final determination
25 under paragraph (1), have an additional

1 270 days to accept or reject the proposed
2 changes made by the Secretary to the
3 model building energy code or standard.

4 “(ii) FINAL DETERMINATION.—A
5 final determination under paragraph (1)
6 shall be on the final revised model building
7 energy code or standard.

8 “(h) ADMINISTRATION.—In carrying out this section,
9 the Secretary shall—

10 “(1) publish notice of targets, amendment pro-
11 posals and supporting analysis and determinations
12 under this section in the Federal Register to provide
13 an explanation of and the basis for such actions, in-
14 cluding any supporting modeling, data, assumptions,
15 protocols, and cost-benefit analysis, including return
16 on investment;

17 “(2) provide an opportunity for public comment
18 on targets and supporting analysis and determina-
19 tions under this section, in accordance with section
20 553 of title 5, United States Code; and

21 “(3) provide an opportunity for public comment
22 on amendment proposals.

23 “(i) VOLUNTARY CODES AND STANDARDS.—Not
24 withstanding any other provision of this section, any
25 model building code or standard established under this

1 section shall not be binding on a State, local government,
2 or Indian tribe as a matter of Federal law.”.

3 (2) CONFORMING AMENDMENT.—The item re-
4 lating to section 307 in the table of contents for the
5 Energy Conservation and Production Act is amend-
6 ed to read as follows:

“Sec. 307. Support for model building energy codes.”.

7 **SEC. 3142. VOLUNTARY NATURE OF BUILDING ASSET RAT-**
8 **ING PROGRAM.**

9 (a) IN GENERAL.—Any program of the Secretary of
10 Energy that may enable the owner of a commercial build-
11 ing or a residential building to obtain a rating, score, or
12 label regarding the actual or anticipated energy usage or
13 performance of a building shall be made available on a
14 voluntary, optional, and market-driven basis.

15 (b) DISCLAIMER AS TO REGULATORY INTENT.—In-
16 formation disseminated by the Secretary of Energy re-
17 garding the program described in subsection (a), including
18 any information made available by the Secretary on a
19 website, shall include language plainly stating that such
20 program is not developed or intended to be the basis for
21 a regulatory program by a Federal, State, local, or munic-
22 ipal government body.

1 **CHAPTER 5—EPCA TECHNICAL**
2 **CORRECTIONS AND CLARIFICATIONS**

3 **SEC. 3151. MODIFYING PRODUCT DEFINITIONS.**

4 (a) **AUTHORITY TO MODIFY DEFINITIONS.—**

5 (1) **COVERED PRODUCTS.—**Section 322 of the
6 Energy Policy and Conservation Act (42 U.S.C.
7 6292) is amended by adding at the end the fol-
8 lowing:

9 “(c) **MODIFYING DEFINITIONS OF COVERED PROD-**
10 **UCTS.—**

11 “(1) **IN GENERAL.—**For any covered product
12 for which a definition is provided in section 321, the
13 Secretary may, by rule, unless prohibited herein,
14 modify such definition in order to—

15 “(A) address significant changes in the
16 product or the market occurring since the defi-
17 nition was established; and

18 “(B) better enable improvements in the en-
19 ergy efficiency of the product as part of an en-
20 ergy using system.

21 “(2) **ANTIBACKSLIDING EXEMPTION.—**Section
22 325(o)(1) shall not apply to adjustments to covered
23 product definitions made pursuant to this sub-
24 section.

1 “(3) PROCEDURE FOR MODIFYING DEFINI-
2 TION.—

3 “(A) IN GENERAL.—Notice of any adjust-
4 ment to the definition of a covered product and
5 an explanation of the reasons therefor shall be
6 published in the Federal Register and oppor-
7 tunity provided for public comment.

8 “(B) CONSENSUS REQUIRED.—Any
9 amendment to the definition of a covered prod-
10 uct under this subsection must have consensus
11 support, as reflected in—

12 “(i) the outcome of negotiations con-
13 ducted in accordance with the subchapter
14 III of chapter 5 of title 5, United States
15 Code (commonly known as the ‘Negotiated
16 Rulemaking Act of 1990’); or

17 “(ii) the Secretary’s receipt of a state-
18 ment that is submitted jointly by inter-
19 ested persons that are fairly representative
20 of relevant points of view (including rep-
21 resentatives of manufacturers of covered
22 products, States, and efficiency advocates),
23 as determined by the Secretary, which con-
24 tains a recommended modified definition
25 for a covered product.

1 “(4) EFFECT OF A MODIFIED DEFINITION.—

2 “(A) IN GENERAL.—For any type or class
3 of consumer product which becomes a covered
4 product pursuant to this subsection—

5 “(i) the Secretary may establish test
6 procedures for such type or class of cov-
7 ered product pursuant to section 323 and
8 energy conservation standards pursuant to
9 section 325(l);

10 “(ii) the Commission may prescribe
11 labeling rules pursuant to section 324 if
12 the Commission determines that labeling in
13 accordance with that section is techno-
14 logically and economically feasible and like-
15 ly to assist consumers in making pur-
16 chasing decisions;

17 “(iii) section 327 shall begin to apply
18 to such type or class of covered product in
19 accordance with section 325(ii)(1); and

20 “(iv) standards previously promul-
21 gated under section 325 shall not apply to
22 such type or class of product.

23 “(B) APPLICABILITY.—For any type or
24 class of consumer product which ceases to be a
25 covered product pursuant to this subsection, the

1 provisions of this part shall no longer apply to
2 the type or class of consumer product.”.

3 (2) COVERED EQUIPMENT.—Section 341 of the
4 Energy Policy and Conservation Act (42 U.S.C.
5 6312) is amended by adding at the end the fol-
6 lowing:

7 “(d) MODIFYING DEFINITIONS OF COVERED EQUIP-
8 MENT.—

9 “(1) IN GENERAL.—For any covered equipment
10 for which a definition is provided in section 340, the
11 Secretary may, by rule, unless prohibited herein,
12 modify such definition in order to—

13 “(A) address significant changes in the
14 product or the market occurring since the defi-
15 nition was established; and

16 “(B) better enable improvements in the en-
17 ergy efficiency of the equipment as part of an
18 energy using system.

19 “(2) ANTIBACKSLIDING EXEMPTION.—Section
20 325(o)(1) shall not apply to adjustments to covered
21 equipment definitions made pursuant to this sub-
22 section.

23 “(3) PROCEDURE FOR MODIFYING DEFINI-
24 TION.—

1 “(A) IN GENERAL.—Notice of any adjust-
2 ment to the definition of a type of covered
3 equipment and an explanation of the reasons
4 therefor shall be published in the Federal Reg-
5 ister and opportunity provided for public com-
6 ment.

7 “(B) CONSENSUS REQUIRED.—Any
8 amendment to the definition of a type of cov-
9 ered equipment under this subsection must have
10 consensus support, as reflected in—

11 “(i) the outcome of negotiations con-
12 ducted in accordance with the subchapter
13 III of chapter 5 of title 5, United States
14 Code (commonly known as the ‘Negotiated
15 Rulemaking Act of 1990’); or

16 “(ii) the Secretary’s receipt of a state-
17 ment that is submitted jointly by inter-
18 ested persons that are fairly representative
19 of relevant points of view (including rep-
20 resentatives of manufacturers of covered
21 equipment, States, and efficiency advo-
22 cates), as determined by the Secretary,
23 which contains a recommended modified
24 definition for a type of covered equipment.

25 “(4) EFFECT OF A MODIFIED DEFINITION.—

1 “(A) For any type or class of equipment
2 which becomes covered equipment pursuant to
3 this subsection—

4 “(i) the Secretary may establish test
5 procedures for such type or class of cov-
6 ered equipment pursuant to section 343
7 and energy conservation standards pursu-
8 ant to section 325(l);

9 “(ii) the Secretary may prescribe la-
10 beling rules pursuant to section 344 if the
11 Secretary determines that labeling in ac-
12 cordance with that section is techno-
13 logically and economically feasible and like-
14 ly to assist purchasers in making pur-
15 chasing decisions;

16 “(iii) section 327 shall begin to apply
17 to such type or class of covered equipment
18 in accordance with section 325(ii)(1); and

19 “(iv) standards previously promul-
20 gated under section 325, 342, or 346 shall
21 not apply to such type or class of covered
22 equipment.

23 “(B) For any type or class of equipment
24 which ceases to be covered equipment pursuant
25 to this subsection the provisions of this part

1 shall no longer apply to the type or class of
2 equipment.”.

3 (b) CONFORMING AMENDMENTS PROVIDING FOR JU-
4 DICIAL REVIEW.—

5 (1) Section 336 of the Energy Policy and Con-
6 servation Act (42 U.S.C. 6306) is amended by strik-
7 ing “section 323,” each place it appears and insert-
8 ing “section 322, 323;” and

9 (2) Section 345(a)(1) of the Energy Policy and
10 Conservation Act (42 U.S.C. 6316(a)(1)) is amend-
11 ed to read as follows:

12 “(1) the references to sections 322, 323, 324,
13 and 325 of this Act shall be considered as references
14 to sections 341, 343, 344, and 342 of this Act, re-
15 spectively;”.

16 **SEC. 3152. CLARIFYING RULEMAKING PROCEDURES.**

17 (a) COVERED PRODUCTS.—Section 325(p) of the En-
18 ergy Policy and Conservation Act (42 U.S.C. 6295(p)) is
19 amended—

20 (1) by redesignating paragraphs (1), (2), (3),
21 and (4) as paragraphs (2), (3), (5), and (6), respec-
22 tively;

23 (2) by inserting before paragraph (2) (as so re-
24 designated by paragraph (1) of this subsection) the
25 following:

1 “(1) The Secretary shall provide an opportunity
2 for public input prior to the issuance of a proposed
3 rule, seeking information—

4 “(A) identifying and commenting on design
5 options;

6 “(B) on the existence of and opportunities
7 for voluntary nonregulatory actions; and

8 “(C) identifying significant subgroups of
9 consumers and manufacturers that merit anal-
10 ysis.”;

11 (3) in paragraph (3) (as so redesignated by
12 paragraph (1) of this subsection)—

13 (A) in subparagraph (C), by striking
14 “and” after “adequate;”;

15 (B) in subparagraph (D), by striking
16 “standard.” and inserting “standard;” and

17 (C) by adding at the end the following new
18 subparagraphs:

19 “(E) whether the technical and economic
20 analytical assumptions, methods, and models
21 used to justify the standard to be prescribed
22 are—

23 “(i) justified; and

24 “(ii) available and accessible for pub-
25 lic review, analysis, and use; and

1 “(F) the cumulative regulatory impacts on
2 the manufacturers of the product, taking into
3 account—

4 “(i) other government standards af-
5 fecting energy use; and

6 “(ii) other energy conservation stand-
7 ards affecting the same manufacturers.”;
8 and

9 (4) by inserting after paragraph (3) (as so re-
10 designated by paragraph (1) of this subsection) the
11 following:

12 “(4) RESTRICTION ON TEST PROCEDURE
13 AMENDMENTS.—

14 “(A) IN GENERAL.—Any proposed energy
15 conservation standards rule shall be based on
16 the final test procedure which shall be used to
17 determine compliance, and the public comment
18 period on the proposed standards shall conclude
19 no sooner than 180 days after the date of publi-
20 cation of a final rule revising the test proce-
21 dure.

22 “(B) EXCEPTION.—The Secretary may
23 propose or prescribe an amendment to the test
24 procedures issued pursuant to section 323 for
25 any type or class of covered product after the

1 issuance of a notice of proposed rulemaking to
2 prescribe an amended or new energy conserva-
3 tion standard for that type or class of covered
4 product, but before the issuance of a final rule
5 prescribing any such standard, if—

6 “(i) the amendments to the test pro-
7 cedure have consensus support achieved
8 through a rulemaking conducted in accord-
9 ance with the subchapter III of chapter 5
10 of title 5, United States Code (commonly
11 known as the ‘Negotiated Rulemaking Act
12 of 1990’); or

13 “(ii) the Secretary receives a state-
14 ment that is submitted jointly by inter-
15 ested persons that are fairly representative
16 of relevant points of view (including rep-
17 resentatives of manufacturers of the type
18 or class of covered product, States, and ef-
19 ficiency advocates), as determined by the
20 Secretary, which contains a recommenda-
21 tion that a supplemental notice of proposed
22 rulemaking is not necessary for the type or
23 class of covered product.”.

24 (b) CONFORMING AMENDMENT.—Section 345(b)(1)
25 of the Energy Policy and Conservation Act (42 U.S.C.

1 6316(b)(1) is amended by striking “section 325(p)(4),”
2 and inserting “section 325(p)(3), (4), and (6),”.

3 **CHAPTER 6—ENERGY AND WATER**

4 **EFFICIENCY**

5 **SEC. 3161. SMART ENERGY AND WATER EFFICIENCY PILOT**
6 **PROGRAM.**

7 (a) DEFINITIONS.—In this section:

8 (1) ELIGIBLE ENTITY.—The term “eligible enti-
9 ty” means—

10 (A) a utility;

11 (B) a municipality;

12 (C) a water district; and

13 (D) any other authority that provides
14 water, wastewater, or water reuse services.

15 (2) SECRETARY.—The term “Secretary” means
16 the Secretary of Energy.

17 (3) SMART ENERGY AND WATER EFFICIENCY
18 PILOT PROGRAM.—The term “smart energy and
19 water efficiency pilot program” or “pilot program”
20 means the pilot program established under sub-
21 section (b).

22 (b) SMART ENERGY AND WATER EFFICIENCY PILOT
23 PROGRAM.—

24 (1) IN GENERAL.—The Secretary shall establish
25 and carry out a smart energy and water efficiency

1 management pilot program in accordance with this
2 section.

3 (2) PURPOSE.—The purpose of the smart en-
4 ergy and water efficiency pilot program is to award
5 grants to eligible entities to demonstrate advanced
6 and innovative technology-based solutions that will—

7 (A) increase and improve the energy effi-
8 ciency of water, wastewater, and water reuse
9 systems to help communities across the United
10 States make significant progress in conserving
11 water, saving energy, and reducing costs;

12 (B) support the implementation of innova-
13 tive processes and the installation of advanced
14 automated systems that provide real-time data
15 on energy and water; and

16 (C) improve energy and water conserva-
17 tion, water quality, and predictive maintenance
18 of energy and water systems, through the use
19 of Internet-connected technologies, including
20 sensors, intelligent gateways, and security em-
21 bedded in hardware.

22 (3) PROJECT SELECTION.—

23 (A) IN GENERAL.—The Secretary shall
24 make competitive, merit-reviewed grants under

1 the pilot program to not less than 3, but not
2 more than 5, eligible entities.

3 (B) SELECTION CRITERIA.—In selecting an
4 eligible entity to receive a grant under the pilot
5 program, the Secretary shall consider—

6 (i) energy and cost savings anticipated
7 to result from the project;

8 (ii) the innovative nature, commercial
9 viability, and reliability of the technology
10 to be used;

11 (iii) the degree to which the project
12 integrates next-generation sensors, soft-
13 ware, hardware, analytics, and manage-
14 ment tools;

15 (iv) the anticipated cost effectiveness
16 of the pilot project in terms of energy effi-
17 ciency savings, water savings or reuse, and
18 infrastructure costs averted;

19 (v) whether the technology can be de-
20 ployed in a variety of geographic regions
21 and the degree to which the technology can
22 be implemented on a smaller or larger
23 scale, including whether the technology can
24 be implemented by each type of eligible en-
25 tity;

1 (vi) whether the technology has been
2 successfully deployed elsewhere;

3 (vii) whether the technology is sourced
4 from a manufacturer based in the United
5 States; and

6 (viii) whether the project will be com-
7 pleted in 5 years or less.

8 (C) APPLICATIONS.—

9 (i) IN GENERAL.—Subject to clause
10 (ii), an eligible entity seeking a grant
11 under the pilot program shall submit to
12 the Secretary an application at such time,
13 in such manner, and containing such infor-
14 mation as the Secretary determines to be
15 necessary.

16 (ii) CONTENTS.—An application under
17 clause (i) shall, at a minimum, include—

18 (I) a description of the project;

19 (II) a description of the tech-
20 nology to be used in the project;

21 (III) the anticipated results, in-
22 cluding energy and water savings, of
23 the project;

24 (IV) a comprehensive budget for
25 the project;

1 (V) the names of the project lead
2 organization and any partners;

3 (VI) the number of users to be
4 served by the project; and

5 (VII) any other information that
6 the Secretary determines to be nec-
7 essary to complete the review and se-
8 lection of a grant recipient.

9 (4) ADMINISTRATION.—

10 (A) IN GENERAL.—Not later than 300
11 days after the date of enactment of this Act,
12 the Secretary shall select grant recipients under
13 this section.

14 (B) EVALUATIONS.—The Secretary shall
15 annually carry out an evaluation of each project
16 for which a grant is provided under this section
17 that—

18 (i) evaluates the progress and impact
19 of the project; and

20 (ii) assesses the degree to which the
21 project is meeting the goals of the pilot
22 program.

23 (C) TECHNICAL AND POLICY ASSIST-
24 ANCE.—On the request of a grant recipient, the
25 Secretary shall provide technical and policy as-

1 sistance to the grant recipient to carry out the
2 project.

3 (D) BEST PRACTICES.—The Secretary
4 shall make available to the public—

5 (i) a copy of each evaluation carried
6 out under subparagraph (B); and

7 (ii) a description of any best practices
8 identified by the Secretary as a result of
9 those evaluations.

10 (E) REPORT TO CONGRESS.—The Sec-
11 retary shall submit to Congress a report con-
12 taining the results of each evaluation carried
13 out under subparagraph (B).

14 (c) FUNDING.—To carry out this section, the Sec-
15 retary is authorized to use not more than \$15,000,000,
16 to the extent provided in advance in appropriation Acts.

17 **SEC. 3162. WATERSENSE.**

18 (a) IN GENERAL.—The Energy Policy and Conserva-
19 tion Act (42 U.S.C. 6201 et seq.) is amended by adding
20 after section 324A the following:

21 **“SEC. 324B. WATERSENSE.**

22 “(a) WATERSENSE.—

23 “(1) IN GENERAL.—There is established within
24 the Environmental Protection Agency a voluntary
25 program, to be entitled ‘WaterSense’, to identify

1 water efficient products, buildings, landscapes, facili-
2 ties, processes, and services that sensibly—

3 “(A) reduce water use;

4 “(B) reduce the strain on public and com-
5 munity water systems and wastewater and
6 stormwater infrastructure;

7 “(C) conserve energy used to pump, heat,
8 transport, and treat water; and

9 “(D) preserve water resources for future
10 generations, through voluntary labeling of, or
11 other forms of communications about, products,
12 buildings, landscapes, facilities, processes, and
13 services while still meeting strict performance
14 criteria.

15 “(2) DUTIES.—The Administrator, coordinating
16 as appropriate with the Secretary of Energy, shall—

17 “(A) establish—

18 “(i) a WaterSense label to be used for
19 items meeting the certification criteria es-
20 tablished in this section; and

21 “(ii) the procedure, including the
22 methods and means, by which an item may
23 be certified to display the WaterSense
24 label;

1 “(B) conduct a public awareness education
2 campaign regarding the WaterSense label;

3 “(C) preserve the integrity of the
4 WaterSense label by—

5 “(i) establishing and maintaining fea-
6 sible performance criteria so that products,
7 buildings, landscapes, facilities, processes,
8 and services labeled with the WaterSense
9 label perform as well or better than less
10 water-efficient counterparts;

11 “(ii) overseeing WaterSense certifi-
12 cations made by third parties;

13 “(iii) using testing protocols, from the
14 appropriate, applicable, and relevant con-
15 sensus standards, for the purpose of deter-
16 mining standards compliance; and

17 “(iv) auditing the use of the
18 WaterSense label in the marketplace and
19 preventing cases of misuse; and

20 “(D) not more often than every six years,
21 review and, if appropriate, update WaterSense
22 criteria for the defined categories of water-effi-
23 cient product, building, landscape, process, or
24 service, including—

1 “(i) providing reasonable notice to in-
2 terested parties and the public of any such
3 changes, including effective dates, and an
4 explanation of the changes;

5 “(ii) soliciting comments from inter-
6 ested parties and the public prior to any
7 such changes;

8 “(iii) as appropriate, responding to
9 comments submitted by interested parties
10 and the public; and

11 “(iv) providing an appropriate transi-
12 tion time prior to the applicable effective
13 date of any such changes, taking into ac-
14 count the timing necessary for the manu-
15 facture, marketing, training, and distribu-
16 tion of the specific water-efficient product,
17 building, landscape, process, or service cat-
18 egory being addressed.

19 “(b) USE OF SCIENCE.—In carrying out this section,
20 and, to the degree that an agency action is based on
21 science, the Administrator shall use—

22 “(1) the best available peer-reviewed science
23 and supporting studies conducted in accordance with
24 sound and objective scientific practices; and

1 “(2) data collected by accepted methods or best
2 available methods (if the reliability of the method
3 and the nature of the decision justify use of the
4 data).

5 “(c) DISTINCTION OF AUTHORITIES.—In setting or
6 maintaining standards for Energy Star pursuant to sec-
7 tion 324A, and WaterSense under this section, the Sec-
8 retary and Administrator shall coordinate to prevent du-
9 plicative or conflicting requirements among the respective
10 programs.

11 “(d) DEFINITIONS.—In this section:

12 “(1) ADMINISTRATOR.—The term ‘Adminis-
13 trator’ means the Administrator of the Environ-
14 mental Protection Agency.

15 “(2) FEASIBLE.—The term ‘feasible’ means
16 feasible with the use of the best technology, treat-
17 ment techniques, and other means that the Adminis-
18 trator finds, after examination for efficacy under
19 field conditions and not solely under laboratory con-
20 ditions, are available (taking cost into consider-
21 ation).

22 “(3) SECRETARY.—The term ‘Secretary’ means
23 the Secretary of Energy.

24 “(4) WATER-EFFICIENT PRODUCT, BUILDING,
25 LANDSCAPE, PROCESS, OR SERVICE.—The term

1 ‘water-efficient product, building, landscape, process,
2 or service’ means a product, building, landscape,
3 process, or service for a residence or a commercial
4 or institutional building, or its landscape, that is
5 rated for water efficiency and performance, the cov-
6 ered categories of which are—

7 “(A) irrigation technologies and services;

8 “(B) point-of-use water treatment devices;

9 “(C) plumbing products;

10 “(D) reuse and recycling technologies;

11 “(E) landscaping and gardening products,
12 including moisture control or water enhancing
13 technologies;

14 “(F) xeriscaping and other landscape con-
15 versions that reduce water use; and

16 “(G) new water efficient homes certified
17 under the WaterSense program.”.

18 (b) CONFORMING AMENDMENT.—The table of con-
19 tents for the Energy Policy and Conservation Act (Public
20 Law 94–163; 42 U.S.C. 6201 et seq.) is amended by in-
21 serting after the item relating to section 324A the fol-
22 lowing new item:

“Sec. 324B. WaterSense.”.

1 **Subtitle B—Accountability**
2 **CHAPTER 1—MARKET MANIPULATION,**
3 **ENFORCEMENT, AND COMPLIANCE**
4 **SEC. 3211. FERC OFFICE OF COMPLIANCE ASSISTANCE AND**
5 **PUBLIC PARTICIPATION.**

6 Section 319 of the Federal Power Act (16 U.S.C.
7 825q-1) is amended to read as follows:

8 **“SEC. 319. OFFICE OF COMPLIANCE ASSISTANCE AND PUB-**
9 **LIC PARTICIPATION.**

10 “(a) **ESTABLISHMENT.**—There is established within
11 the Commission an Office of Compliance Assistance and
12 Public Participation (referred to in this section as the ‘Of-
13 fice’). The Office shall be headed by a Director.

14 “(b) **DUTIES OF DIRECTOR.**—

15 “(1) **IN GENERAL.**—The Director of the Office
16 shall promote improved compliance with Commission
17 rules and orders by—

18 “(A) making recommendations to the Com-
19 mission regarding—

20 “(i) the protection of consumers;

21 “(ii) market integrity and support for
22 the development of responsible market be-
23 havior;

1 “(iii) the application of Commission
2 rules and orders in a manner that ensures
3 that—

4 “(I) rates and charges for, or in
5 connection with, the transmission or
6 sale of electric energy subject to the
7 jurisdiction of the Commission shall
8 be just and reasonable and not unduly
9 discriminatory or preferential; and

10 “(II) markets for such trans-
11 mission and sale of electric energy are
12 not impaired and consumers are not
13 damaged; and

14 “(iv) the impact of existing and pro-
15 posed Commission rules and orders on
16 small entities, as defined in section 601 of
17 title 5, United States Code (commonly
18 known as the Regulatory Flexibility Act);

19 “(B) providing entities subject to regula-
20 tion by the Commission the opportunity to ob-
21 tain timely guidance for compliance with Com-
22 mission rules and orders; and

23 “(C) providing information to the Commis-
24 sion and Congress to inform policy with respect

1 to energy issues under the jurisdiction of the
2 Commission.

3 “(2) REPORTS AND GUIDANCE.—The Director
4 shall, as the Director determines appropriate, issue
5 reports and guidance to the Commission and to enti-
6 ties subject to regulation by the Commission, regard-
7 ing market practices, proposing improvements in
8 Commission monitoring of market practices, and ad-
9 dressing potential improvements to both industry
10 and Commission practices.

11 “(3) OUTREACH.—The Director shall promote
12 improved compliance with Commission rules and or-
13 ders through outreach, publications, and, where ap-
14 propriate, direct communication with entities regu-
15 lated by the Commission.”.

16 **CHAPTER 2—MARKET REFORMS**

17 **SEC. 3221. GAO STUDY ON WHOLESALE ELECTRICITY MAR-** 18 **KETS.**

19 (a) STUDY AND REPORT.—Not later than 1 year
20 after the date of enactment of this Act, the Comptroller
21 General shall submit to the Committee on Energy and
22 Commerce of the House of Representatives and the Com-
23 mittee on Energy and Natural Resources of the Senate
24 a report describing the results of a study of whether and
25 how the current market rules, practices, and structures

1 of each regional transmission entity produce rates that are
2 just and reasonable by—

3 (1) facilitating fuel diversity, the availability of
4 generation resources during emergency and severe
5 weather conditions, resource adequacy, and reli-
6 ability, including the cost-effective retention and de-
7 velopment of needed generation;

8 (2) promoting the equitable treatment of busi-
9 ness models, including different utility types, the in-
10 tegration of diverse generation resources, and ad-
11 vanced grid technologies;

12 (3) identifying and addressing regulatory bar-
13 riers to entry, market-distorting incentives, and arti-
14 ficial constraints on competition;

15 (4) providing transparency regarding dispatch
16 decisions, including the need for out-of-market ac-
17 tions and payments, and the accuracy of day-ahead
18 unit commitments;

19 (5) facilitating the development of necessary
20 natural gas pipeline and electric transmission infra-
21 structure;

22 (6) ensuring fairness and transparency in gov-
23 ernance structures and stakeholder processes, in-
24 cluding meaningful participation by both voting and
25 nonvoting stakeholder representatives;

1 (7) ensuring the proper alignment of the energy
2 and transmission markets by including both energy
3 and financial transmission rights in the day-ahead
4 markets;

5 (8) facilitating the ability of load-serving enti-
6 ties to self-supply their service territory load;

7 (9) considering, as appropriate, State and local
8 resource planning; and

9 (10) mitigating, to the extent practicable, the
10 disruptive effects of tariff revisions on the economic
11 decisionmaking of market participants.

12 (b) DEFINITIONS.—In this section:

13 (1) LOAD-SERVING ENTITY.—The term “load-
14 serving entity” has the meaning given that term in
15 section 217 of the Federal Power Act (16 U.S.C.
16 824q).

17 (2) REGIONAL TRANSMISSION ENTITY.—The
18 term “regional transmission entity” means a Re-
19 gional Transmission Organization or an Independent
20 System Operator, as such terms are defined in sec-
21 tion 3 of the Federal Power Act (16 U.S.C. 796).

22 **SEC. 3222. CLARIFICATION OF FACILITY MERGER AUTHOR-**
23 **IZATION.**

24 Section 203(a)(1)(B) of the Federal Power Act (16
25 U.S.C. 824b(a)(1)(B)) is amended by striking “such facili-

1 ties or any part thereof” and inserting “such facilities, or
2 any part thereof, of a value in excess of \$10,000,000”.

3 **CHAPTER 3—CODE MAINTENANCE**

4 **SEC. 3231. REPEAL OF OFF-HIGHWAY MOTOR VEHICLES**

5 **STUDY.**

6 (a) REPEAL.—Part I of title III of the Energy Policy
7 and Conservation Act (42 U.S.C. 6373) is repealed.

8 (b) CONFORMING AMENDMENT.—The table of con-
9 tents for the Energy Policy and Conservation Act (Public
10 Law 94–163; 89 Stat. 871) is amended—

11 (1) by striking the item relating to part I of
12 title III; and

13 (2) by striking the item relating to section 385.

14 **SEC. 3232. REPEAL OF METHANOL STUDY.**

15 Section 400EE of the Energy Policy and Conserva-
16 tion Act (42 U.S.C. 6374d) is amended—

17 (1) by striking subsection (a); and

18 (2) by redesignating subsections (b) and (c) as
19 subsections (a) and (b), respectively.

20 **SEC. 3233. REPEAL OF RESIDENTIAL ENERGY EFFICIENCY**

21 **STANDARDS STUDY.**

22 (a) REPEAL.—Section 253 of the National Energy
23 Conservation Policy Act (42 U.S.C. 8232) is repealed.

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents for the National Energy Conservation Policy Act

1 (Public Law 95–619; 92 Stat. 3206) is amended by strik-
2 ing the item relating to section 253.

3 **SEC. 3234. REPEAL OF WEATHERIZATION STUDY.**

4 (a) REPEAL.—Section 254 of the National Energy
5 Conservation Policy Act (42 U.S.C. 8233) is repealed.

6 (b) CONFORMING AMENDMENT.—The table of con-
7 tents for the National Energy Conservation Policy Act
8 (Public Law 95–619; 92 Stat. 3206) is amended by strik-
9 ing the item relating to section 254.

10 **SEC. 3235. REPEAL OF REPORT TO CONGRESS.**

11 (a) REPEAL.—Section 273 of the National Energy
12 Conservation Policy Act (42 U.S.C. 8236b) is repealed.

13 (b) CONFORMING AMENDMENT.—The table of con-
14 tents for the National Energy Conservation Policy Act
15 (Public Law 95–619; 92 Stat. 3206) is amended by strik-
16 ing the item relating to section 273.

17 **SEC. 3236. REPEAL OF REPORT BY GENERAL SERVICES AD-
18 MINISTRATION.**

19 (a) REPEAL.—Section 154 of the Energy Policy Act
20 of 1992 (42 U.S.C. 8262a) is repealed.

21 (b) CONFORMING AMENDMENTS.—

22 (1) The table of contents for the Energy Policy
23 Act of 1992 (Public Law 102–486; 106 Stat. 2776)
24 is amended by striking the item relating to section
25 154.

1 (2) Section 159 of the Energy Policy Act of
2 1992 (42 U.S.C. 8262e) is amended by striking sub-
3 section (c).

4 **SEC. 3237. REPEAL OF INTERGOVERNMENTAL ENERGY**
5 **MANAGEMENT PLANNING AND COORDINA-**
6 **TION WORKSHOPS.**

7 (a) REPEAL.—Section 156 of the Energy Policy Act
8 of 1992 (42 U.S.C. 8262b) is repealed.

9 (b) CONFORMING AMENDMENT.—The table of con-
10 tents for the Energy Policy Act of 1992 (Public Law 102–
11 486; 106 Stat. 2776) is amended by striking the item re-
12 lating to section 156.

13 **SEC. 3238. REPEAL OF INSPECTOR GENERAL AUDIT SUR-**
14 **VEY AND PRESIDENT’S COUNCIL ON INTEG-**
15 **RITY AND EFFICIENCY REPORT TO CON-**
16 **GRESS.**

17 (a) REPEAL.—Section 160 of the Energy Policy Act
18 of 1992 (42 U.S.C. 8262f) is amended by striking the sec-
19 tion designation and heading and all that follows through
20 “(c) INSPECTOR GENERAL REVIEW.—Each Inspector
21 General” and inserting the following:

22 **“SEC. 160. INSPECTOR GENERAL REVIEW.**

23 “Each Inspector General”.

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents for the Energy Policy Act of 1992 (Public Law 102–

1 486; 106 Stat. 2776) is amended by striking the item re-
2 lating to section 160 and inserting the following:

“Sec. 160. Inspector General review.”.

3 **SEC. 3239. REPEAL OF PROCUREMENT AND IDENTIFICA-**
4 **TION OF ENERGY EFFICIENT PRODUCTS PRO-**
5 **GRAM.**

6 (a) REPEAL.—Section 161 of the Energy Policy Act
7 of 1992 (42 U.S.C. 8262g) is repealed.

8 (b) CONFORMING AMENDMENT.—The table of con-
9 tents for the Energy Policy Act of 1992 (Public Law 102–
10 486; 106 Stat. 2776) is amended by striking the item re-
11 lating to section 161.

12 **SEC. 3240. REPEAL OF NATIONAL ACTION PLAN FOR DE-**
13 **MAND RESPONSE.**

14 (a) REPEAL.—Part 5 of title V of the National En-
15 ergy Conservation Policy Act (42 U.S.C. 8279) is re-
16 pealed.

17 (b) CONFORMING AMENDMENT.—The table of con-
18 tents for the National Energy Conservation Policy Act
19 (Public Law 95–619; 92 Stat. 3206; 121 Stat. 1665) is
20 amended—

21 (1) by striking the item relating to part 5 of
22 title V; and

23 (2) by striking the item relating to section 571.

1 **SEC. 3241. REPEAL OF NATIONAL COAL POLICY STUDY.**

2 (a) REPEAL.—Section 741 of the Powerplant and In-
3 dustrial Fuel Use Act of 1978 (42 U.S.C. 8451) is re-
4 pealed.

5 (b) CONFORMING AMENDMENT.—The table of con-
6 tents for the Powerplant and Industrial Fuel Use Act of
7 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
8 striking the item relating to section 741.

9 **SEC. 3242. REPEAL OF STUDY ON COMPLIANCE PROBLEM**
10 **OF SMALL ELECTRIC UTILITY SYSTEMS.**

11 (a) REPEAL.—Section 744 of the Powerplant and In-
12 dustrial Fuel Use Act of 1978 (42 U.S.C. 8454) is re-
13 pealed.

14 (b) CONFORMING AMENDMENT.—The table of con-
15 tents for the Powerplant and Industrial Fuel Use Act of
16 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
17 striking the item relating to section 744.

18 **SEC. 3243. REPEAL OF STUDY OF SOCIOECONOMIC IM-**
19 **PACTS OF INCREASED COAL PRODUCTION**
20 **AND OTHER ENERGY DEVELOPMENT.**

21 (a) REPEAL.—Section 746 of the Powerplant and In-
22 dustrial Fuel Use Act of 1978 (42 U.S.C. 8456) is re-
23 pealed.

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents for the Powerplant and Industrial Fuel Use Act of

1 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
2 striking the item relating to section 746.

3 **SEC. 3244. REPEAL OF STUDY OF THE USE OF PETROLEUM**
4 **AND NATURAL GAS IN COMBUSTORS.**

5 (a) REPEAL.—Section 747 of the Powerplant and In-
6 dustrial Fuel Use Act of 1978 (42 U.S.C. 8457) is re-
7 pealed.

8 (b) CONFORMING AMENDMENT.—The table of con-
9 tents for the Powerplant and Industrial Fuel Use Act of
10 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
11 striking the item relating to section 747.

12 **SEC. 3245. REPEAL OF SUBMISSION OF REPORTS.**

13 (a) REPEAL.—Section 807 of the Powerplant and In-
14 dustrial Fuel Use Act of 1978 (42 U.S.C. 8483) is re-
15 pealed.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents for the Powerplant and Industrial Fuel Use Act of
18 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
19 striking the item relating to section 807.

20 **SEC. 3246. REPEAL OF ELECTRIC UTILITY CONSERVATION**
21 **PLAN.**

22 (a) REPEAL.—Section 808 of the Powerplant and In-
23 dustrial Fuel Use Act of 1978 (42 U.S.C. 8484) is re-
24 pealed.

25 (b) CONFORMING AMENDMENTS.—

1 (1) TABLE OF CONTENTS.—The table of con-
2 tents for the Powerplant and Industrial Fuel Use
3 Act of 1978 (Public Law 95–620; 92 Stat. 3289) is
4 amended by striking the item relating to section
5 808.

6 (2) REPORT ON IMPLEMENTATION.—Section
7 712 of the Powerplant and Industrial Fuel Use Act
8 of 1978 (42 U.S.C. 8422) is amended—

9 (A) by striking “(a) GENERALLY.—”; and

10 (B) by striking subsection (b).

11 **SEC. 3247. TECHNICAL AMENDMENT TO POWERPLANT AND**
12 **INDUSTRIAL FUEL USE ACT OF 1978.**

13 The table of contents for the Powerplant and Indus-
14 trial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat.
15 3289) is amended by striking the item relating to section
16 742.

17 **SEC. 3248. EMERGENCY ENERGY CONSERVATION REPEALS.**

18 (a) REPEALS.—

19 (1) Section 201 of the Emergency Energy Con-
20 servation Act of 1979 (42 U.S.C. 8501) is amend-
21 ed—

22 (A) in the section heading, by striking
23 “**FINDINGS AND**”;

24 (B) by striking subsection (a); and

25 (C) by striking “(b) PURPOSES.—”.

1 (2) Section 221 of the Emergency Energy Con-
2 servation Act of 1979 (42 U.S.C. 8521) is repealed.

3 (3) Section 222 of the Emergency Energy Con-
4 servation Act of 1979 (42 U.S.C. 8522) is repealed.

5 (4) Section 241 of the Emergency Energy Con-
6 servation Act of 1979 (42 U.S.C. 8531) is repealed.

7 (b) CONFORMING AMENDMENT.—The table of con-
8 tents for the Emergency Energy Conservation Act of 1979
9 (Public Law 96–102; 93 Stat. 749) is amended—

10 (1) by striking the item relating to section 201
11 and inserting the following:

“Sec. 201. Purposes.”; and

12 (2) by striking the items relating to sections
13 221, 222, and 241.

14 **SEC. 3249. REPEAL OF STATE UTILITY REGULATORY AS-**
15 **SISTANCE.**

16 (a) REPEAL.—Section 207 of the Energy Conserva-
17 tion and Production Act (42 U.S.C. 6807) is repealed.

18 (b) CONFORMING AMENDMENT.—The table of con-
19 tents for the Energy Conservation and Production Act
20 (Public Law 94–385; 90 Stat. 1125) is amended by strik-
21 ing the item relating to section 207.

22 **SEC. 3250. REPEAL OF SURVEY OF ENERGY SAVING POTEN-**
23 **TIAL.**

24 (a) REPEAL.—Section 550 of the National Energy
25 Conservation Policy Act (42 U.S.C. 8258b) is repealed.

1 (b) CONFORMING AMENDMENTS.—

2 (1) The table of contents for the National En-
3 ergy Conservation Policy Act (Public Law 95–619;
4 92 Stat. 3206; 106 Stat. 2851) is amended by strik-
5 ing the item relating to section 550.

6 (2) Section 543(d)(2) of the National Energy
7 Conservation Policy Act (42 U.S.C. 8253(d)(2)) is
8 amended by striking “, incorporating any relevant
9 information obtained from the survey conducted pur-
10 suant to section 550”.

11 **SEC. 3251. REPEAL OF PHOTOVOLTAIC ENERGY PROGRAM.**

12 (a) REPEAL.—Part 4 of title V of the National En-
13 ergy Conservation Policy Act (42 U.S.C. 8271 et seq.) is
14 repealed.

15 (b) CONFORMING AMENDMENTS.—The table of con-
16 tents for the National Energy Conservation Policy Act
17 (Public Law 95–619; 92 Stat. 3206) is amended—

18 (1) by striking the item relating to part 4 of
19 title V; and

20 (2) by striking the items relating to sections
21 561 through 570.

22 **SEC. 3252. REPEAL OF ENERGY AUDITOR TRAINING AND**
23 **CERTIFICATION.**

24 (a) REPEAL.—Subtitle F of title V of the Energy Se-
25 curity Act (42 U.S.C. 8285 et seq.) is repealed.

1 (b) CONFORMING AMENDMENT.—The table of con-
2 tents for the Energy Security Act (Public Law 96–294;
3 94 Stat. 611) is amended by striking the items relating
4 to subtitle F of title V.

5 **CHAPTER 4—AUTHORIZATION**

6 **SEC. 3261 AUTHORIZATION.**

7 There are authorized to be appropriated, out of funds
8 authorized under previously enacted laws, amounts re-
9 quired for carrying out this division and the amendments
10 made by this division.

11 **TITLE IV—CHANGING CRUDE** 12 **OIL MARKET CONDITIONS**

13 **SEC. 4001. FINDINGS.**

14 The Congress finds the following:

15 (1) The United States has enjoyed a renaiss-
16 sance in energy production, establishing the United
17 States as the world’s leading oil producer.

18 (2) By authorizing crude oil exports, the Con-
19 gress can spur domestic energy production, create
20 and preserve jobs, help maintain and strengthen our
21 independent shipping fleet that is essential to na-
22 tional defense, and generate State and Federal reve-
23 nues.

24 (3) An energy-secure United States that is a
25 net exporter of energy has the potential to transform

1 the security environment around the world, notably
2 in Europe and the Middle East.

3 (4) For our European allies and Israel, the
4 presence of more United States oil in the market
5 will offer more secure supply options, which will
6 strengthen United States strategic alliances and help
7 curtail the use of energy as a political weapon.

8 (5) The 60-ship Maritime Security Fleet is a
9 vital element of our military's strategic sealift and
10 global response capability. It assures United States-
11 flag ships and United States crews will be available
12 to support the United States military when it needs
13 to mobilize to protect our allies, and is the most pru-
14 dent and economical solution to meet current and
15 projected sealift requirements for the United States.

16 (6) The Maritime Security Fleet program pro-
17 vides a labor base of skilled American mariners who
18 are available to crew the United States Government-
19 owned strategic sealift fleet, as well as the United
20 States commercial fleet, in both peace and war.

21 (7) The United States has reduced its oil con-
22 sumption over the past decade, and increasing in-
23 vestment in clean energy technology and energy effi-
24 ciency will lower energy prices, reduce greenhouse
25 gas emissions, and increase national security.

1 **SEC. 4002. REPEAL.**

2 Section 103 of the Energy Policy and Conservation
3 Act (42 U.S.C. 6212) and the item relating thereto in the
4 table of contents of that Act are repealed.

5 **SEC. 4003. NATIONAL POLICY ON OIL EXPORT RESTRIC-**
6 **TIONS.**

7 Notwithstanding any other provision of law, to pro-
8 mote the efficient exploration, production, storage, supply,
9 marketing, pricing, and regulation of energy resources, in-
10 cluding fossil fuels, no official of the Federal Government
11 shall impose or enforce any restriction on the export of
12 crude oil.

13 **SEC. 4004. STUDIES.**

14 (a) GREENHOUSE GAS EMISSIONS.—Not later than
15 120 days after the date of enactment of this Act, the Sec-
16 retary of Energy shall conduct, and transmit to the Com-
17 mittee on Energy and Commerce of the House of Rep-
18 resentatives and the Committee on Energy and Natural
19 Resources of the Senate the results of, a study on the net
20 greenhouse gas emissions that will result from the repeal
21 of the crude oil export ban under section 4002.

22 (b) CRUDE OIL EXPORT STUDY.—

23 (1) IN GENERAL.—The Department of Com-
24 merce, in consultation with the Department of En-
25 ergy, and other departments as appropriate, shall
26 conduct a study of the State and national implica-

1 tions of lifting the crude oil export ban with respect
2 to consumers and the economy.

3 (2) CONTENTS.—The study conducted under
4 paragraph (1) shall include an analysis of—

5 (A) the economic impact that exporting
6 crude oil will have on the economy of the
7 United States;

8 (B) the economic impact that exporting
9 crude oil will have on consumers, taking into
10 account impacts on energy prices;

11 (C) the economic impact that exporting
12 crude oil will have on domestic manufacturing,
13 taking into account impacts on employment;
14 and

15 (D) the economic impact that exporting
16 crude oil will have on the refining sector, taking
17 into account impacts on employment.

18 (3) REPORT TO CONGRESS.—Not later than 1
19 year after the date of enactment of this Act, the Bu-
20 reau of Industry and Security shall submit to Con-
21 gress a report containing the results of the study
22 conducted under paragraph (1).

23 **SEC. 4005. SAVINGS CLAUSE.**

24 Nothing in this title limits the authority of the Presi-
25 dent under the Constitution, the International Emergency

1 Economic Powers Act (50 U.S.C. 1701 et seq.), the Na-
2 tional Emergencies Act (50 U.S.C. 1601 et seq.), part B
3 of title II of the Energy Policy and Conservation Act (42
4 U.S.C. 6271 et seq.), the Trading With the Enemy Act
5 (50 U.S.C. App. 1 et seq.), or any other provision of law
6 that imposes sanctions on a foreign person or foreign gov-
7 ernment (including any provision of law that prohibits or
8 restricts United States persons from engaging in a trans-
9 action with a sanctioned person or government), including
10 a foreign government that is designated as a state sponsor
11 of terrorism, to prohibit exports.

12 **SEC. 4006. PARTNERSHIPS WITH MINORITY SERVING INSTI-**
13 **TUTIONS.**

14 (a) IN GENERAL.—The Department of Energy shall
15 continue to develop and broaden partnerships with minor-
16 ity serving institutions, including Hispanic Serving Insti-
17 tutions (HSI) and Historically Black Colleges and Univer-
18 sities (HBCUs) in the areas of oil and gas exploration,
19 production, midstream, and refining.

20 (b) PUBLIC-PRIVATE PARTNERSHIPS.—The Depart-
21 ment of Energy shall encourage public-private partner-
22 ships between the energy sector and minority serving insti-
23 tutions, including Hispanic Serving Institutions and His-
24 torically Black Colleges and Universities.

1 **SEC. 4007. REPORT.**

2 Not later than 10 years after the date of enactment
3 of this Act, the Secretary of Energy and the Secretary
4 of Commerce shall jointly transmit to Congress a report
5 that reviews the impact of lifting the oil export ban under
6 this title as it relates to promoting United States energy
7 and national security.

8 **SEC. 4008. REPORT TO CONGRESS.**

9 Not later than 180 days after the date of enactment
10 of this Act, the Secretary of Energy and the Secretary
11 of Commerce shall jointly transmit to Congress a report
12 analyzing how lifting the ban on crude oil exports will help
13 create opportunities for veterans and women in the United
14 States, while promoting energy and national security.

15 **SEC. 4009. PROHIBITION ON EXPORTS OF CRUDE OIL, RE-**
16 **FINED PETROLEUM PRODUCTS, AND PETRO-**
17 **CHEMICAL PRODUCTS TO THE ISLAMIC RE-**
18 **PUBLIC OF IRAN.**

19 Nothing in this title shall be construed to authorize
20 the export of crude oil, refined petroleum products, and
21 petrochemical products by or through any entity or per-
22 son, wherever located, subject to the jurisdiction of the
23 United States to any entity or person located in, subject
24 to the jurisdiction of, or sponsored by the Islamic Republic
25 of Iran.

1 **TITLE V—OTHER MATTERS**

2 **SEC. 5001. ASSESSMENT OF REGULATORY REQUIREMENTS.**

3 (a) **IN GENERAL.**—Not later than 30 days after the
4 date of enactment of this Act, the Administrator of the
5 Environmental Protection Agency shall ensure that the re-
6 quirements described in subsection (b) are satisfied.

7 (b) **REQUIREMENTS.**—The Administrator shall sat-
8 isfy—

9 (1) section 4 of Executive Order No. 12866 (5
10 U.S.C. 601 note) (relating to regulatory planning
11 and review) and Executive Order No. 13563 (5
12 U.S.C. 601 note) (relating to improving regulation
13 and regulatory review) (or any successor Executive
14 order establishing requirements applicable to the
15 uniform reporting of regulatory and deregulatory
16 agendas);

17 (2) section 602 of title 5, United States Code;

18 (3) section 8 of Executive Order No. 13132 (5
19 U.S.C. 601 note) (relating to federalism); and

20 (4) section 202(a) of the Unfunded Mandates
21 Reform Act of 1995 (2 U.S.C. 1532(a)).

22 **SEC. 5002. DEFINITIONS.**

23 In this title:

24 (1) **COVERED CIVIL ACTION.**—The term “cov-
25 ered civil action” means a civil action containing a

1 claim under section 702 of title 5, United States
2 Code, regarding agency action (as defined for the
3 purposes of that section) affecting a covered energy
4 project on Federal land.

5 (2) COVERED ENERGY PROJECT.—

6 (A) IN GENERAL.—The term “covered en-
7 ergy project” means—

8 (i) the leasing of Federal land for the
9 exploration, development, production, proc-
10 essing, or transmission of oil, natural gas,
11 coal, geothermal, hydroelectric, biomass,
12 solar, or any other source of energy; and

13 (ii) any action under the lease.

14 (B) EXCLUSION.—The term “covered en-
15 ergy project” does not include any dispute be-
16 tween the parties to a lease regarding the obli-
17 gations under the lease, including any alleged
18 breach of the lease.

19 **SEC. 5003. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS**
20 **RELATING TO COVERED ENERGY PROJECTS.**

21 Venue for any covered civil action shall lie in the
22 United States district court in which the covered energy
23 project or lease exists or is proposed.

1 **SEC. 5004. TIMELY FILING.**

2 To ensure timely redress by the courts, a covered civil
3 action shall be filed not later than the end of the 90-day
4 period beginning on the date of the final Federal agency
5 action to which the covered civil action relates.

6 **SEC. 5005. EXPEDITION IN HEARING AND DETERMINING**
7 **THE ACTION.**

8 The court shall endeavor to hear and determine any
9 covered civil action as expeditiously as practicable.

10 **SEC. 5006. LIMITATION ON INJUNCTION AND PROSPECTIVE**
11 **RELIEF.**

12 (a) IN GENERAL.—In a covered civil action, a court
13 shall not grant or approve any prospective relief unless
14 the court finds that the relief—

15 (1) is narrowly drawn;

16 (2) extends no further than necessary to correct
17 the violation of a legal requirement; and

18 (3) is the least intrusive means necessary to
19 correct the violation.

20 (b) DURATION.—

21 (1) IN GENERAL.—A court shall limit the dura-
22 tion of preliminary injunctions to halt covered en-
23 ergy projects to not more than 60 days, unless the
24 court finds clear reasons to extend the injunction.

25 (2) ADMINISTRATION.—In the case of an exten-
26 sion, the extension shall—

1 (A) only be in 30-day increments; and

2 (B) require action by the court to renew
3 the injunction.

4 (c) IN GENERAL.—Sections 504 of title 5 and 2412
5 of title 28, United States Code (commonly known as the
6 “Equal Access to Justice Act”), shall not apply to a cov-
7 ered civil action.

8 (d) COURT COSTS.—A party to a covered civil action
9 shall not receive payment from the Federal Government
10 for the attorneys’ fees, expenses, or other court costs in-
11 curred by the party.

12 **SEC. 5007. LEGAL STANDING.**

13 A challenger that files an appeal with the Department
14 of the Interior Board of Land Appeals shall meet the same
15 standing requirements as a challenger before a United
16 States district court.

17 **SEC. 5008. STUDY TO IDENTIFY LEGAL AND REGULATORY**
18 **BARRIERS THAT DELAY, PROHIBIT, OR IM-**
19 **PEDE THE EXPORT OF NATURAL ENERGY RE-**
20 **SOURCES.**

21 Not later than 1 year after the date of enactment
22 of this Act, the Secretary of Energy and the Secretary
23 of Commerce shall jointly transmit to the Committee on
24 Energy and Commerce and the Committee on Natural Re-
25 sources of the House of Representatives, and the Com-

1 mittee on Commerce, Science, and Transportation and the
2 Committee on Energy and Natural Resources of the Sen-
3 ate, the results of a study to—

4 (1) identify legal and regulatory barriers that
5 delay, prohibit, or impede the export of natural en-
6 ergy resources, including government and technical
7 (physical or market) barriers that hinder coal, nat-
8 ural gas, oil, and other energy exports; and

9 (2) estimate the economic impacts of such bar-
10 riers.

11 **SEC. 5009. STUDY OF VOLATILITY OF CRUDE OIL.**

12 Not later than 1 year after the date of enactment
13 of this Act, the Secretary of Energy shall transmit to Con-
14 gress the results of a study to determine the maximum
15 level of volatility that is consistent with the safest prac-
16 ticable shipment of crude oil by rail.

17 **SEC. 5010. SMART METER PRIVACY RIGHTS.**

18 (a) **ELECTRICAL CORPORATION OR GAS CORPORA-**
19 **TIONS.—**

20 (1) For purposes of this section, “electrical or
21 gas consumption data” means data about a cus-
22 tomer’s electrical or natural gas usage that is made
23 available as part of an advanced metering infrastruc-
24 ture, and includes the name, account number, or
25 residence of the customer.

1 (2)(A) An electrical corporation or gas corpora-
2 tion shall not share, disclose, or otherwise make ac-
3 cessible to any third party a customer's electrical or
4 gas consumption data, except as provided in sub-
5 section (a)(5) or upon the consent of the customer.

6 (B) An electrical corporation or gas corporation
7 shall not sell a customer's electrical or gas consump-
8 tion data or any other personally identifiable infor-
9 mation for any purpose.

10 (C) The electrical corporation or gas corpora-
11 tion or its contractors shall not provide an incentive
12 or discount to the customer for accessing the cus-
13 tomer's electrical or gas consumption data without
14 the prior consent of the customer.

15 (D) An electrical or gas corporation that uti-
16 lizes an advanced metering infrastructure that al-
17 lows a customer to access the customer's electrical
18 and gas consumption data shall ensure that the cus-
19 tomer has an option to access that data without
20 being required to agree to the sharing of his or her
21 personally identifiable information, including elec-
22 trical or gas consumption data, with a third party.

23 (3) If an electrical corporation or gas corpora-
24 tion contracts with a third party for a service that
25 allows a customer to monitor his or her electricity or

1 gas usage, and that third party uses the data for a
2 secondary commercial purpose, the contract between
3 the electrical corporation or gas corporation and the
4 third party shall provide that the third party promi-
5 nently discloses that secondary commercial purpose
6 to the customer.

7 (4) An electrical corporation or gas corporation
8 shall use reasonable security procedures and prac-
9 tices to protect a customer's unencrypted electrical
10 or gas consumption data from unauthorized access,
11 destruction, use, modification, or disclosure.

12 (5)(A) Nothing in this section shall preclude an
13 electrical corporation or gas corporation from using
14 customer aggregate electrical or gas consumption
15 data for analysis, reporting, or program manage-
16 ment if all information has been removed regarding
17 the individual identity of a customer.

18 (B) Nothing in this section shall preclude an
19 electrical corporation or gas corporation from dis-
20 closing a customer's electrical or gas consumption
21 data to a third party for system, grid, or operational
22 needs, or the implementation of demand response,
23 energy management, or energy efficiency programs,
24 provided that, for contracts entered into after Janu-
25 ary 1, 2016, the utility has required by contract that

1 the third party implement and maintain reasonable
2 security procedures and practices appropriate to the
3 nature of the information, to protect the personal in-
4 formation from unauthorized access, destruction,
5 use, modification, or disclosure, and prohibits the
6 use of the data for a secondary commercial purpose
7 not related to the primary purpose of the contract
8 without the customer's consent.

9 (C) Nothing in this section shall preclude an
10 electrical corporation or gas corporation from dis-
11 closing electrical or gas consumption data as re-
12 quired or permitted under State or Federal law or
13 by an order of a State public utility commission.

14 (6) If a customer chooses to disclose his or her
15 electrical or gas consumption data to a third party
16 that is unaffiliated with, and has no other business
17 relationship with, the electrical or gas corporation,
18 the electrical or gas corporation shall not be respon-
19 sible for the security of that data, or its use or mis-
20 use.

21 (b) LOCAL PUBLICLY OWNED ELECTRIC UTILI-
22 TIES.—

23 (1) For purposes of this section, “electrical con-
24 sumption data” means data about a customer's elec-
25 trical usage that is made available as part of an ad-

1 vanced metering infrastructure, and includes the
2 name, account number, or residence of the customer.

3 (2)(A) A local publicly owned electric utility
4 shall not share, disclose, or otherwise make acces-
5 sible to any third party a customer's electrical con-
6 sumption data, except as provided in subsection (b)
7 (5) or upon the consent of the customer.

8 (B) A local publicly owned electric utility shall
9 not sell a customer's electrical consumption data or
10 any other personally identifiable information for any
11 purpose.

12 (C) The local publicly owned electric utility or
13 its contractors shall not provide an incentive or dis-
14 count to the customer for accessing the customer's
15 electrical consumption data without the prior con-
16 sent of the customer.

17 (D) A local publicly owned electric utility that
18 utilizes an advanced metering infrastructure that al-
19 lows a customer to access the customer's electrical
20 consumption data shall ensure that the customer has
21 an option to access that data without being required
22 to agree to the sharing of his or her personally iden-
23 tifiable information, including electrical consumption
24 data, with a third party.

1 (3) If a local publicly owned electric utility con-
2 tracts with a third party for a service that allows a
3 customer to monitor his or her electricity usage, and
4 that third party uses the data for a secondary com-
5 mercial purpose, the contract between the local pub-
6 licly owned electric utility and the third party shall
7 provide that the third party prominently discloses
8 that secondary commercial purpose to the customer.

9 (4) A local publicly owned electric utility shall
10 use reasonable security procedures and practices to
11 protect a customer's unencrypted electrical consump-
12 tion data from unauthorized access, destruction, use,
13 modification, or disclosure, and prohibits the use of
14 the data for a secondary commercial purpose not re-
15 lated to the primary purpose of the contract without
16 the customer's consent.

17 (5)(A) Nothing in this section shall preclude a
18 local publicly owned electric utility from using cus-
19 tomer aggregate electrical consumption data for
20 analysis, reporting, or program management if all
21 information has been removed regarding the indi-
22 vidual identity of a customer.

23 (B) Nothing in this section shall preclude a
24 local publicly owned electric utility from disclosing a
25 customer's electrical consumption data to a third

1 party for system, grid, or operational needs, or the
2 implementation of demand response, energy manage-
3 ment, or energy efficiency programs, provided, for
4 contracts entered into after January 1, 2016, that
5 the utility has required by contract that the third
6 party implement and maintain reasonable security
7 procedures and practices appropriate to the nature
8 of the information, to protect the personal informa-
9 tion from unauthorized access, destruction, use,
10 modification, or disclosure.

11 (C) Nothing in this section shall preclude a
12 local publicly owned electric utility from disclosing
13 electrical consumption data as required under State
14 or Federal law.

15 (6) If a customer chooses to disclose his or her
16 electrical consumption data to a third party that is
17 unaffiliated with, and has no other business relation-
18 ship with, the local publicly owned electric utility,
19 the utility shall not be responsible for the security of
20 that data, or its use or misuse.

21 **SEC. 5011. YOUTH ENERGY ENTERPRISE COMPETITION.**

22 The Secretaries of Energy and Commerce shall joint-
23 ly establish an energy enterprise competition to encourage
24 youth to propose solutions to the energy challenges of the
25 United States and to promote youth interest in careers

1 in science, technology, engineering, and math, especially
2 as those fields relate to energy.

3 **SEC. 5012. MODERNIZATION OF TERMS RELATING TO MI-**
4 **NORITIES.**

5 (a) OFFICE OF MINORITY ECONOMIC IMPACT.—Sec-
6 tion 211(f)(1) of the Department of Energy Organization
7 Act (42 U.S.C. 7141(f)(1)) is amended by striking “a
8 Negro, Puerto Rican, American Indian, Eskimo, Oriental,
9 or Aleut or is a Spanish speaking individual of Spanish
10 descent” and inserting “Asian American, African Amer-
11 ican, Hispanic, Puerto Rican, Native American, or an
12 Alaska Native”.

13 (b) MINORITY BUSINESS ENTERPRISES.—Section
14 106(f)(2) of the Local Public Works Capital Development
15 and Investment Act of 1976 (42 U.S.C. 6705(f)(2)) is
16 amended by striking “Negroes, Spanish-speaking, Ori-
17 entals, Indians, Eskimos, and Aleuts” and inserting
18 “Asian American, African American, Hispanic, Native
19 American, or Alaska Natives”.

20 **SEC. 5013. VOLUNTARY VEGETATION MANAGEMENT OUT-**
21 **SIDE RIGHTS-OF-WAY.**

22 (a) AUTHORIZATION.—The Secretary of the Interior
23 or the Secretary of Agriculture may authorize an owner
24 or operator of an electric transmission or distribution fa-
25 cility to manage vegetation selectively within 150 feet of

1 the exterior boundary of the right-of-way near structures
2 for selective thinning and fuel reduction.

3 (b) STATUS OF REMOVED VEGETATION.—Any vege-
4 tation removed pursuant to this section shall be the prop-
5 erty of the United States and not available for sale by
6 the owner or operator.

7 (c) LIMITATION ON LIABILITY.—An owner or oper-
8 ator of an electric transmission or distribution facility
9 shall not be held liable for wildlife damage, loss, or injury,
10 including the cost of fire suppression, resulting from ac-
11 tivities carried out pursuant to subsection (a) except in
12 the case of harm resulting from the owner or operator’s
13 gross negligence or criminal misconduct.

14 **SEC. 5014. REPEAL OF RULE FOR NEW RESIDENTIAL WOOD**
15 **HEATERS.**

16 The final rule entitled “Standards of Performance for
17 New Residential Wood Heaters, New Residential Hydronic
18 Heaters and Forced-Air Furnaces” published at 80 Fed.
19 Reg. 13672 (March 16, 2015) shall have no force or effect
20 and shall be treated as if such rule had never been issued.

1 **TITLE VI—PROMOTING RENEW-**
2 **ABLE ENERGY WITH SHARED**
3 **SOLAR**

4 **SEC. 6001. SHORT TITLE.**

5 This title may be cited as the “Promoting Renewable
6 Energy with Shared Solar Act of 2016”.

7 **SEC. 6002. PROVISION OF INTERCONNECTION SERVICE AND**
8 **NET BILLING SERVICE FOR COMMUNITY**
9 **SOLAR FACILITIES.**

10 (a) IN GENERAL.—Section 111(d) of the Public Util-
11 ity Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))
12 is amended by adding at the end the following:

13 “(20) COMMUNITY SOLAR FACILITIES.—

14 “(A) DEFINITIONS.—In this paragraph:

15 “(i) COMMUNITY SOLAR FACILITY.—

16 The term ‘community solar facility’ means
17 a solar photovoltaic system that—

18 “(I) allocates electricity to mul-
19 tiple individual electric consumers of
20 an electric utility;

21 “(II) has a nameplate rating of 2
22 megawatts or less; and

23 “(III) is—

1 “(aa) owned by the electric
2 utility, jointly owned, or third-
3 party-owned;

4 “(bb) connected to a local
5 distribution facility of the electric
6 utility; and

7 “(cc) located on or off the
8 property of a consumer of the
9 electricity.

10 “(ii) INTERCONNECTION SERVICE.—
11 The term ‘interconnection service’ means a
12 service provided by an electric utility to an
13 electric consumer, in accordance with the
14 standards described in paragraph (15),
15 through which a community solar facility is
16 connected to an applicable local distribu-
17 tion facility.

18 “(iii) NET BILLING SERVICE.—The
19 term ‘net billing service’ means a service
20 provided by an electric utility to an electric
21 consumer through which electric energy
22 generated for that electric consumer from
23 a community solar facility may be used to
24 offset electric energy provided by the elec-

1 tric utility to the electric consumer during
2 the applicable billing period.

3 “(B) REQUIREMENT.—On receipt of a re-
4 quest of an electric consumer served by the
5 electric utility, each electric utility shall make
6 available to the electric consumer interconnec-
7 tion service and net billing service for a commu-
8 nity solar facility.”.

9 (b) COMPLIANCE.—

10 (1) TIME LIMITATIONS.—Section 112(b) of the
11 Public Utility Regulatory Policies Act of 1978 (16
12 U.S.C. 2622(b)) is amended by adding at the end
13 the following:

14 “(7)(A) Not later than 1 year after the date of
15 enactment of this paragraph, each State regulatory
16 authority (with respect to each electric utility for
17 which the State has ratemaking authority) and each
18 nonregulated utility shall commence consideration
19 under section 111, or set a hearing date for consid-
20 eration, with respect to the standard established by
21 paragraph (20) of section 111(d).

22 “(B) Not later than 2 years after the date of
23 enactment of this paragraph, each State regulatory
24 authority (with respect to each electric utility for
25 which the State has ratemaking authority), and each

1 nonregulated electric utility shall complete the con-
2 sideration and make the determination under section
3 111 with respect to the standard established by
4 paragraph (20) of section 111(d).”.

5 (2) FAILURE TO COMPLY.—

6 (A) IN GENERAL.—Section 112(c) of the
7 Public Utility Regulatory Policies Act of 1978
8 (16 U.S.C. 2622(c)) is amended—

9 (i) by striking “such paragraph (14)”
10 and all that follows through “paragraphs
11 (16)” and inserting “such paragraph (14).
12 In the case of the standard established by
13 paragraph (15) of section 111(d), the ref-
14 erence contained in this subsection to the
15 date of enactment of this Act shall be
16 deemed to be a reference to the date of en-
17 actment of that paragraph (15). In the
18 case of the standards established by para-
19 graphs (16)”;

20 (ii) by adding at the end the fol-
21 lowing: “In the case of the standard estab-
22 lished by paragraph (20) of section 111(d),
23 the reference contained in this subsection
24 to the date of enactment of this Act shall

1 be deemed to be a reference to the date of
2 enactment of that paragraph (20).”.

3 (B) TECHNICAL CORRECTION.—

4 (i) IN GENERAL.—Section 1254(b) of
5 the Energy Policy Act of 2005 (Public
6 Law 109–58; 119 Stat. 971) is amended
7 by striking paragraph (2).

8 (ii) TREATMENT.—The amendment
9 made by paragraph (2) of section 1254(b)
10 of the Energy Policy Act of 2005 (Public
11 Law 109–58; 119 Stat. 971) (as in effect
12 on the day before the date of enactment of
13 this Act) is void, and section 112(d) of the
14 Public Utility Regulatory Policies Act of
15 1978 (16 U.S.C. 2622(d)) shall be in ef-
16 fect as if those amendments had not been
17 enacted.

18 (3) PRIOR STATE ACTIONS.—

19 (A) IN GENERAL.—Section 112 of the
20 Public Utility Regulatory Policies Act of 1978
21 (16 U.S.C. 2622) is amended by adding at the
22 end the following:

23 “(g) PRIOR STATE ACTIONS.—Subsections (b) and
24 (c) shall not apply to the standard established by para-
25 graph (20) of section 111(d) in the case of any electric

1 utility in a State if, before the date of enactment of this
2 subsection—

3 “(1) the State has implemented for the electric
4 utility the standard (or a comparable standard);

5 “(2) the State regulatory authority for the
6 State or the relevant nonregulated electric utility has
7 conducted a proceeding to consider implementation
8 of the standard (or a comparable standard) for the
9 electric utility; or

10 “(3) the State legislature has voted on the im-
11 plementation of the standard (or a comparable
12 standard) for the electric utility.”.

13 (B) CROSS-REFERENCE.—Section 124 of
14 the Public Utility Regulatory Policy Act of
15 1978 (16 U.S.C. 2634) is amended by adding
16 at the end the following: “In the case of the
17 standard established by paragraph (20) of sec-
18 tion 111(d), the reference contained in this sub-
19 section to the date of enactment of this Act
20 shall be deemed to be a reference to the date
21 of enactment of that paragraph (20).”.

1 **TITLE VII—MARINE**
2 **HYDROKINETIC**

3 **SEC. 7001. DEFINITION OF MARINE AND HYDROKINETIC RE-**
4 **NEWABLE ENERGY.**

5 Section 632 of the Energy Independence and Security
6 Act of 2007 (42 U.S.C. 17211) is amended in the matter
7 preceding paragraph (1) by striking “electrical”.

8 **SEC. 7002. MARINE AND HYDROKINETIC RENEWABLE EN-**
9 **ERGY RESEARCH AND DEVELOPMENT.**

10 Section 633 of the Energy Independence and Security
11 Act of 2007 (42 U.S.C. 17212) is amended to read as
12 follows:

13 **“SEC. 633. MARINE AND HYDROKINETIC RENEWABLE EN-**
14 **ERGY RESEARCH AND DEVELOPMENT.**

15 “The Secretary, in consultation with the Secretary of
16 the Interior, the Secretary of Commerce, and the Federal
17 Energy Regulatory Commission, shall carry out a program
18 of research, development, demonstration, and commercial
19 application to accelerate the introduction of marine and
20 hydrokinetic renewable energy production into the United
21 States energy supply, giving priority to fostering acceler-
22 ated research, development, and commercialization of
23 technology, including—

24 “(1) to assist technology development to im-
25 prove the components, processes, and systems used

1 for power generation from marine and hydrokinetic
2 renewable energy resources;

3 “(2) to establish critical testing infrastructure
4 necessary—

5 “(A) to cost effectively and efficiently test
6 and prove the efficacy of marine and
7 hydrokinetic renewable energy devices; and

8 “(B) to accelerate the technological readi-
9 ness and commercialization of those devices;

10 “(3) to support efforts to increase the efficiency
11 of energy conversion, lower the cost, increase the
12 use, improve the reliability, and demonstrate the ap-
13 plicability of marine and hydrokinetic renewable en-
14 ergy technologies by participating in demonstration
15 projects;

16 “(4) to investigate variability issues and the ef-
17 ficient and reliable integration of marine and
18 hydrokinetic renewable energy with the utility grid;

19 “(5) to identify and study critical short- and
20 long-term needs to create a sustainable marine and
21 hydrokinetic renewable energy supply chain based in
22 the United States;

23 “(6) to increase the reliability and survivability
24 of marine and hydrokinetic renewable energy tech-
25 nologies;

1 “(7) to verify the performance, reliability, main-
2 tainability, and cost of new marine and hydrokinetic
3 renewable energy device designs and system compo-
4 nents in an operating environment;

5 “(8) to coordinate and avoid duplication of ac-
6 tivities across programs of the Department and
7 other applicable Federal agencies, including National
8 Laboratories, and to coordinate public-private col-
9 laboration in all programs under this section;

10 “(9) to identify opportunities for joint research
11 and development programs and development of
12 economies of scale between—

13 “(A) marine and hydrokinetic renewable
14 energy technologies; and

15 “(B) other renewable energy and fossil en-
16 ergy programs, offshore oil and gas production
17 activities, and activities of the Department of
18 Defense; and

19 “(10) to support in-water technology develop-
20 ment with international partners using existing co-
21 operative procedures (including memoranda of un-
22 derstanding)—

23 “(A) to allow cooperative funding and
24 other support of value to be exchanged and le-
25 veraged; and

1 “(B) to encourage international research
2 centers and international companies to partici-
3 pate in the development of water technology in
4 the United States and to encourage United
5 States research centers and United States com-
6 panies to participate in water technology
7 projects abroad.”.

8 **SEC. 7003. NATIONAL MARINE RENEWABLE ENERGY RE-**
9 **SEARCH, DEVELOPMENT, AND DEMONSTRA-**
10 **TION CENTERS.**

11 Section 634(b) of the Energy Independence and Se-
12 curity Act of 2007 (42 U.S.C. 17213(b)) is amended to
13 read as follows:

14 “(b) PURPOSES.—A Center (in coordination with the
15 Department and National Laboratories) shall—

16 “(1) advance research, development, demonstra-
17 tion, and commercial application of marine and
18 hydrokinetic renewable energy technologies;

19 “(2) support in-water testing and demonstra-
20 tion of marine and hydrokinetic renewable energy
21 technologies, including facilities capable of testing—

22 “(A) marine and hydrokinetic renewable
23 energy systems of various technology readiness
24 levels and scales;

1 “(B) a variety of technologies in multiple
2 test berths at a single location; and

3 “(C) arrays of technology devices; and

4 “(3) serve as information clearinghouses for the
5 marine and hydrokinetic renewable energy industry
6 by collecting and disseminating information on best
7 practices in all areas relating to developing and
8 managing marine and hydrokinetic renewable energy
9 resources and energy systems.”.

10 **SEC. 7004. AUTHORIZATION OF APPROPRIATIONS.**

11 Section 636 of the Energy Independence and Security
12 Act of 2007 (42 U.S.C. 17215) is amended by striking
13 “2008 through 2012” and inserting “2016 through
14 2019”.

15 **TITLE VIII—EXTENSIONS OF**
16 **TIME FOR VARIOUS FEDERAL**
17 **ENERGY REGULATORY COM-**
18 **MISSION PROJECTS**

19 **SEC. 8001. EXTENSION OF TIME FOR FEDERAL ENERGY**
20 **REGULATORY COMMISSION PROJECT IN-**
21 **VOLVING CLARK CANYON DAM.**

22 Notwithstanding the time period described in section
23 13 of the Federal Power Act (16 U.S.C. 806) that would
24 otherwise apply to the Federal Energy Regulatory Com-
25 mission project numbered 12429, the Federal Energy

1 Regulatory Commission (referred to in this section as the
2 “Commission”) shall, at the request of the licensee for the
3 project, and after reasonable notice and in accordance
4 with the procedures of the Commission under that section,
5 reinstate the license and extend the time period during
6 which the licensee is required to commence construction
7 of project works for the 3-year period beginning on the
8 date of enactment of this Act.

9 **SEC. 8002. EXTENSION OF TIME FOR FEDERAL ENERGY**
10 **REGULATORY COMMISSION PROJECT IN-**
11 **VOLVING GIBSON DAM.**

12 (a) IN GENERAL.—Notwithstanding the require-
13 ments of section 13 of the Federal Power Act (16 U.S.C.
14 806) that would otherwise apply to the Federal Energy
15 Regulatory Commission project numbered 12478–003, the
16 Federal Energy Regulatory Commission (referred to in
17 this section as the “Commission”) may, at the request of
18 the licensee for the project, and after reasonable notice
19 and in accordance with the procedures of the Commission
20 under that section, extend the time period during which
21 the licensee is required to commence construction of the
22 project for a 6-year period that begins on the date de-
23 scribed in subsection (b).

24 (b) DATE DESCRIBED.—The date described in this
25 subsection is the date of the expiration of the extension

1 of the period required for commencement of construction
2 for the project described in subsection (a) that was issued
3 by the Commission prior to the date of enactment of this
4 Act under section 13 of the Federal Power Act (16 U.S.C.
5 806).

6 **SEC. 8003. EXTENSION OF TIME FOR FEDERAL ENERGY**
7 **REGULATORY COMMISSION PROJECT IN-**
8 **VOLVING JENNINGS RANDOLPH DAM.**

9 (a) IN GENERAL.—Notwithstanding the time period
10 specified in section 13 of the Federal Power Act (16
11 U.S.C. 806) that would otherwise apply to the Federal En-
12 ergy Regulatory Commission project numbered 12715, the
13 Commission may, at the request of the licensee for the
14 project, and after reasonable notice, in accordance with
15 the good faith, due diligence, and public interest require-
16 ments of that section and the Commission’s procedures
17 under that section, extend the time period during which
18 the licensee is required to commence the construction of
19 the project for up to three consecutive 2-year periods from
20 the date of the expiration of the extension originally issued
21 by the Commission. Any obligation of the licensee for the
22 payment of annual charges under section 10(e) of the Fed-
23 eral Power Act (16 U.S.C. 803(e)) shall commence upon
24 conclusion of the time period to commence construction

1 of the project, as extended by the Commission under this
2 subsection.

3 (b) REINSTATEMENT OF EXPIRED LICENSE.—If the
4 period required for commencement of construction of the
5 project described in subsection (a) has expired prior to the
6 date of the enactment of this Act, the Commission shall
7 reinstate the license effective as of the date of its expira-
8 tion and the first extension authorized under subsection
9 (a) shall take effect on the date of such expiration.

10 **SEC. 8004. EXTENSION OF TIME FOR FEDERAL ENERGY**
11 **REGULATORY COMMISSION PROJECT IN-**
12 **VOLVING CANNONVILLE DAM.**

13 (a) IN GENERAL.—Notwithstanding the time period
14 specified in section 13 of the Federal Power Act (16
15 U.S.C. 806) that would otherwise apply to the Federal En-
16 ergy Regulatory Commission project numbered 13287, the
17 Commission may, at the request of the licensee for the
18 project, and after reasonable notice, in accordance with
19 the good faith, due diligence, and public interest require-
20 ments of that section and the Commission's procedures
21 under that section, extend the time period during which
22 the licensee is required to commence the construction of
23 the project for up to four consecutive 2-year periods from
24 the date of the expiration of the time period required for
25 commencement of construction prescribed in the license.

1 (b) REINSTATEMENT OF EXPIRED LICENSE.—If the
2 period required for commencement of construction of the
3 project described in subsection (a) has expired prior to the
4 date of the enactment of this Act, the Commission may
5 reinstate the license effective as of the date of its expira-
6 tion and the first extension authorized under subsection
7 (a) shall take effect on the date of such expiration.

8 **SEC. 8005. EXTENSION OF TIME FOR FEDERAL ENERGY**
9 **REGULATORY COMMISSION PROJECT IN-**
10 **VOLVING GATHRIGHT DAM.**

11 (a) IN GENERAL.—Notwithstanding the time period
12 specified in section 13 of the Federal Power Act (16
13 U.S.C. 806) that would otherwise apply to the Federal En-
14 ergy Regulatory Commission project numbered 12737, the
15 Commission may, at the request of the licensee for the
16 project, and after reasonable notice, in accordance with
17 the good faith, due diligence, and public interest require-
18 ments of that section and the Commission's procedures
19 under that section, extend the time period during which
20 the licensee is required to commence the construction of
21 the project for up to three consecutive 2-year periods from
22 the date of the expiration of the extension originally issued
23 by the Commission.

24 (b) REINSTATEMENT OF EXPIRED LICENSE.—If the
25 period required for commencement of construction of the

1 project described in subsection (a) has expired prior to the
2 date of the enactment of this Act, the Commission may
3 reinstate the license for the project effective as of the date
4 of its expiration and the first extension authorized under
5 subsection (a) shall take effect on the date of such expira-
6 tion.

7 **SEC. 8006. EXTENSION OF TIME FOR FEDERAL ENERGY**
8 **REGULATORY COMMISSION PROJECT IN-**
9 **VOLVING FLANNAGAN DAM.**

10 (a) **IN GENERAL.**—Notwithstanding the time period
11 specified in section 13 of the Federal Power Act (16
12 U.S.C. 806) that would otherwise apply to the Federal En-
13 ergy Regulatory Commission project numbered 12740, the
14 Commission may, at the request of the licensee for the
15 project, and after reasonable notice, in accordance with
16 the good faith, due diligence, and public interest require-
17 ments of that section and the Commission’s procedures
18 under that section, extend the time period during which
19 the licensee is required to commence the construction of
20 the project for up to three consecutive 2-year periods from
21 the date of the expiration of the extension originally issued
22 by the Commission.

23 (b) **REINSTATEMENT OF EXPIRED LICENSE.**—If the
24 period required for commencement of construction of the
25 project described in subsection (a) has expired prior to the

1 date of the enactment of this Act, the Commission may
2 reinstate the license for the project effective as of the date
3 of its expiration and the first extension authorized under
4 subsection (a) shall take effect on the date of such expira-
5 tion.

6 **TITLE IX—ENERGY AND MANU-**
7 **FACTURING WORKFORCE DE-**
8 **VELOPMENT**

9 **SEC. 9001. ENERGY AND MANUFACTURING WORKFORCE DE-**
10 **VELOPMENT.**

11 (a) IN GENERAL.—The Secretary of Energy (in this
12 title referred to as the “Secretary”) shall prioritize edu-
13 cation and training for energy and manufacturing-related
14 jobs in order to increase the number of skilled workers
15 trained to work in energy and manufacturing-related fields
16 when considering awards for existing grant programs, in-
17 cluding by—

18 (1) encouraging State education agencies and
19 local educational agencies to equip students with the
20 skills, mentorships, training, and technical expertise
21 necessary to fill the employment opportunities vital
22 to managing and operating the Nation’s energy and
23 manufacturing industries, in collaboration with rep-
24 resentatives from the energy and manufacturing in-
25 dustries (including the oil, gas, coal, nuclear, utility,

1 pipeline, renewable, petrochemical, manufacturing,
2 and electrical construction sectors) to identify the
3 areas of highest need in each sector and the skills
4 necessary for a high quality workforce in the fol-
5 lowing sectors of energy and manufacturing:

6 (A) Energy efficiency industry, including
7 work in energy efficiency, conservation, weath-
8 erization, or retrofitting, or as inspectors or
9 auditors.

10 (B) Pipeline industry, including work in
11 pipeline construction and maintenance or work
12 as engineers or technical advisors.

13 (C) Utility industry, including work in the
14 generation, transmission, and distribution of
15 electricity and natural gas, such as utility tech-
16 nicians, operators, lineworkers, engineers, sci-
17 entists, and information technology specialists.

18 (D) Nuclear industry, including work as
19 scientists, engineers, technicians, mathemati-
20 cians, or security personnel.

21 (E) Oil and gas industry, including work
22 as scientists, engineers, technicians, mathemati-
23 cians, petrochemical engineers, or geologists.

24 (F) Renewable industry, including work in
25 the development, manufacturing, and produc-

1 tion of renewable energy sources (such as solar,
2 hydropower, wind, or geothermal energy).

3 (G) Coal industry, including work as coal
4 miners, engineers, developers and manufactur-
5 ers of state-of-the-art coal facilities, technology
6 vendors, coal transportation workers and opera-
7 tors, or mining equipment vendors.

8 (H) Manufacturing industry, including
9 work as operations technicians, operations and
10 design in additive manufacturing, 3-D printing,
11 advanced composites, and advanced aluminum
12 and other metal alloys, industrial energy effi-
13 ciency management systems, including power
14 electronics, and other innovative technologies.

15 (I) Chemical manufacturing industry, in-
16 cluding work in construction (such as welders,
17 pipefitters, and tool and die makers) or as in-
18 strument and electrical technicians, machinists,
19 chemical process operators, chemical engineers,
20 quality and safety professionals, and reliability
21 engineers; and

22 (2) strengthening and more fully engaging De-
23 partment of Energy programs and labs in carrying
24 out the Department's workforce development initia-
25 tives including the Minorities in Energy Initiative.

1 (b) PROHIBITION.—Nothing in this section shall be
2 construed to authorize the Secretary or any other officer
3 or employee of the Federal Government to incentivize, re-
4 quire, or coerce a State, school district, or school to adopt
5 curricula aligned to the skills described in subsection (a).

6 (c) PRIORITY.—The Secretary shall prioritize the
7 education and training of underrepresented groups in en-
8 ergy and manufacturing-related jobs.

9 (d) CLEARINGHOUSE.—In carrying out this section,
10 the Secretary shall establish a clearinghouse to—

11 (1) maintain and update information and re-
12 sources on training and workforce development pro-
13 grams for energy and manufacturing-related jobs,
14 including job training and workforce development
15 programs available to assist displaced and unem-
16 ployed energy and manufacturing workers
17 transitioning to new employment; and

18 (2) provide technical assistance for States, local
19 educational agencies, schools, community colleges,
20 universities (including minority serving institutions),
21 workforce development programs, labor-management
22 organizations, and industry organizations that would
23 like to develop and implement energy and manufac-
24 turing-related training programs.

1 (e) COLLABORATION.—In carrying out this section,
2 the Secretary—

3 (1) shall collaborate with States, local edu-
4 cational agencies, schools, community colleges, uni-
5 versities (including minority serving institutions),
6 workforce-training organizations, national labora-
7 tories, State energy offices, workforce investment
8 boards, and the energy and manufacturing indus-
9 tries;

10 (2) shall encourage and foster collaboration,
11 mentorships, and partnerships among organizations
12 (including industry, States, local educational agen-
13 cies, schools, community colleges, workforce-devel-
14 opment organizations, and colleges and universities)
15 that currently provide effective job training pro-
16 grams in the energy and manufacturing fields and
17 entities (including States, local educational agencies,
18 schools, community colleges, workforce development
19 programs, and colleges and universities) that seek to
20 establish these types of programs in order to share
21 best practices; and

22 (3) shall collaborate with the Bureau of Labor
23 Statistics, the Department of Commerce, the Bureau
24 of the Census, States, and the energy and manufac-
25 turing industries to develop a comprehensive and de-

1 tailed understanding of the energy and manufac-
2 turing workforce needs and opportunities by State
3 and by region.

4 (f) OUTREACH TO MINORITY SERVING INSTITU-
5 TIONS.—In carrying out this section, the Secretary shall—

6 (1) give special consideration to increasing out-
7 reach to minority serving institutions and Histori-
8 cally Black Colleges and Universities;

9 (2) make existing resources available through
10 program cross-cutting to minority serving institu-
11 tions with the objective of increasing the number of
12 skilled minorities and women trained to go into the
13 energy and manufacturing sectors;

14 (3) encourage industry to improve the opportu-
15 nities for students of minority serving institutions to
16 participate in industry internships and cooperative
17 work/study programs; and

18 (4) partner with the Department of Energy lab-
19 oratories to increase underrepresented groups' par-
20 ticipation in internships, fellowships, traineeships,
21 and employment at all Department of Energy lab-
22 oratories.

23 (g) OUTREACH TO DISLOCATED ENERGY AND MANU-
24 FACTURING WORKERS.—In carrying out this section, the
25 Secretary shall—

1 (1) give special consideration to increasing out-
2 reach to employers and job trainers preparing dis-
3 located energy and manufacturing workers for in-de-
4 mand sectors or occupations;

5 (2) make existing resources available through
6 program cross-cutting to institutions serving dis-
7 located energy and manufacturing workers with the
8 objective of training individuals to re-enter in-de-
9 mand sectors or occupations;

10 (3) encourage the energy and manufacturing in-
11 dustries to improve opportunities for dislocated en-
12 ergy and manufacturing workers to participate in
13 career pathways; and

14 (4) work closely with the energy and manufac-
15 turing industries to identify energy and manufac-
16 turing operations, such as coal-fired power plants
17 and coal mines, scheduled for closure and to provide
18 early intervention assistance to workers employed at
19 such energy and manufacturing operations by—

20 (A) partnering with State and local work-
21 force development boards;

22 (B) giving special consideration to employ-
23 ers and job trainers preparing such workers for
24 in-demand sectors or occupations;

1 (C) making existing resources available
2 through program cross-cutting to institutions
3 serving such workers with the objective of train-
4 ing them to re-enter in-demand sectors or occu-
5 pations; and

6 (D) encouraging the energy and manufac-
7 turing industries to improve opportunities for
8 such workers to participate in career pathways.

9 (h) ENROLLMENT IN WORKFORCE DEVELOPMENT
10 PROGRAMS.—In carrying out this section, the Secretary
11 shall work with industry and community-based workforce
12 organizations to help identify candidates, including from
13 underrepresented communities such as minorities, women,
14 and veterans, to enroll in workforce development programs
15 for energy and manufacturing-related jobs.

16 (i) PROHIBITION.—Nothing in this section shall be
17 construed as authorizing the creation of a new workforce
18 development program.

19 (j) DEFINITIONS.—In this section:

20 (1) CAREER PATHWAYS; DISLOCATED WORKER;
21 IN-DEMAND SECTORS OR OCCUPATIONS; LOCAL
22 WORKFORCE DEVELOPMENT BOARD; STATE WORK-
23 FORCE DEVELOPMENT BOARD.—The terms “career
24 pathways”, “dislocated worker”, “in-demand sectors
25 or occupations”, “local workforce development

1 board”, and “State workforce development board”
2 have the meanings given the terms “career path-
3 ways”, “dislocated worker”, “in-demand sectors or
4 occupations”, “local board”, and “State board”, re-
5 spectively, in section 3 of the Workforce Innovation
6 and Opportunity Act (29 U.S.C. 3102).

7 (2) MINORITY-SERVING INSTITUTION.—The
8 term “minority-serving institution” means an insti-
9 tution of higher education with a designation of one
10 of the following:

11 (A) Hispanic-serving institution (as de-
12 fined in 20 U.S.C.1101a(a)(5)).

13 (B) Tribal College or University (as de-
14 fined in 20 U.S.C.1059c(b)).

15 (C) Alaska Native-serving institution or a
16 Native Hawaiian-serving institution (as defined
17 in 20 U.S.C.1059d(b)).

18 (D) Predominantly Black Institution (as
19 defined in 20 U.S.C.1059e(b)).

20 (E) Native American-serving nontribal in-
21 stitution (as defined in 20 U.S.C.1059f(b)).

22 (F) Asian American and Native American
23 Pacific Islander-serving institution (as defined
24 in 20 U.S.C.1059g(b)).

1 **SEC. 9002. REPORT.**

2 Five years after the date of enactment of this Act,
3 the Secretary shall publish a comprehensive report to the
4 Committee on Energy and Commerce and the Committee
5 on Education and the Workforce of the House of Rep-
6 resentatives and the Senate Energy and Natural Re-
7 sources Committee on the outlook for energy and manu-
8 facturing sectors nationally. The report shall also include
9 a comprehensive summary of energy and manufacturing
10 job creation as a result of the enactment of this title. The
11 report shall include performance data regarding the num-
12 ber of program participants served, the percentage of par-
13 ticipants in competitive integrated employment two quar-
14 ters and four quarters after program completion, the me-
15 dian income of program participants two quarters and
16 four quarters after program completion, and the percent-
17 age of program participants receiving industry-recognized
18 credentials.

19 **SEC. 9003. USE OF EXISTING FUNDS.**

20 No additional funds are authorized to carry out the
21 requirements of this title. Such requirements shall be car-
22 ried out using amounts otherwise authorized.

1 **DIVISION B—RESILIENT**
2 **FEDERAL FORESTS**

3 **SEC. 1. SHORT TITLE.**

4 This division may be cited as the “Resilient Federal
5 Forests Act of 2016”.

6 **SEC. 2. DEFINITIONS.**

7 In titles I through VIII of this division:

8 (1) **CATASTROPHIC EVENT.**—The term “cata-
9 strophic event” means any natural disaster (such as
10 hurricane, tornado, windstorm, snow or ice storm,
11 rain storm, high water, wind-driven water, tidal
12 wave, earthquake, volcanic eruption, landslide,
13 mudslide, drought, or insect or disease outbreak) or
14 any fire, flood, or explosion, regardless of cause.

15 (2) **CATEGORICAL EXCLUSION.**—The term “cat-
16 egorical exclusion” refers to an exception to the re-
17 quirements of the National Environmental Policy
18 Act of 1969 (42 U.S.C. 4331 et seq.) for a project
19 or activity relating to the management of National
20 Forest System lands or public lands.

21 (3) **COLLABORATIVE PROCESS.**—The term “col-
22 laborative process” refers to a process relating to the
23 management of National Forest System lands or
24 public lands by which a project or activity is devel-
25 oped and implemented by the Secretary concerned

1 through collaboration with interested persons, as de-
2 scribed in section 603(b)(1)(C) of the Healthy For-
3 ests Restoration Act of 2003 (16 U.S.C.
4 6591b(b)(1)(C)).

5 (4) COMMUNITY WILDFIRE PROTECTION
6 PLAN.—The term “community wildfire protection
7 plan” has the meaning given that term in section
8 101(3) of the Healthy Forests Restoration Act of
9 2003 (16 U.S.C. 6511(3)).

10 (5) COOS BAY WAGON ROAD GRANT LANDS.—
11 The term “Coos Bay Wagon Road Grant lands”
12 means the lands reconveyed to the United States
13 pursuant to the first section of the Act of February
14 26, 1919 (40 Stat. 1179).

15 (6) FOREST MANAGEMENT ACTIVITY.—The
16 term “forest management activity” means a project
17 or activity carried out by the Secretary concerned on
18 National Forest System lands or public lands in con-
19 cert with the forest plan covering the lands.

20 (7) FOREST PLAN.—The term “forest plan”
21 means—

22 (A) a land use plan prepared by the Bu-
23 reau of Land Management for public lands pur-
24 suant to section 202 of the Federal Land Policy

1 and Management Act of 1976 (43 U.S.C.
2 1712); or

3 (B) a land and resource management plan
4 prepared by the Forest Service for a unit of the
5 National Forest System pursuant to section 6
6 of the Forest and Rangeland Renewable Re-
7 sources Planning Act of 1974 (16 U.S.C.
8 1604).

9 (8) LARGE-SCALE CATASTROPHIC EVENT.—The
10 term “large-scale catastrophic event” means a cata-
11 strophic event that adversely impacts at least 5,000
12 acres of reasonably contiguous National Forest Sys-
13 tem lands or public lands.

14 (9) NATIONAL FOREST SYSTEM.—The term
15 “National Forest System” has the meaning given
16 that term in section 11(a) of the Forest and Range-
17 land Renewable Resources Planning Act of 1974 (16
18 U.S.C. 1609(a)).

19 (10) OREGON AND CALIFORNIA RAILROAD
20 GRANT LANDS.—The term “Oregon and California
21 Railroad Grant lands” means the following lands:

22 (A) All lands in the State of Oregon re-
23 vested in the United States under the Act of
24 June 9, 1916 (39 Stat. 218), that are adminis-
25 tered by the Secretary of the Interior, acting

1 through the Bureau of Land Management, pur-
2 suant to the first section of the Act of August
3 28, 1937 (43 U.S.C. 1181a).

4 (B) All lands in that State obtained by the
5 Secretary of the Interior pursuant to the land
6 exchanges authorized and directed by section 2
7 of the Act of June 24, 1954 (43 U.S.C. 1181h).

8 (C) All lands in that State acquired by the
9 United States at any time and made subject to
10 the provisions of title II of the Act of August
11 28, 1937 (43 U.S.C. 1181f).

12 (11) PUBLIC LANDS.—The term “public lands”
13 has the meaning given that term in section 103(e)
14 of the Federal Land Policy and Management Act of
15 1976 (43 U.S.C. 1702(e)), except that the term in-
16 cludes Coos Bay Wagon Road Grant lands and Or-
17 egon and California Railroad Grant lands.

18 (12) REFORESTATION ACTIVITY.—The term
19 “reforestation activity” means a project or activity
20 carried out by the Secretary concerned whose pri-
21 mary purpose is the reforestation of impacted lands
22 following a large-scale catastrophic event. The term
23 includes planting, evaluating and enhancing natural
24 regeneration, clearing competing vegetation, and

1 other activities related to reestablishment of forest
2 species on the fire-impacted lands.

3 (13) RESOURCE ADVISORY COMMITTEE.—The
4 term “resource advisory committee” has the mean-
5 ing given that term in section 201(3) of the Secure
6 Rural Schools and Community Self-Determination
7 Act of 2000 (16 U.S.C. 7121(3)).

8 (14) SALVAGE OPERATION.—The term “salvage
9 operation” means a forest management activity un-
10 dertaken in response to a catastrophic event whose
11 primary purpose—

12 (A) is to prevent wildfire as a result of the
13 catastrophic event, or, if the catastrophic event
14 was wildfire, to prevent a re-burn of the fire-im-
15 pacted area;

16 (B) is to provide an opportunity for utiliza-
17 tion of forest materials damaged as a result of
18 the catastrophic event; or

19 (C) is to provide a funding source for re-
20 forestation and other restoration activities for
21 the National Forest System lands or public
22 lands impacted by the catastrophic event.

23 (15) SECRETARY CONCERNED.—The term
24 “Secretary concerned” means—

1 (A) the Secretary of Agriculture, with re-
2 spect to National Forest System lands; and

3 (B) the Secretary of the Interior, with re-
4 spect to public lands.

5 **TITLE I—EXPEDITED ENVIRON-**
6 **MENTAL ANALYSIS AND**
7 **AVAILABILITY OF CATEGOR-**
8 **ICAL EXCLUSIONS TO EXPE-**
9 **DITE FOREST MANAGEMENT**
10 **ACTIVITIES**

11 **SEC. 101. ANALYSIS OF ONLY TWO ALTERNATIVES (ACTION**
12 **VERSUS NO ACTION) IN PROPOSED COLLABO-**
13 **RATIVE FOREST MANAGEMENT ACTIVITIES.**

14 (a) APPLICATION TO CERTAIN ENVIRONMENTAL AS-
15 SESSMENTS AND ENVIRONMENTAL IMPACT STATE-
16 MENTS.—This section shall apply whenever the Secretary
17 concerned prepares an environmental assessment or an en-
18 vironmental impact statement pursuant to section 102(2)
19 of the National Environmental Policy Act of 1969 (42
20 U.S.C. 4332(2)) for a forest management activity that—

21 (1) is developed through a collaborative process;

22 (2) is proposed by a resource advisory com-
23 mittee; or

24 (3) is covered by a community wildfire protec-
25 tion plan.

1 (b) CONSIDERATION OF ALTERNATIVES.—In an envi-
2 ronmental assessment or environmental impact statement
3 described in subsection (a), the Secretary concerned shall
4 study, develop, and describe only the following two alter-
5 natives:

6 (1) The forest management activity, as pro-
7 posed pursuant to paragraph (1), (2), or (3) of sub-
8 section (a).

9 (2) The alternative of no action.

10 (c) ELEMENTS OF NON-ACTION ALTERNATIVE.—In
11 the case of the alternative of no action, the Secretary con-
12 cerned shall evaluate—

13 (1) the effect of no action on—

14 (A) forest health;

15 (B) habitat diversity;

16 (C) wildfire potential; and

17 (D) insect and disease potential; and

18 (2) the implications of a resulting decline in
19 forest health, loss of habitat diversity, wildfire, or in-
20 sect or disease infestation, given fire and insect and
21 disease historic cycles, on—

22 (A) domestic water costs;

23 (B) wildlife habitat loss; and

24 (C) other economic and social factors.

1 **SEC. 102. CATEGORICAL EXCLUSION TO EXPEDITE CER-**
2 **TAIN CRITICAL RESPONSE ACTIONS.**

3 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
4 categorical exclusion is available to the Secretary con-
5 cerned to develop and carry out a forest management ac-
6 tivity on National Forest System lands or public lands
7 when the primary purpose of the forest management activ-
8 ity is—

- 9 (1) to address an insect or disease infestation;
10 (2) to reduce hazardous fuel loads;
11 (3) to protect a municipal water source;
12 (4) to maintain, enhance, or modify critical
13 habitat to protect it from catastrophic disturbances;
14 (5) to increase water yield; or
15 (6) any combination of the purposes specified in
16 paragraphs (1) through (5).

17 (b) ACREAGE LIMITATIONS.—

18 (1) IN GENERAL.—Except in the case of a for-
19 est management activity described in paragraph (2),
20 a forest management activity covered by the categor-
21 ical exclusion granted by subsection (a) may not
22 contain harvest units exceeding a total of 5,000
23 acres.

24 (2) LARGER AREAS AUTHORIZED.—A forest
25 management activity covered by the categorical ex-
26 clusion granted by subsection (a) may not contain

1 harvest units exceeding a total of 15,000 acres if the
2 forest management activity—

3 (A) is developed through a collaborative
4 process;

5 (B) is proposed by a resource advisory
6 committee; or

7 (C) is covered by a community wildfire
8 protection plan.

9 **SEC. 103. CATEGORICAL EXCLUSION TO EXPEDITE SAL-**
10 **VAGE OPERATIONS IN RESPONSE TO CATA-**
11 **STROPHIC EVENTS.**

12 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
13 categorical exclusion is available to the Secretary con-
14 cerned to develop and carry out a salvage operation as
15 part of the restoration of National Forest System lands
16 or public lands following a catastrophic event.

17 (b) ACREAGE LIMITATIONS.—

18 (1) IN GENERAL.—A salvage operation covered
19 by the categorical exclusion granted by subsection
20 (a) may not contain harvest units exceeding a total
21 of 5,000 acres.

22 (2) HARVEST AREA.—In addition to the limita-
23 tion imposed by paragraph (1), the harvest units
24 covered by the categorical exclusion granted by sub-

1 section (a) may not exceed one-third of the area im-
2 pacted by the catastrophic event.

3 (c) ADDITIONAL REQUIREMENTS.—

4 (1) ROAD BUILDING.—A salvage operation cov-
5 ered by the categorical exclusion granted by sub-
6 section (a) may not include any new permanent
7 roads. Temporary roads constructed as part of the
8 salvage operation shall be retired before the end of
9 the fifth fiscal year beginning after the completion
10 of the salvage operation.

11 (2) STREAM BUFFERS.—A salvage operation
12 covered by the categorical exclusion granted by sub-
13 section (a) shall comply with the standards and
14 guidelines for stream buffers contained in the appli-
15 cable forest plan unless waived by the Regional For-
16 ester, in the case of National Forest System lands,
17 or the State Director of the Bureau of Land Man-
18 agement, in the case of public lands.

19 (3) REFORESTATION PLAN.—A reforestation
20 plan shall be developed under section 3 of the Act
21 of June 9, 1930 (commonly known as the Knutson-
22 Vandenberg Act; 16 U.S.C. 576b), as part of a sal-
23 vage operation covered by the categorical exclusion
24 granted by subsection (a).

1 **SEC. 104. CATEGORICAL EXCLUSION TO MEET FOREST**
2 **PLAN GOALS FOR EARLY SUCCESSIONAL**
3 **FORESTS.**

4 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
5 categorical exclusion is available to the Secretary con-
6 cerned to develop and carry out a forest management ac-
7 tivity on National Forest System lands or public lands
8 when the primary purpose of the forest management activ-
9 ity is to modify, improve, enhance, or create early succes-
10 sional forests for wildlife habitat improvement and other
11 purposes, consistent with the applicable forest plan.

12 (b) PROJECT GOALS.—To the maximum extent prac-
13 ticable, the Secretary concerned shall design a forest man-
14 agement activity under this section to meet early succes-
15 sional forest goals in such a manner so as to maximize
16 production and regeneration of priority species, as identi-
17 fied in the forest plan and consistent with the capability
18 of the activity site.

19 (c) ACREAGE LIMITATIONS.—A forest management
20 activity covered by the categorical exclusion granted by
21 subsection (a) may not contain harvest units exceeding a
22 total of 5,000 acres.

1 **SEC. 105. CLARIFICATION OF EXISTING CATEGORICAL EX-**
2 **CLUSION AUTHORITY RELATED TO INSECT**
3 **AND DISEASE INFESTATION.**

4 Section 603(c)(2)(B) of the Healthy Forests Restora-
5 tion Act of 2003 (16 U.S.C. 6591b(c)(2)(B)) is amended
6 by striking “Fire Regime Groups I, II, or III” and insert-
7 ing “Fire Regime I, Fire Regime II, Fire Regime III, or
8 Fire Regime IV”.

9 **SEC. 106. CATEGORICAL EXCLUSION TO IMPROVE, RE-**
10 **STORE, AND REDUCE THE RISK OF WILDFIRE.**

11 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
12 categorical exclusion is available to the Secretary con-
13 cerned to carry out a forest management activity described
14 in subsection (c) on National Forest System Lands or
15 public lands when the primary purpose of the activity is
16 to improve, restore, or reduce the risk of wildfire on those
17 lands.

18 (b) ACREAGE LIMITATIONS.—A forest management
19 activity covered by the categorical exclusion granted by
20 subsection (a) may not exceed 5,000 acres.

21 (c) AUTHORIZED ACTIVITIES.—The following activi-
22 ties may be carried out using a categorical exclusion
23 granted by subsection (a):

24 (1) Removal of juniper trees, medusahead rye,
25 conifer trees, piñon pine trees, cheatgrass, and other
26 noxious or invasive weeds specified on Federal or

1 State noxious weeds lists through late-season live-
2 stock grazing, targeted livestock grazing, prescribed
3 burns, and mechanical treatments.

4 (2) Performance of hazardous fuels manage-
5 ment.

6 (3) Creation of fuel and fire breaks.

7 (4) Modification of existing fences in order to
8 distribute livestock and help improve wildlife habitat.

9 (5) Installation of erosion control devices.

10 (6) Construction of new and maintenance of
11 permanent infrastructure, including stock ponds,
12 water catchments, and water spring boxes used to
13 benefit livestock and improve wildlife habitat.

14 (7) Performance of soil treatments, native and
15 non-native seeding, and planting of and trans-
16 planting sagebrush, grass, forb, shrub, and other
17 species.

18 (8) Use of herbicides, so long as the Secretary
19 concerned determines that the activity is otherwise
20 conducted consistently with agency procedures, in-
21 cluding any forest plan applicable to the area cov-
22 ered by the activity.

23 (d) DEFINITIONS.—In this section:

24 (1) HAZARDOUS FUELS MANAGEMENT.—The
25 term “hazardous fuels management” means any

1 vegetation management activities that reduce the
2 risk of wildfire.

3 (2) LATE-SEASON GRAZING.—The term “late-
4 season grazing” means grazing activities that occur
5 after both the invasive species and native perennial
6 species have completed their current-year annual
7 growth cycle until new plant growth begins to ap-
8 pear in the following year.

9 (3) TARGETED LIVESTOCK GRAZING.—The
10 term “targeted livestock grazing” means grazing
11 used for purposes of hazardous fuel reduction.

12 **SEC. 107. COMPLIANCE WITH FOREST PLAN.**

13 A forest management activity covered by a categorical
14 exclusion granted by this title shall be conducted in a man-
15 ner consistent with the forest plan applicable to the Na-
16 tional Forest System land or public lands covered by the
17 forest management activity.

18 **TITLE II—SALVAGE AND REFOR-**
19 **ESTATION IN RESPONSE TO**
20 **CATASTROPHIC EVENTS**

21 **SEC. 201. EXPEDITED SALVAGE OPERATIONS AND REFOR-**
22 **ESTATION ACTIVITIES FOLLOWING LARGE-**
23 **SCALE CATASTROPHIC EVENTS.**

24 (a) EXPEDITED ENVIRONMENTAL ASSESSMENT.—
25 Notwithstanding any other provision of law, any environ-

1 mental assessment prepared by the Secretary concerned
2 pursuant to section 102(2) of the National Environmental
3 Policy Act of 1969 (42 U.S.C. 4332(2)) for a salvage oper-
4 ation or reforestation activity proposed to be conducted
5 on National Forest System lands or public lands adversely
6 impacted by a large-scale catastrophic event shall be com-
7 pleted within 3 months after the conclusion of the cata-
8 strophic event.

9 (b) EXPEDITED IMPLEMENTATION AND COMPLE-
10 TION.—In the case of reforestation activities conducted on
11 National Forest System lands or public lands adversely
12 impacted by a large-scale catastrophic event, the Secretary
13 concerned shall achieve reforestation of at least 75 percent
14 of the impacted lands during the 5-year period following
15 the conclusion of the catastrophic event.

16 (c) AVAILABILITY OF KNUTSON-VANDENBERG
17 FUNDS.—Amounts in the special fund established pursu-
18 ant to section 3 of the Act of June 9, 1930 (commonly
19 known as the Knutson-Vandenberg Act; 16 U.S.C. 576b)
20 shall be available to the Secretary of Agriculture for refor-
21 estation activities authorized by this title.

22 (d) TIMELINE FOR PUBLIC INPUT PROCESS.—Not-
23 withstanding any other provision of law, in the case of a
24 salvage operation or reforestation activity proposed to be
25 conducted on National Forest System lands or public

1 lands adversely impacted by a large-scale catastrophic
2 event, the Secretary concerned shall allow 30 days for pub-
3 lic scoping and comment, 15 days for filing an objection,
4 and 15 days for the agency response to the filing of an
5 objection. Upon completion of this process and expiration
6 of the period specified in subsection (a), the Secretary con-
7 cerned shall implement the project immediately.

8 **SEC. 202. COMPLIANCE WITH FOREST PLAN.**

9 A salvage operation or reforestation activity author-
10 ized by this title shall be conducted in a manner consistent
11 with the forest plan applicable to the National Forest Sys-
12 tem lands or public lands covered by the salvage operation
13 or reforestation activity.

14 **SEC. 203. PROHIBITION ON RESTRAINING ORDERS, PRE-**
15 **LIMINARY INJUNCTIONS, AND INJUNCTIONS**
16 **PENDING APPEAL.**

17 No restraining order, preliminary injunction, or in-
18 junction pending appeal shall be issued by any court of
19 the United States with respect to any decision to prepare
20 or conduct a salvage operation or reforestation activity in
21 response to a large-scale catastrophic event. Section 705
22 of title 5, United States Code, shall not apply to any chal-
23 lenge to the salvage operation or reforestation activity.

1 **SEC. 204. EXCLUSION OF CERTAIN LANDS.**

2 In applying this title, the Secretary concerned may
3 not carry out salvage operations or reforestation activities
4 on National Forest System lands or public lands—

5 (1) that are included in the National Wilderness
6 Preservation System;

7 (2) that are located within an inventoried
8 roadless area unless the reforestation activity is con-
9 sistent with the forest plan; or

10 (3) on which timber harvesting for any purpose
11 is prohibited by statute.

12 **TITLE III—COLLABORATIVE**
13 **PROJECT LITIGATION RE-**
14 **QUIREMENT**

15 **SEC. 301. DEFINITIONS.**

16 In this title:

17 (1) **COSTS.**—The term “costs” refers to the
18 fees and costs described in section 1920 of title 28,
19 United States Code.

20 (2) **EXPENSES.**—The term “expenses” includes
21 the expenditures incurred by the staff of the Sec-
22 retary concerned in preparing for and responding to
23 a legal challenge to a collaborative forest manage-
24 ment activity and in participating in litigation that
25 challenges the forest management activity, including
26 such staff time as may be used to prepare the ad-

1 ministrative record, exhibits, declarations, and affi-
2 davits in connection with the litigation.

3 **SEC. 302. BOND REQUIREMENT AS PART OF LEGAL CHAL-**
4 **LENGE OF CERTAIN FOREST MANAGEMENT**
5 **ACTIVITIES.**

6 (a) BOND REQUIRED.—In the case of a forest man-
7 agement activity developed through a collaborative process
8 or proposed by a resource advisory committee, any plain-
9 tiff or plaintiffs challenging the forest management activ-
10 ity shall be required to post a bond or other security equal
11 to the anticipated costs, expenses, and attorneys fees of
12 the Secretary concerned as defendant, as reasonably esti-
13 mated by the Secretary concerned. All proceedings in the
14 action shall be stayed until the required bond or security
15 is provided.

16 (b) RECOVERY OF LITIGATION COSTS, EXPENSES,
17 AND ATTORNEYS FEES.—

18 (1) MOTION FOR PAYMENT.—If the Secretary
19 concerned prevails in an action challenging a forest
20 management activity described in subsection (a), the
21 Secretary concerned shall submit to the court a mo-
22 tion for payment, from the bond or other security
23 posted under subsection (a) in such action, of the
24 reasonable costs, expenses, and attorneys fees in-
25 curred by the Secretary concerned.

1 (2) MAXIMUM AMOUNT RECOVERED.—The
2 amount of costs, expenses, and attorneys fees recov-
3 ered by the Secretary concerned under paragraph
4 (1) as a result of prevailing in an action challenging
5 the forest management activity may not exceed the
6 amount of the bond or other security posted under
7 subsection (a) in such action.

8 (3) RETURN OF REMAINDER.—Any funds re-
9 maining from the bond or other security posted
10 under subsection (a) after the payment of costs, ex-
11 penses, and attorneys fees under paragraph (1) shall
12 be returned to the plaintiff or plaintiffs that posted
13 the bond or security in the action.

14 (c) RETURN OF BOND TO PREVAILING PLAINTIFF.—

15 (1) IN GENERAL.—If the plaintiff ultimately
16 prevails on the merits in every action brought by the
17 plaintiff challenging a forest management activity
18 described in subsection (a), the court shall return to
19 the plaintiff any bond or security provided by the
20 plaintiff under subsection (a), plus interest from the
21 date the bond or security was provided.

22 (2) ULTIMATELY PREVAILS ON THE MERITS.—
23 In this subsection, the phrase “ultimately prevails on
24 the merits” means, in a final enforceable judgment
25 on the merits, a court rules in favor of the plaintiff

1 on every cause of action in every action brought by
2 the plaintiff challenging the forest management ac-
3 tivity.

4 (d) EFFECT OF SETTLEMENT.—If a challenge to a
5 forest management activity described in subsection (a) for
6 which a bond or other security was provided by the plain-
7 tiff under such subsection is resolved by settlement be-
8 tween the Secretary concerned and the plaintiff, the settle-
9 ment agreement shall provide for sharing the costs, ex-
10 penses, and attorneys fees incurred by the parties.

11 (e) LIMITATION ON CERTAIN PAYMENTS.—Notwith-
12 standing section 1304 of title 31, United States Code, no
13 award may be made under section 2412 of title 28, United
14 States Code, and no amounts may be obligated or ex-
15 pended from the Claims and Judgment Fund of the
16 United States Treasury to pay any fees or other expenses
17 under such sections to any plaintiff related to an action
18 challenging a forest management activity described in sub-
19 section (a).

1 **TITLE IV—SECURE RURAL**
2 **SCHOOLS AND COMMUNITY**
3 **SELF-DETERMINATION ACT**
4 **AMENDMENTS**

5 **SEC. 401. USE OF RESERVED FUNDS FOR TITLE II**
6 **PROJECTS ON FEDERAL LAND AND CERTAIN**
7 **NON-FEDERAL LAND.**

8 (a) REPEAL OF MERCHANTABLE TIMBER CON-
9 TRACTING PILOT PROGRAM.—Section 204(e) of the Se-
10 cure Rural Schools and Community Self-Determination
11 Act of 2000 (16 U.S.C. 7124(e)) is amended by striking
12 paragraph (3).

13 (b) REQUIREMENTS FOR PROJECT FUNDS.—Section
14 204 of the Secure Rural Schools and Community Self-De-
15 termination Act of 2000 (16 U.S.C. 7124) is amended by
16 striking subsection (f) and inserting the following new
17 subsection:

18 “(f) REQUIREMENTS FOR PROJECT FUNDS.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 the Secretary concerned shall ensure that at least 50
21 percent of the project funds reserved by a partici-
22 pating county under section 102(d) shall be available
23 only for projects that—

1 “(A) include the sale of timber or other
2 forest products, reduce fire risks, or improve
3 water supplies; and

4 “(B) implement stewardship objectives
5 that enhance forest ecosystems or restore and
6 improve land health and water quality.

7 “(2) APPLICABILITY.—The requirement in
8 paragraph (1) shall apply only to project funds re-
9 served by a participating county whose boundaries
10 include Federal land that the Secretary concerned
11 determines has been subject to a timber or other for-
12 est products program within 5 fiscal years before the
13 fiscal year in which the funds are reserved.”.

14 **SEC. 402. RESOURCE ADVISORY COMMITTEES.**

15 (a) RECOGNITION OF RESOURCE ADVISORY COMMIT-
16 TEES.—Section 205(a)(4) of the Secure Rural Schools
17 and Community Self-Determination Act of 2000 (16
18 U.S.C. 7125(a)(4)) is amended by striking “2012” each
19 place it appears and inserting “2020”.

20 (b) TEMPORARY REDUCTION IN COMPOSITION OF
21 COMMITTEES.—Section 205(d) of the Secure Rural
22 Schools and Community Self-Determination Act of 2000
23 (16 U.S.C. 7125(d)) is amended—

1 (1) in paragraph (1), by striking “Each” and
2 inserting “Except during the period specified in
3 paragraph (6), each”; and

4 (2) by adding at the end the following new
5 paragraph:

6 “(6) TEMPORARY REDUCTION IN MINIMUM
7 NUMBER OF MEMBERS.—

8 “(A) TEMPORARY REDUCTION.—During
9 the period beginning on the date of the enact-
10 ment of this paragraph and ending on Sep-
11 tember 30, 2020, a resource advisory committee
12 established under this section may be comprised
13 of nine or more members, of which—

14 “(i) at least three shall be representa-
15 tive of interests described in subparagraph
16 (A) of paragraph (2);

17 “(ii) at least three shall be representa-
18 tive of interests described in subparagraph
19 (B) of paragraph (2); and

20 “(iii) at least three shall be represent-
21 ative of interests described in subpara-
22 graph (C) of paragraph (2).

23 “(B) ADDITIONAL REQUIREMENTS.—In
24 appointing members of a resource advisory com-
25 mittee from the three categories described in

1 paragraph (2), as provided in subparagraph
2 (A), the Secretary concerned shall ensure bal-
3 anced and broad representation in each cat-
4 egory. In the case of a vacancy on a resource
5 advisory committee, the vacancy shall be filled
6 within 90 days after the date on which the va-
7 cancy occurred. Appointments to a new re-
8 source advisory committee shall be made within
9 90 days after the date on which the decision to
10 form the new resource advisory committee was
11 made.

12 “(C) CHARTER.—A charter for a resource
13 advisory committee with 15 members that was
14 filed on or before the date of the enactment of
15 this paragraph shall be considered to be filed
16 for a resource advisory committee described in
17 this paragraph. The charter of a resource advi-
18 sory committee shall be reapproved before the
19 expiration of the existing charter of the re-
20 source advisory committee. In the case of a new
21 resource advisory committee, the charter of the
22 resource advisory committee shall be approved
23 within 90 days after the date on which the deci-
24 sion to form the new resource advisory com-
25 mittee was made.”.

1 (c) CONFORMING CHANGE TO PROJECT APPROVAL
2 REQUIREMENTS.—Section 205(e)(3) of the Secure Rural
3 Schools and Community Self-Determination Act of 2000
4 (16 U.S.C. 7125(e)(3)) is amended by adding at the end
5 the following new sentence: “In the case of a resource ad-
6 visory committee consisting of fewer than 15 members, as
7 authorized by subsection (d)(6), a project may be proposed
8 to the Secretary concerned upon approval by a majority
9 of the members of the committee, including at least one
10 member from each of the three categories described in
11 subsection (d)(2).”.

12 (d) EXPANDING LOCAL PARTICIPATION ON COMMIT-
13 TEES.—Section 205(d) of the Secure Rural Schools and
14 Community Self-Determination Act of 2000 (16 U.S.C.
15 7125(d)) is amended—

16 (1) in paragraph (3), by inserting before the pe-
17 riod at the end the following: “, consistent with the
18 requirements of paragraph (4)”; and

19 (2) by striking paragraph (4) and inserting the
20 following new paragraph:

21 “(4) GEOGRAPHIC DISTRIBUTION.—The mem-
22 bers of a resource advisory committee shall reside
23 within the county or counties in which the committee
24 has jurisdiction or an adjacent county.”.

1 **SEC. 403. PROGRAM FOR TITLE II SELF-SUSTAINING RE-**
2 **SOURCE ADVISORY COMMITTEE PROJECTS.**

3 (a) SELF-SUSTAINING RESOURCE ADVISORY COM-
4 MITTEE PROJECTS.—Title II of the Secure Rural Schools
5 and Community Self-Determination Act of 2000 (16
6 U.S.C. 7121 et seq.) is amended by adding at the end
7 the following new section:

8 **“SEC. 209. PROGRAM FOR SELF-SUSTAINING RESOURCE AD-**
9 **VISORY COMMITTEE PROJECTS.**

10 “(a) RAC PROGRAM.—The Chief of the Forest Serv-
11 ice shall conduct a program (to be known as the ‘self-sus-
12 taining resource advisory committee program’ or ‘RAC
13 program’) under which 10 resource advisory committees
14 will propose projects authorized by subsection (c) to be
15 carried out using project funds reserved by a participating
16 county under section 102(d).

17 “(b) SELECTION OF PARTICIPATING RESOURCE AD-
18 VISORY COMMITTEES.—The selection of resource advisory
19 committees to participate in the RAC program is in the
20 sole discretion of the Chief of the Forest Service, except
21 that, consistent with section 205(d)(6), a selected resource
22 advisory committee must have a minimum of six members.

23 “(c) AUTHORIZED PROJECTS.—Notwithstanding the
24 project purposes specified in sections 202(b), 203(c), and
25 204(a)(5), projects under the RAC program are intended
26 to—

1 “(1) accomplish forest management objectives
2 or support community development; and

3 “(2) generate receipts.

4 “(d) DEPOSIT AND AVAILABILITY OF REVENUES.—

5 Any revenue generated by a project conducted under the
6 RAC program, including any interest accrued from the
7 revenues, shall be—

8 “(1) deposited in the special account in the
9 Treasury established under section 102(d)(2)(A);
10 and

11 “(2) available, in such amounts as may be pro-
12 vided in advance in appropriation Acts, for addi-
13 tional projects under the RAC program.

14 “(e) TERMINATION OF AUTHORITY.—

15 “(1) IN GENERAL.—The authority to initiate a
16 project under the RAC program shall terminate on
17 September 30, 2020.

18 “(2) DEPOSITS IN TREASURY.—Any funds
19 available for projects under the RAC program and
20 not obligated by September 30, 2021, shall be depos-
21 ited in the Treasury of the United States.”.

22 (b) EXCEPTION TO GENERAL RULE REGARDING
23 TREATMENT OF RECEIPTS.—Section 403(b) of the Secure
24 Rural Schools and Community Self-Determination Act of
25 2000 (16 U.S.C. 7153(b)) is amended by striking “All rev-

1 enues” and inserting “Except as provided in section 209,
2 all revenues”.

3 **SEC. 404. ADDITIONAL AUTHORIZED USE OF RESERVED**
4 **FUNDS FOR TITLE III COUNTY PROJECTS.**

5 Section 302(a) of the Secure Rural Schools and Com-
6 munity Self-Determination Act of 2000 (16 U.S.C.
7 7142(a)) is amended—

8 (1) in paragraph (2)—

9 (A) by inserting “and law enforcement pa-
10 trols” after “including firefighting”; and

11 (B) by striking “and” at the end;

12 (2) by redesignating paragraph (3) as para-
13 graph (4); and

14 (3) by inserting after paragraph (2) the fol-
15 lowing new paragraph (3):

16 “(3) to cover training costs and equipment pur-
17 chases directly related to the emergency services de-
18 scribed in paragraph (2); and”.

19 **SEC. 405. TREATMENT AS SUPPLEMENTAL FUNDING.**

20 Section 102 of the Secure Rural Schools and Commu-
21 nity Self-Determination Act of 2000 (16 U.S.C. 7112) is
22 amended by adding at the end the following new sub-
23 section:

24 “(f) TREATMENT AS SUPPLEMENTAL FUNDING.—

25 None of the funds made available to a beneficiary county

1 or other political subdivision of a State under this Act
2 shall be used in lieu of or to otherwise offset State funding
3 sources for local schools, facilities, or educational pur-
4 poses.”.

5 **TITLE V—STEWARDSHIP END**
6 **RESULT CONTRACTING**

7 **SEC. 501. CANCELLATION CEILINGS FOR STEWARDSHIP**
8 **END RESULT CONTRACTING PROJECTS.**

9 (a) CANCELLATION CEILINGS.—Section 604 of the
10 Healthy Forests Restoration Act of 2003 (16 U.S.C.
11 6591c) is amended—

12 (1) by redesignating subsections (h) and (i) as
13 subsections (i) and (j), respectively; and

14 (2) by inserting after subsection (g) the fol-
15 lowing new subsection (h):

16 “(h) CANCELLATION CEILINGS.—

17 “(1) IN GENERAL.—The Chief and the Director
18 may obligate funds to cover any potential cancella-
19 tion or termination costs for an agreement or con-
20 tract under subsection (b) in stages that are eco-
21 nomically or programmatically viable.

22 “(2) ADVANCE NOTICE TO CONGRESS OF CAN-
23 CELLATION CEILING IN EXCESS OF \$25 MILLION.—

24 Not later than 30 days before entering into a
25 multiyear agreement or contract under subsection

1 (b) that includes a cancellation ceiling in excess of
2 \$25 million, but does not include proposed funding
3 for the costs of cancelling the agreement or contract
4 up to such cancellation ceiling, the Chief or the Di-
5 rector, as the case may be, shall submit to the Com-
6 mittee on Energy and Natural Resources and the
7 Committee on Agriculture, Nutrition, and Forestry
8 of the Senate and the Committee on Natural Re-
9 sources and the Committee on Agriculture of the
10 House of Representatives a written notice that in-
11 cludes—

12 “(A) the cancellation ceiling amounts pro-
13 posed for each program year in the agreement
14 or contract;

15 “(B) the reasons why such cancellation
16 ceiling amounts were selected;

17 “(C) the extent to which the costs of con-
18 tract cancellation are not included in the budget
19 for the agreement or contract; and

20 “(D) an assessment of the financial risk of
21 not including budgeting for the costs of agree-
22 ment or contract cancellation.

23 “(3) TRANSMITTAL OF NOTICE TO OMB.—Not
24 later than 14 days after the date on which written
25 notice is provided under paragraph (2) with respect

1 to an agreement or contract under subsection (b),
2 the Chief or the Director, as the case may be, shall
3 transmit a copy of the notice to the Director of the
4 Office of Management and Budget.”.

5 (b) RELATION TO OTHER LAWS.—Section 604(d)(5)
6 of the Healthy Forests Restoration Act of 2003 (16
7 U.S.C. 6591c(d)(5)) is amended by striking “, the Chief
8 may” and inserting “and section 2(a)(1) of the Act of July
9 31, 1947 (commonly known as the Materials Act of 1947;
10 30 U.S.C. 602(a)(1)), the Chief and the Director may”.

11 **SEC. 502. EXCESS OFFSET VALUE.**

12 Section 604(g)(2) of the Healthy Forests Restoration
13 Act of 2003 (16 U.S.C. 6591c(g)(2)) is amended by strik-
14 ing subparagraphs (A) and (B) and inserting the following
15 new subparagraphs:

16 “(A) use the excess to satisfy any out-
17 standing liabilities for cancelled agreements or
18 contracts; or

19 “(B) if there are no outstanding liabilities
20 under subparagraph (A), apply the excess to
21 other authorized stewardship projects.”.

1 **SEC. 503. PAYMENT OF PORTION OF STEWARDSHIP**
2 **PROJECT REVENUES TO COUNTY IN WHICH**
3 **STEWARDSHIP PROJECT OCCURS.**

4 Section 604(e) of the Healthy Forests Restoration
5 Act of 2003 (16 U.S.C. 6591c(e)) is amended—

6 (1) in paragraph (2)(B), by inserting “subject
7 to paragraph (3)(A),” before “shall”; and

8 (2) in paragraph (3)(A), by striking “services
9 received by the Chief or the Director” and all that
10 follows through the period at the end and inserting
11 the following: “services and in-kind resources re-
12 ceived by the Chief or the Director under a steward-
13 ship contract project conducted under this section
14 shall not be considered monies received from the Na-
15 tional Forest System or the public lands, but any
16 payments made by the contractor to the Chief or Di-
17 rector under the project shall be considered monies
18 received from the National Forest System or the
19 public lands.”.

20 **SEC. 504. SUBMISSION OF EXISTING ANNUAL REPORT.**

21 Subsection (j) of section 604 of the Healthy Forests
22 Restoration Act of 2003 (16 U.S.C. 6591c), as redesign-
23 nated by section 501(a)(1), is amended by striking “report
24 to the Committee on Agriculture, Nutrition, and Forestry
25 of the Senate and the Committee on Agriculture of the
26 House of Representatives” and inserting “submit to the

1 congressional committees specified in subsection (h)(2) a
2 report”.

3 **SEC. 505. FIRE LIABILITY PROVISION.**

4 Section 604(d) of the Healthy Forests Restoration
5 Act of 2003 (16 U.S.C. 6591c(d)) is amended by adding
6 at the end the following new paragraph:

7 “(8) MODIFICATION.—Upon the request of the
8 contractor, a contract or agreement under this sec-
9 tion awarded before February 7, 2014, shall be
10 modified by the Chief or Director to include the fire
11 liability provisions described in paragraph (7).”.

12 **TITLE VI—ADDITIONAL FUND-**
13 **ING SOURCES FOR FOREST**
14 **MANAGEMENT ACTIVITIES**

15 **SEC. 601. DEFINITIONS.**

16 In this title:

17 (1) ELIGIBLE ENTITY.—The term “eligible enti-
18 ty” means—

19 (A) a State or political subdivision of a
20 State containing National Forest System lands
21 or public lands;

22 (B) a publicly chartered utility serving one
23 or more States or a political subdivision thereof;

24 (C) a rural electric company; and

1 (D) any other entity determined by the
2 Secretary concerned to be appropriate for par-
3 ticipation in the Fund.

4 (2) FUND.—The term “Fund” means the
5 State-Supported Forest Management Fund estab-
6 lished by section 603.

7 **SEC. 602. AVAILABILITY OF STEWARDSHIP PROJECT REVE-**
8 **NUES AND COLLABORATIVE FOREST LAND-**
9 **SCAPE RESTORATION FUND TO COVER FOR-**
10 **EST MANAGEMENT ACTIVITY PLANNING**
11 **COSTS.**

12 (a) AVAILABILITY OF STEWARDSHIP PROJECT REVE-
13 NUES.—Section 604(e)(2)(B) of the Healthy Forests Res-
14 toration Act of 2003 (16 U.S.C. 6591c(e)(2)(B)), as
15 amended by section 503, is further amended by striking
16 “appropriation at the project site from which the monies
17 are collected or at another project site.” and inserting the
18 following: “appropriation—

19 “(i) at the project site from which the
20 monies are collected or at another project
21 site; and

22 “(ii) to cover not more than 25 per-
23 cent of the cost of planning additional
24 stewardship contracting projects.”.

1 (b) AVAILABILITY OF COLLABORATIVE FOREST
2 LANDSCAPE RESTORATION FUND.—Section 4003(f)(1) of
3 the Omnibus Public Land Management Act of 2009 (16
4 U.S.C. 7303(f)(1)) is amended by striking “carrying out
5 and” and inserting “planning, carrying out, and”.

6 **SEC. 603. STATE-SUPPORTED PLANNING OF FOREST MAN-**
7 **AGEMENT ACTIVITIES.**

8 (a) STATE-SUPPORTED FOREST MANAGEMENT
9 FUND.—There is established in the Treasury of the
10 United States a fund, to be known as the “State-Sup-
11 ported Forest Management Fund”, to cover the cost of
12 planning (especially related to compliance with section
13 102(2) of the National Environmental Policy Act of 1969
14 (42 U.S.C. 4332(2))), carrying out, and monitoring cer-
15 tain forest management activities on National Forest Sys-
16 tem lands or public lands.

17 (b) CONTENTS.—The State-Supported Forest Man-
18 agement Fund shall consist of such amounts as may be—

19 (1) contributed by an eligible entity for deposit
20 in the Fund;

21 (2) appropriated to the Fund; or

22 (3) generated by forest management activities
23 carried out using amounts in the Fund.

1 (c) GEOGRAPHICAL AND USE LIMITATIONS.—In
2 making a contribution under subsection (b)(1), an eligible
3 entity may—

4 (1) specify the National Forest System lands or
5 public lands for which the contribution may be ex-
6 pended; and

7 (2) limit the types of forest management activi-
8 ties for which the contribution may be expended.

9 (d) AUTHORIZED FOREST MANAGEMENT ACTIVI-
10 TIES.—In such amounts as may be provided in advance
11 in appropriation Acts, the Secretary concerned may use
12 the Fund to plan, carry out, and monitor a forest manage-
13 ment activity that—

14 (1) is developed through a collaborative process;

15 (2) is proposed by a resource advisory com-
16 mittee; or

17 (3) is covered by a community wildfire protec-
18 tion plan.

19 (e) IMPLEMENTATION METHODS.—A forest manage-
20 ment activity carried out using amounts in the Fund may
21 be carried out using a contract or agreement under section
22 604 of the Healthy Forests Restoration Act of 2003 (16
23 U.S.C. 6591e), the good neighbor authority provided by
24 section 8206 of the Agricultural Act of 2014 (16 U.S.C.
25 2113a), a contract under section 14 of the National Forest

1 Management Act of 1976 (16 U.S.C. 472a), or other au-
2 thority available to the Secretary concerned, but revenues
3 generated by the forest management activity shall be used
4 to reimburse the Fund for planning costs covered using
5 amounts in the Fund.

6 (f) RELATION TO OTHER LAWS.—

7 (1) REVENUE SHARING.—Subject to subsection
8 (e), revenues generated by a forest management ac-
9 tivity carried out using amounts from the Fund shall
10 be considered monies received from the National
11 Forest System.

12 (2) KNUTSON-VANDERBERG ACT.—The Act of
13 June 9, 1930 (commonly known as the Knutson-
14 Vanderberg Act; 16 U.S.C. 576 et seq.), shall apply
15 to any forest management activity carried out using
16 amounts in the Fund.

17 (g) TERMINATION OF FUND.—

18 (1) TERMINATION.—The Fund shall terminate
19 10 years after the date of the enactment of this Act.

20 (2) EFFECT OF TERMINATION.—Upon the ter-
21 mination of the Fund pursuant to paragraph (1) or
22 pursuant to any other provision of law, unobligated
23 contributions remaining in the Fund shall be re-
24 turned to the eligible entity that made the contribu-
25 tion.

1 **TITLE VII—TRIBAL FORESTRY**
2 **PARTICIPATION AND PRO-**
3 **TECTION**

4 **SEC. 701. PROTECTION OF TRIBAL FOREST ASSETS**
5 **THROUGH USE OF STEWARDSHIP END RE-**
6 **SULT CONTRACTING AND OTHER AUTHORI-**
7 **TIES.**

8 (a) PROMPT CONSIDERATION OF TRIBAL RE-
9 QUESTS.—Section 2(b) of the Tribal Forest Protection
10 Act of 2004 (25 U.S.C. 3115a(b)) is amended—

11 (1) in paragraph (1), by striking “Not later
12 than 120 days after the date on which an Indian
13 tribe submits to the Secretary” and inserting “In re-
14 sponse to the submission by an Indian tribe of”;

15 (2) by adding at the end the following new
16 paragraph:

17 “(4) TIME PERIODS FOR CONSIDERATION.—

18 “(A) INITIAL RESPONSE.—Not later than
19 120 days after the date on which the Secretary
20 receives a tribal request under paragraph (1),
21 the Secretary shall provide an initial response
22 to the Indian tribe regarding—

23 “(i) whether the request may meet the
24 selection criteria described in subsection
25 (c); and

1 “(ii) the likelihood of the Secretary
2 entering into an agreement or contract
3 with the Indian tribe under paragraph (2)
4 for activities described in paragraph (3).

5 “(B) NOTICE OF DENIAL.—Notice under
6 subsection (d) of the denial of a tribal request
7 under paragraph (1) shall be provided not later
8 than 1 year after the date on which the Sec-
9 retary received the request.

10 “(C) COMPLETION.—Not later than 2
11 years after the date on which the Secretary re-
12 ceives a tribal request under paragraph (1),
13 other than a tribal request denied under sub-
14 section (d), the Secretary shall—

15 “(i) complete all environmental re-
16 views necessary in connection with the
17 agreement or contract and proposed activi-
18 ties under the agreement or contract; and

19 “(ii) enter into the agreement or con-
20 tract with the Indian tribe under para-
21 graph (2).”.

22 (b) CONFORMING AND TECHNICAL AMENDMENTS.—
23 Section 2 of the Tribal Forest Protection Act of 2004 (25
24 U.S.C. 3115a) is amended—

1 (1) in subsections (b)(1) and (f)(1), by striking
2 “section 347 of the Department of the Interior and
3 Related Agencies Appropriations Act, 1999 (16
4 U.S.C. 2104 note; Public Law 105–277) (as amend-
5 ed by section 323 of the Department of the Interior
6 and Related Agencies Appropriations Act, 2003 (117
7 Stat. 275))” and inserting “section 604 of the
8 Healthy Forests Restoration Act of 2003 (16 U.S.C.
9 6591e)”;

10 (2) in subsection (d), by striking “subsection
11 (b)(1), the Secretary may” and inserting “para-
12 graphs (1) and (4)(B) of subsection (b), the Sec-
13 retary shall”.

14 **SEC. 702. MANAGEMENT OF INDIAN FOREST LAND AUTHOR-**
15 **IZED TO INCLUDE RELATED NATIONAL FOR-**
16 **EST SYSTEM LANDS AND PUBLIC LANDS.**

17 Section 305 of the National Indian Forest Resources
18 Management Act (25 U.S.C. 3104) is amended by adding
19 at the end the following new subsection:

20 “(c) INCLUSION OF CERTAIN NATIONAL FOREST
21 SYSTEM LAND AND PUBLIC LAND.—

22 “(1) AUTHORITY.—At the request of an Indian
23 tribe, the Secretary concerned may treat Federal
24 forest land as Indian forest land for purposes of
25 planning and conducting forest land management

1 activities under this section if the Federal forest
2 land is located within, or mostly within, a geographic
3 area that presents a feature or involves cir-
4 cumstances principally relevant to that Indian tribe,
5 such as Federal forest land ceded to the United
6 States by treaty, Federal forest land within the
7 boundaries of a current or former reservation, or
8 Federal forest land adjudicated to be tribal home-
9 lands.

10 “(2) REQUIREMENTS.—As part of the agree-
11 ment to treat Federal forest land as Indian forest
12 land under paragraph (1), the Secretary concerned
13 and the Indian tribe making the request shall—

14 “(A) provide for continued public access
15 applicable to the Federal forest land prior to
16 the agreement, except that the Secretary con-
17 cerned may limit or prohibit such access as
18 needed;

19 “(B) continue sharing revenue generated
20 by the Federal forest land with State and local
21 governments either—

22 “(i) on the terms applicable to the
23 Federal forest land prior to the agreement,
24 including, where applicable, 25-percent
25 payments or 50-percent payments; or

1 “(ii) at the option of the Indian tribe,
2 on terms agreed upon by the Indian tribe,
3 the Secretary concerned, and State and
4 county governments participating in a rev-
5 enue sharing agreement for the Federal
6 forest land;

7 “(C) comply with applicable prohibitions
8 on the export of unprocessed logs harvested
9 from the Federal forest land;

10 “(D) recognize all right-of-way agreements
11 in place on Federal forest land prior to com-
12 mencement of tribal management activities; and

13 “(E) ensure that all commercial timber re-
14 moved from the Federal forest land is sold on
15 a competitive bid basis.

16 “(3) LIMITATION.—Treating Federal forest
17 land as Indian forest land for purposes of planning
18 and conducting management activities pursuant to
19 paragraph (1) shall not be construed to designate
20 the Federal forest land as Indian forest lands for
21 any other purpose.

22 “(4) DEFINITIONS.—In this subsection:

23 “(A) FEDERAL FOREST LAND.—The term
24 ‘Federal forest land’ means—

1 “(i) National Forest System lands;
2 and

3 “(ii) public lands (as defined in sec-
4 tion 103(e) of the Federal Land Policy and
5 Management Act of 1976 (43 U.S.C.
6 1702(e))), including Coos Bay Wagon
7 Road Grant lands reconveyed to the
8 United States pursuant to the first section
9 of the Act of February 26, 1919 (40 Stat.
10 1179), and Oregon and California Railroad
11 Grant lands.

12 “(B) SECRETARY CONCERNED.—The term
13 ‘Secretary concerned’ means—

14 “(i) the Secretary of Agriculture, with
15 respect to the Federal forest land referred
16 to in subparagraph (A)(i); and

17 “(ii) the Secretary of the Interior,
18 with respect to the Federal forest land re-
19 ferred to in subparagraph (A)(ii).”.

20 **SEC. 703. TRIBAL FOREST MANAGEMENT DEMONSTRATION**
21 **PROJECT.**

22 The Secretary of the Interior and the Secretary of
23 Agriculture may carry out demonstration projects by
24 which federally recognized Indian tribes or tribal organiza-
25 tions may contract to perform administrative, manage-

1 ment, and other functions of programs of the Tribal For-
2 est Protection Act of 2004 (25 U.S.C. 3115a et seq.)
3 through contracts entered into under the Indian Self-De-
4 termination and Education Assistance Act (25 U.S.C. 450
5 et seq.).

6 **TITLE VIII—MISCELLANEOUS**
7 **FOREST MANAGEMENT PRO-**
8 **VISIONS**

9 **SEC. 801. BALANCING SHORT- AND LONG-TERM EFFECTS**
10 **OF FOREST MANAGEMENT ACTIVITIES IN**
11 **CONSIDERING INJUNCTIVE RELIEF.**

12 As part of its weighing the equities while considering
13 any request for an injunction that applies to any agency
14 action as part of a forest management activity under titles
15 I through VIII, the court reviewing the agency action shall
16 balance the impact to the ecosystem likely affected by the
17 forest management activity of—

18 (1) the short- and long-term effects of under-
19 taking the agency action; against

20 (2) the short- and long-term effects of not un-
21 dertaking the action.

22 **SEC. 802. CONDITIONS ON FOREST SERVICE ROAD DECOM-**
23 **MISSIONING.**

24 (a) **CONSULTATION WITH AFFECTED COUNTY.—**

25 Whenever any Forest Service defined maintenance level

1 one- or two-system road within a designated high fire
2 prone area of a unit of the National Forest System is con-
3 sidered for decommissioning, the Forest Supervisor of that
4 unit of the National Forest System shall—

5 (1) consult with the government of the county
6 containing the road regarding the merits and pos-
7 sible consequences of decommissioning the road; and

8 (2) solicit possible alternatives to decommis-
9 sioning the road.

10 (b) REGIONAL FORESTER APPROVAL.—A Forest
11 Service road described in subsection (a) may not be de-
12 commissioned without the advance approval of the Re-
13 gional Forester.

14 **SEC. 803. PROHIBITION ON APPLICATION OF EASTSIDE**
15 **SCREENS REQUIREMENTS ON NATIONAL**
16 **FOREST SYSTEM LANDS.**

17 On and after the date of the enactment of this Act,
18 the Secretary of Agriculture may not apply to National
19 Forest System lands any of the amendments to forest
20 plans adopted in the Decision Notice for the Revised Con-
21 tinuation of Interim Management Direction Establishing
22 Riparian, Ecosystem and Wildlife Standards for Timber
23 Sales (commonly known as the Eastside Screens require-
24 ments), including all preceding or associated versions of
25 these amendments.

1 **SEC. 804. USE OF SITE-SPECIFIC FOREST PLAN AMEND-**
2 **MENTS FOR CERTAIN PROJECTS AND ACTIVI-**
3 **TIES.**

4 If the Secretary concerned determines that, in order
5 to conduct a project or carry out an activity implementing
6 a forest plan, an amendment to the forest plan is required,
7 the Secretary concerned shall execute such amendment as
8 a nonsignificant plan amendment through the record of
9 decision or decision notice for the project or activity.

10 **SEC. 805. KNUTSON-VANDENBERG ACT MODIFICATIONS.**

11 (a) DEPOSITS OF FUNDS FROM NATIONAL FOREST
12 TIMBER PURCHASERS REQUIRED.—Section 3(a) of the
13 Act of June 9, 1930 (commonly known as the Knutson-
14 Vandenberg Act; 16 U.S.C. 576b(a)), is amended by strik-
15 ing “The Secretary” and all that follows through “any
16 purchaser” and inserting the following: “The Secretary of
17 Agriculture shall require each purchaser”.

18 (b) CONDITIONS ON USE OF DEPOSITS.—Section 3
19 of the Act of June 9, 1930 (commonly known as the
20 Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended—

21 (1) by striking “Such deposits” and inserting
22 the following:

23 “(b) Amounts deposited under subsection (a)”;

24 (2) by redesignating subsection (c) as sub-
25 section (d); and

1 (3) by inserting before subsection (d), as so re-
2 designated, the following new subsection (e):

3 “(c)(1) Amounts in the special fund established pur-
4 suant to this section—

5 “(A) shall be used exclusively to implement ac-
6 tivities authorized by subsection (a); and

7 “(B) may be used anywhere within the Forest
8 Service Region from which the original deposits were
9 collected.

10 “(2) The Secretary of Agriculture may not deduct
11 overhead costs from the funds collected under subsection
12 (a), except as needed to fund personnel of the responsible
13 Ranger District for the planning and implementation of
14 the activities authorized by subsection (a).”.

15 **SEC. 806. EXCLUSION OF CERTAIN NATIONAL FOREST SYS-**
16 **TEM LANDS AND PUBLIC LANDS.**

17 Unless specifically provided by a provision of titles
18 I through VIII, the authorities provided by such titles do
19 not apply with respect to any National Forest System
20 lands or public lands—

21 (1) that are included in the National Wilderness
22 Preservation System;

23 (2) that are located within an inventoried
24 roadless area unless the forest management activity

1 to be carried out under such authority is consistent
2 with the forest plan applicable to the area; or
3 (3) on which timber harvesting for any purpose
4 is prohibited by statute.

5 **SEC. 807. APPLICATION OF NORTHWEST FOREST PLAN SUR-**
6 **VEY AND MANAGE MITIGATION MEASURE**
7 **STANDARD AND GUIDELINES.**

8 The Northwest Forest Plan Survey and Manage Miti-
9 gation Measure Standard and Guidelines shall not apply
10 to any National Forest System lands or public lands.

11 **SEC. 808. MANAGEMENT OF BUREAU OF LAND MANAGE-**
12 **MENT LANDS IN WESTERN OREGON.**

13 (a) GENERAL RULE.—All of the public land managed
14 by the Bureau of Land Management in the Salem District,
15 Eugene District, Roseburg District, Coos Bay District,
16 Medford District, and the Klamath Resource Area of the
17 Lakeview District in the State of Oregon shall hereafter
18 be managed pursuant to title I of the of the Act of August
19 28, 1937 (43 U.S.C. 1181a through 1181e). Except as
20 provided in subsection (b), all of the revenue produced
21 from such land shall be deposited in the Treasury of the
22 United States in the Oregon and California land-grant
23 fund and be subject to the provisions of title II of the
24 Act of August 28, 1937 (43 U.S.C. 1181f).

1 (b) CERTAIN LANDS EXCLUDED.—Subsection (a)
2 does not apply to any revenue that is required to be depos-
3 ited in the Coos Bay Wagon Road grant fund pursuant
4 to sections 1 through 4 of the Act of May 24, 1939 (43
5 U.S.C. 1181f–1 through f–4).

6 **SEC. 809. BUREAU OF LAND MANAGEMENT RESOURCE**
7 **MANAGEMENT PLANS.**

8 (a) ADDITIONAL ANALYSIS AND ALTERNATIVES.—To
9 develop a full range of reasonable alternatives as required
10 by the National Environmental Policy Act of 1969, the
11 Secretary of the Interior shall develop and consider in de-
12 tail a reference analysis and two additional alternatives
13 as part of the revisions of the resource management plans
14 for the Bureau of Land Management’s Salem, Eugene,
15 Coos Bay, Roseburg, and Medford Districts and the Klam-
16 ath Resource Area of the Lakeview District.

17 (b) REFERENCE ANALYSIS.—The reference analysis
18 required by subsection (a) shall measure and assume the
19 harvest of the annual growth net of natural mortality for
20 all forested land in the planning area in order to determine
21 the maximum sustained yield capacity of the forested land
22 base and to establish a baseline by which the Secretary
23 of the Interior shall measure incremental effects on the
24 sustained yield capacity and environmental impacts from
25 management prescriptions in all other alternatives.

1 (c) ADDITIONAL ALTERNATIVES.—

2 (1) CARBON SEQUESTRATION ALTERNATIVE.—

3 The Secretary of the Interior shall develop and con-
4 sider an additional alternative with the goal of maxi-
5 mizing the total carbon benefits from forest storage
6 and wood product storage. To the extent practicable,
7 the analysis shall consider—

8 (A) the future risks to forest carbon from
9 wildfires, insects, and disease;

10 (B) the amount of carbon stored in prod-
11 ucts or in landfills;

12 (C) the life cycle benefits of harvested
13 wood products compared to non-renewable
14 products; and

15 (D) the energy produced from wood resi-
16 dues.

17 (2) SUSTAINED YIELD ALTERNATIVE.—The
18 Secretary of the Interior shall develop and consider
19 an additional alternative that produces the greater
20 of 500 million board feet or the annual net growth
21 on the acres classified as timberland, excluding any
22 congressionally reserved areas. The projected harvest
23 levels, as nearly as practicable, shall be distributed
24 among the Districts referred to in subsection (a) in
25 the same proportion as the maximum yield capacity

1 of each such District bears to maximum yield capac-
2 ity of the planning area as a whole.

3 (d) **ADDITIONAL ANALYSIS AND PUBLIC PARTICIPA-**
4 **TION.**—The Secretary of the Interior shall publish the ref-
5 erence analysis and additional alternatives and analyze
6 their environmental and economic consequences in a sup-
7 plemental draft environmental impact statement. The
8 draft environmental impact statement and supplemental
9 draft environmental impact statement shall be made avail-
10 able for public comment for a period of not less than 180
11 days. The Secretary shall respond to any comments re-
12 ceived before making a final decision between all alter-
13 natives.

14 (e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
15 tion shall affect the obligation of the Secretary of the Inte-
16 rior to manage the timberlands as required by the Act of
17 August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j).

18 **SEC. 810. LANDSCAPE-SCALE FOREST RESTORATION**
19 **PROJECT.**

20 The Secretary of Agriculture shall develop and imple-
21 ment at least one landscape-scale forest restoration project
22 that includes, as a defined purpose of the project, the gen-
23 eration of material that will be used to promote advanced
24 wood products. The project shall be developed through a
25 collaborative process.

1 **TITLE IX—MAJOR DISASTER FOR**
2 **WILDFIRE ON FEDERAL LAND**

3 **SEC. 901. WILDFIRE ON FEDERAL LANDS.**

4 Section 102(2) of the Robert T. Stafford Disaster
5 Relief and Emergency Assistance Act (42 U.S.C. 5122(2))
6 is amended—

7 (1) by striking “(2)” and all that follows
8 through “means” and inserting the following:

9 “(2) MAJOR DISASTER.—

10 “(A) MAJOR DISASTER.—The term ‘major
11 disaster’ means”; and

12 (2) by adding at the end the following:

13 “(B) MAJOR DISASTER FOR WILDFIRE ON
14 FEDERAL LANDS.—The term ‘major disaster
15 for wildfire on Federal lands’ means any wild-
16 fire or wildfires, which in the determination of
17 the President under section 802 warrants as-
18 sistance under section 803 to supplement the
19 efforts and resources of the Department of the
20 Interior or the Department of Agriculture—

21 “(i) on Federal lands; or

22 “(ii) on non-Federal lands pursuant
23 to a fire protection agreement or coopera-
24 tive agreement.”.

1 **SEC. 902. DECLARATION OF A MAJOR DISASTER FOR WILD-**
2 **FIRE ON FEDERAL LANDS.**

3 The Robert T. Stafford Disaster Relief and Emer-
4 gency Assistance Act (42 U.S.C. 5170 et seq.) is amended
5 by adding at the end the following:

6 **“TITLE VIII—MAJOR DISASTER**
7 **FOR WILDFIRE ON FEDERAL**
8 **LAND**

9 **“SEC. 801. DEFINITIONS.**

10 “As used in this title—

11 “(1) FEDERAL LAND.—The term ‘Federal land’
12 means—

13 “(A) any land under the jurisdiction of the
14 Department of the Interior; and

15 “(B) any land under the jurisdiction of the
16 United States Forest Service.

17 “(2) FEDERAL LAND MANAGEMENT AGEN-
18 CIES.—The term ‘Federal land management agen-
19 cies’ means—

20 “(A) the Bureau of Land Management;

21 “(B) the National Park Service;

22 “(C) the Bureau of Indian Affairs;

23 “(D) the United States Fish and Wildlife
24 Service; and

25 “(E) the United States Forest Service.

1 “(3) WILDFIRE SUPPRESSION OPERATIONS.—

2 The term ‘wildfire suppression operations’ means the
3 emergency and unpredictable aspects of wildland
4 firefighting, including support, response, emergency
5 stabilization activities, and other emergency manage-
6 ment activities of wildland firefighting on Federal
7 lands (or on non-Federal lands pursuant to a fire
8 protection agreement or cooperative agreement) by
9 the Federal land management agencies covered by
10 the wildfire suppression subactivity of the Wildland
11 Fire Management account or the FLAME Wildfire
12 Suppression Reserve Fund account of the Federal
13 land management agencies.

14 **“SEC. 802. PROCEDURE FOR DECLARATION OF A MAJOR**
15 **DISASTER FOR WILDFIRE ON FEDERAL**
16 **LANDS.**

17 “(a) IN GENERAL.—The Secretary of the Interior or
18 the Secretary of Agriculture may submit a request to the
19 President consistent with the requirements of this title for
20 a declaration by the President that a major disaster for
21 wildfire on Federal lands exists.

22 “(b) REQUIREMENTS.—A request for a declaration
23 by the President that a major disaster for wildfire on Fed-
24 eral lands exists shall—

1 “(1) be made in writing by the respective Sec-
2 retary;

3 “(2) certify that the amount appropriated in
4 the current fiscal year for wildfire suppression oper-
5 ations of the Federal land management agencies
6 under the jurisdiction of the respective Secretary,
7 net of any concurrently enacted rescissions of wild-
8 fire suppression funds, increases the total unobli-
9 gated balance of amounts available for wildfire sup-
10 pression by an amount equal to or greater than the
11 average total costs incurred by the Federal land
12 management agencies per year for wildfire suppres-
13 sion operations, including the suppression costs in
14 excess of appropriated amounts, over the previous
15 ten fiscal years;

16 “(3) certify that the amount available for wild-
17 fire suppression operations of the Federal land man-
18 agement agencies under the jurisdiction of the re-
19 spective Secretary will be obligated not later than 30
20 days after such Secretary notifies the President that
21 wildfire suppression funds will be exhausted to fund
22 ongoing and anticipated wildfire suppression oper-
23 ations related to the wildfire on which the request
24 for the declaration of a major disaster for wildfire
25 on Federal lands pursuant to this title is based; and

1 “(4) specify the amount required in the current
2 fiscal year to fund wildfire suppression operations
3 related to the wildfire on which the request for the
4 declaration of a major disaster for wildfire on Fed-
5 eral lands pursuant to this title is based.

6 “(c) DECLARATION.—Based on the request of the re-
7 spective Secretary under this title, the President may de-
8 clare that a major disaster for wildfire on Federal lands
9 exists.

10 **“SEC. 803. WILDFIRE ON FEDERAL LANDS ASSISTANCE.**

11 “(a) IN GENERAL.—In a major disaster for wildfire
12 on Federal lands, the President may transfer funds, only
13 from the account established pursuant to subsection (b),
14 to the Secretary of the Interior or the Secretary of Agri-
15 culture to conduct wildfire suppression operations on Fed-
16 eral lands (and non-Federal lands pursuant to a fire pro-
17 tection agreement or cooperative agreement).

18 “(b) WILDFIRE SUPPRESSION OPERATIONS AC-
19 COUNT.—The President shall establish a specific account
20 for the assistance available pursuant to a declaration
21 under section 802. Such account may only be used to fund
22 assistance pursuant to this title.

23 “(c) LIMITATION.—

24 “(1) LIMITATION OF TRANSFER.—The assist-
25 ance available pursuant to a declaration under sec-

1 tion 802 is limited to the transfer of the amount re-
2 quested pursuant to section 802(b)(4). The assist-
3 ance available for transfer shall not exceed the
4 amount contained in the wildfire suppression oper-
5 ations account established pursuant to subsection
6 (b).

7 “(2) TRANSFER OF FUNDS.—Funds under this
8 section shall be transferred from the wildfire sup-
9 pression operations account to the wildfire suppres-
10 sion subactivity of the Wildland Fire Management
11 Account.

12 “(d) PROHIBITION OF OTHER TRANSFERS.—Except
13 as provided in this section, no funds may be transferred
14 to or from the account established pursuant to subsection
15 (b) to or from any other fund or account.

16 “(e) REIMBURSEMENT FOR WILDFIRE SUPPRESSION
17 OPERATIONS ON NON-FEDERAL LAND.—If amounts
18 transferred under subsection (c) are used to conduct wild-
19 fire suppression operations on non-Federal land, the re-
20 spective Secretary shall—

21 “(1) secure reimbursement for the cost of such
22 wildfire suppression operations conducted on the
23 non-Federal land; and

1 “(2) transfer the amounts received as reim-
2 bursement to the wildfire suppression operations ac-
3 count established pursuant to subsection (b).

4 “(f) ANNUAL ACCOUNTING AND REPORTING RE-
5 QUIREMENTS.—Not later than 90 days after the end of
6 each fiscal year for which assistance is received pursuant
7 to this section, the respective Secretary shall submit to
8 the Committees on Agriculture, Appropriations, the Budg-
9 et, Natural Resources, and Transportation and Infrastruc-
10 ture of the House of Representatives and the Committees
11 on Agriculture, Nutrition, and Forestry, Appropriations,
12 the Budget, Energy and Natural Resources, Homeland
13 Security and Governmental Affairs, and Indian Affairs of
14 the Senate, and make available to the public, a report that
15 includes the following:

16 “(1) The risk-based factors that influenced
17 management decisions regarding wildfire suppression
18 operations of the Federal land management agencies
19 under the jurisdiction of the Secretary concerned.

20 “(2) Specific discussion of a statistically signifi-
21 cant sample of large fires, in which each fire is ana-
22 lyzed for cost drivers, effectiveness of risk manage-
23 ment techniques, resulting positive or negative im-
24 pacts of fire on the landscape, impact of investments
25 in preparedness, suggested corrective actions, and

1 such other factors as the respective Secretary con-
2 siders appropriate.

3 “(3) Total expenditures for wildfire suppression
4 operations of the Federal land management agencies
5 under the jurisdiction of the respective Secretary,
6 broken out by fire sizes, cost, regional location, and
7 such other factors as the such Secretary considers
8 appropriate.

9 “(4) Lessons learned.

10 “(5) Such other matters as the respective Sec-
11 retary considers appropriate.

12 “(g) SAVINGS PROVISION.—Nothing in this title shall
13 limit the Secretary of the Interior, the Secretary of Agri-
14 culture, Indian tribe, or a State from receiving assistance
15 through a declaration made by the President under this
16 Act when the criteria for such declaration have been
17 met.”.

18 **SEC. 903. PROHIBITION ON TRANSFERS.**

19 No funds may be transferred to or from the Federal
20 land management agencies’ wildfire suppression oper-
21 ations accounts referred to in section 801(3) of the Robert
22 T. Stafford Disaster Relief and Emergency Assistance Act
23 to or from any account or subactivity of the Federal land
24 management agencies, as defined in section 801(2) of such

1 Act, that is not used to cover the cost of wildfire suppres-
2 sion operations.

3 **DIVISION C—NATURAL**
4 **RESOURCES**
5 **TITLE I—WESTERN WATER AND**
6 **AMERICAN FOOD SECURITY ACT**

7 **SEC. 1001. SHORT TITLE.**

8 This title may be cited as the “Western Water and
9 American Food Security Act of 2015”.

10 **SEC. 1002. FINDINGS.**

11 Congress finds as follows:

12 (1) As established in the Proclamation of a
13 State of Emergency issued by the Governor of the
14 State on January 17, 2014, the State is experi-
15 encing record dry conditions.

16 (2) Extremely dry conditions have persisted in
17 the State since 2012, and the drought conditions are
18 likely to persist into the future.

19 (3) The water supplies of the State are at
20 record-low levels, as indicated by the fact that all
21 major Central Valley Project reservoir levels were at
22 20–35 percent of capacity as of September 25, 2014.

23 (4) The lack of precipitation has been a signifi-
24 cant contributing factor to the 6,091 fires experi-

1 enced in the State as of September 15, 2014, and
2 which covered nearly 400,000 acres.

3 (5) According to a study released by the Uni-
4 versity of California, Davis in July 2014, the
5 drought has led to the fallowing of 428,000 acres of
6 farmland, loss of \$810 million in crop revenue, loss
7 of \$203 million in dairy and other livestock value,
8 and increased groundwater pumping costs by \$454
9 million. The statewide economic costs are estimated
10 to be \$2.2 billion, with over 17,000 seasonal and
11 part-time agricultural jobs lost.

12 (6) CVPIA Level II water deliveries to refuges
13 have also been reduced by 25 percent in the north
14 of Delta region, and by 35 percent in the south of
15 Delta region.

16 (7) Only one-sixth of the usual acres of rice
17 fields are being flooded this fall, which leads to a
18 significant decline in habitat for migratory birds and
19 an increased risk of disease at the remaining wet-
20 lands due to overcrowding of such birds.

21 (8) The drought of 2013 through 2014 con-
22 stitutes a serious emergency that poses immediate
23 and severe risks to human life and safety and to the
24 environment throughout the State.

1 (9) The serious emergency described in para-
2 graph (4) requires—

3 (A) immediate and credible action that re-
4 spects the complexity of the water system of the
5 State and the importance of the water system
6 to the entire State; and

7 (B) policies that do not pit stakeholders
8 against one another, which history shows only
9 leads to costly litigation that benefits no one
10 and prevents any real solutions.

11 (10) Data on the difference between water de-
12 mand and reliable water supplies for various regions
13 of California south of the Delta, including the San
14 Joaquin Valley, indicate there is a significant annual
15 gap between reliable water supplies to meet agricul-
16 tural, municipal and industrial, groundwater, and
17 refuges water needs within the Delta Division, San
18 Luis Unit and Friant Division of the Central Valley
19 Project and the State Water Project south of the
20 Sacramento-San Joaquin River Delta and the de-
21 mands of those areas. This gap varies depending on
22 the methodology of the analysis performed, but can
23 be represented in the following ways:

24 (A) For Central Valley Project South-of-
25 Delta water service contractors, if it is assumed

1 that a water supply deficit is the difference in
2 the amount of water available for allocation
3 versus the maximum contract quantity, then the
4 water supply deficits that have developed from
5 1992 to 2014 as a result of legislative and reg-
6 ulatory changes besides natural variations in
7 hydrology during this timeframe range between
8 720,000 and 1,100,000 acre-feet.

9 (B) For Central Valley Project and State
10 Water Project water service contractors south
11 of the Delta and north of the Tehachapi moun-
12 tain range, if it is assumed that a water supply
13 deficit is the difference between reliable water
14 supplies, including maximum water contract de-
15 liveries, safe yield of groundwater, safe yield of
16 local and surface supplies and long-term con-
17 tracted water transfers, and water demands, in-
18 cluding water demands from agriculture, munic-
19 ipal and industrial and refuge contractors, then
20 the water supply deficit ranges between ap-
21 proximately 2,500,000 to 2,700,000 acre-feet.

22 (11) Data of pumping activities at the Central
23 Valley Project and State Water Project delta pumps
24 identifies that, on average from Water Year 2009 to
25 Water Year 2014, take of Delta smelt is 80 percent

1 less than allowable take levels under the biological
2 opinion issued December 15, 2008.

3 (12) Data of field sampling activities of the
4 Interagency Ecological Program located in the Sac-
5 ramento-San Joaquin Estuary identifies that, on av-
6 erage from 2005 to 2013, the program “takes”
7 3,500 delta smelt during annual surveys with an au-
8 thorized “take” level of 33,480 delta smelt annu-
9 ally—according to the biological opinion issued De-
10 cember 9, 1997.

11 (13) In 2015, better information exists than
12 was known in 2008 concerning conditions and oper-
13 ations that may or may not lead to high salvage
14 events that jeopardize the fish populations, and what
15 alternative management actions can be taken to
16 avoid jeopardy.

17 (14) Alternative management strategies, remov-
18 ing non-native species, enhancing habitat, moni-
19 toring fish movement and location in real-time, and
20 improving water quality in the Delta can contribute
21 significantly to protecting and recovering these en-
22 dangered fish species, and at potentially lower costs
23 to water supplies.

24 (15) Resolution of fundamental policy questions
25 concerning the extent to which application of the

1 Endangered Species Act of 1973 affects the oper-
2 ation of the Central Valley Project and State Water
3 Project is the responsibility of Congress.

4 **SEC. 1003. DEFINITIONS.**

5 In this title:

6 (1) DELTA.—The term “Delta” means the Sac-
7 ramento-San Joaquin Delta and the Suisun Marsh,
8 as defined in sections 12220 and 29101 of the Cali-
9 fornia Public Resources Code.

10 (2) EXPORT PUMPING RATES.—The term “ex-
11 port pumping rates” means the rates of pumping at
12 the C.W. “Bill” Jones Pumping Plant and the Har-
13 vey O. Banks Pumping Plant, in the southern Delta.

14 (3) LISTED FISH SPECIES.—The term “listed
15 fish species” means listed salmonid species and the
16 Delta smelt.

17 (4) LISTED SALMONID SPECIES.—The term
18 “listed salmonid species” means natural origin
19 steelhead, natural origin genetic spring run Chinook,
20 and genetic winter run Chinook salmon including
21 hatchery steelhead or salmon populations within the
22 evolutionary significant unit (ESU) or distinct popu-
23 lation segment (DPS).

24 (5) NEGATIVE IMPACT ON THE LONG-TERM
25 SURVIVAL.—The term “negative impact on the long-

1 term survival” means to reduce appreciably the like-
2 lihood of the survival of a listed species in the wild
3 by reducing the reproduction, numbers, or distribu-
4 tion of that species.

5 (6) OMR.—The term “OMR” means the Old
6 and Middle River in the Delta.

7 (7) OMR FLOW OF $-5,000$ CUBIC FEET PER
8 SECOND.—The term “OMR flow of $-5,000$ cubic
9 feet per second” means Old and Middle River flow
10 of negative $5,000$ cubic feet per second as described
11 in—

12 (A) the smelt biological opinion; and

13 (B) the salmonid biological opinion.

14 (8) SALMONID BIOLOGICAL OPINION.—The
15 term “salmonid biological opinion” means the bio-
16 logical opinion issued by the National Marine Fish-
17 eries Service on June 4, 2009.

18 (9) SMELT BIOLOGICAL OPINION.—The term
19 “smelt biological opinion” means the biological opin-
20 ion on the Long-Term Operational Criteria and Plan
21 for coordination of the Central Valley Project and
22 State Water Project issued by the United States
23 Fish and Wildlife Service on December 15, 2008.

24 (10) STATE.—The term “State” means the
25 State of California.

1 **Subtitle A—ADJUSTING DELTA**
2 **SMELT MANAGEMENT BASED**
3 **ON INCREASED REAL-TIME**
4 **MONITORING AND UPDATED**
5 **SCIENCE**

6 **SEC. 1011. DEFINITIONS.**

7 In this subtitle:

8 (1) **DIRECTOR.**—The term “Director” means
9 the Director of the United States Fish and Wildlife
10 Service.

11 (2) **DELTA SMELT.**—The term “Delta smelt”
12 means the fish species with the scientific name
13 *Hypomesus transpacificus*.

14 (3) **SECRETARY.**—The term “Secretary” means
15 the Secretary of the Interior.

16 (4) **COMMISSIONER.**—The term “Commis-
17 sioner” means the Commissioner of the Bureau of
18 Reclamation.

19 **SEC. 1012. REVISE INCIDENTAL TAKE LEVEL CALCULATION**
20 **FOR DELTA SMELT TO REFLECT NEW**
21 **SCIENCE.**

22 (a) **REVIEW AND MODIFICATION.**—Not later than
23 October 1, 2016, and at least every five years thereafter,
24 the Director, in cooperation with other Federal, State, and
25 local agencies, shall use the best scientific and commercial

1 data available to complete a review and, modify the meth-
2 od used to calculate the incidental take levels for adult
3 and larval/juvenile Delta smelt in the smelt biological opin-
4 ion that takes into account all life stages, among other
5 considerations—

6 (1) salvage information collected since at least
7 1993;

8 (2) updated or more recently developed statis-
9 tical models;

10 (3) updated scientific and commercial data; and

11 (4) the most recent information regarding the
12 environmental factors affecting Delta smelt salvage.

13 (b) MODIFIED INCIDENTAL TAKE LEVEL.—Unless
14 the Director determines in writing that one or more of
15 the requirements described in paragraphs (1) through (4)
16 are not appropriate, the modified incidental take level de-
17 scribed in subsection (a) shall—

18 (1) be normalized for the abundance of
19 prespawning adult Delta smelt using the Fall
20 Midwater Trawl Index or other index;

21 (2) be based on a simulation of the salvage that
22 would have occurred from 1993 through 2012 if
23 OMR flow has been consistent with the smelt bio-
24 logical opinions;

1 (3) base the simulation on a correlation between
2 annual salvage rates and historic water clarity and
3 OMR flow during the adult salvage period; and

4 (4) set the incidental take level as the 80 per-
5 cent upper prediction interval derived from simu-
6 lated salvage rates since at least 1993.

7 **SEC. 1013. FACTORING INCREASED REAL-TIME MONI-**
8 **TORING AND UPDATED SCIENCE INTO DELTA**
9 **SMELT MANAGEMENT.**

10 (a) IN GENERAL.—The Director shall use the best
11 scientific and commercial data available to implement,
12 continuously evaluate, and refine or amend, as appro-
13 priate, the reasonable and prudent alternative described
14 in the smelt biological opinion, and any successor opinions
15 or court order. The Secretary shall make all significant
16 decisions under the smelt biological opinion, or any suc-
17 cessor opinions that affect Central Valley Project and
18 State Water Project operations, in writing, and shall docu-
19 ment the significant facts upon which such decisions are
20 made, consistent with section 706 of title 5, United States
21 Code.

22 (b) INCREASED MONITORING TO INFORM REAL-
23 TIME OPERATIONS.—The Secretary shall conduct addi-
24 tional surveys, on an annual basis at the appropriate time

1 of the year based on environmental conditions, in collabo-
2 ration with other Delta science interests.

3 (1) In implementing this section, the Secretary
4 shall—

5 (A) use the most accurate survey methods
6 available for the detection of Delta smelt to de-
7 termine the extent that adult Delta smelt are
8 distributed in relation to certain levels of tur-
9 bidity, or other environmental factors that may
10 influence salvage rate; and

11 (B) use results from appropriate survey
12 methods for the detection of Delta smelt to de-
13 termine how the Central Valley Project and
14 State Water Project may be operated more effi-
15 ciently to minimize salvage while maximizing
16 export pumping rates without causing a signifi-
17 cant negative impact on the long-term survival
18 of the Delta smelt.

19 (2) During the period beginning on December
20 1, 2015, and ending March 31, 2016, and in each
21 successive December through March period, if sus-
22 pended sediment loads enter the Delta from the Sac-
23 ramento River and the suspended sediment loads ap-
24 pear likely to raise turbidity levels in the Old River
25 north of the export pumps from values below 12

1 Nephelometric Turbidity Units (NTU) to values
2 above 12 NTU, the Secretary shall—

3 (A) conduct daily monitoring using appro-
4 priate survey methods at locations including,
5 but not limited to, the vicinity of Station 902
6 to determine the extent that adult Delta smelt
7 are moving with turbidity toward the export
8 pumps; and

9 (B) use results from the monitoring sur-
10 veys referenced in paragraph (A) to determine
11 how increased trawling can inform daily real-
12 time Central Valley Project and State Water
13 Project operations to minimize salvage while
14 maximizing export pumping rates without caus-
15 ing a significant negative impact on the long-
16 term survival of the Delta smelt.

17 (c) PERIODIC REVIEW OF MONITORING.—Within 12
18 months of the date of enactment of this title, and at least
19 once every 5 years thereafter, the Secretary shall—

20 (1) evaluate whether the monitoring program
21 under subsection (b), combined with other moni-
22 toring programs for the Delta, is providing sufficient
23 data to inform Central Valley Project and State
24 Water Project operations to minimize salvage while
25 maximizing export pumping rates without causing a

1 significant negative impact on the long-term survival
2 of the Delta smelt; and

3 (2) determine whether the monitoring efforts
4 should be changed in the short or long term to pro-
5 vide more useful data.

6 (d) DELTA SMELT DISTRIBUTION STUDY.—

7 (1) IN GENERAL.—No later than January 1,
8 2016, and at least every five years thereafter, the
9 Secretary, in collaboration with the California De-
10 partment of Fish and Wildlife, the California De-
11 partment of Water Resources, public water agencies,
12 and other interested entities, shall implement new
13 targeted sampling and monitoring specifically de-
14 signed to understand Delta smelt abundance, dis-
15 tribution, and the types of habitat occupied by Delta
16 smelt during all life stages.

17 (2) SAMPLING.—The Delta smelt distribution
18 study shall, at a minimum—

19 (A) include recording water quality and
20 tidal data;

21 (B) be designed to understand Delta smelt
22 abundance, distribution, habitat use, and move-
23 ment throughout the Delta, Suisun Marsh, and
24 other areas occupied by the Delta smelt during
25 all seasons;

1 (C) consider areas not routinely sampled
2 by existing monitoring programs, including wet-
3 land channels, near-shore water, depths below
4 35 feet, and shallow water; and

5 (D) use survey methods, including sam-
6 pling gear, best suited to collect the most accu-
7 rate data for the type of sampling or moni-
8 toring.

9 (e) SCIENTIFICALLY SUPPORTED IMPLEMENTATION
10 OF OMR FLOW REQUIREMENTS.—In implementing the
11 provisions of the smelt biological opinion, or any successor
12 biological opinion or court order, pertaining to manage-
13 ment of reverse flow in the Old and Middle Rivers, the
14 Secretary shall—

15 (1) consider the relevant provisions of the bio-
16 logical opinion or any successor biological opinion;

17 (2) to maximize Central Valley project and
18 State Water Project water supplies, manage export
19 pumping rates to achieve a reverse OMR flow rate
20 of $-5,000$ cubic feet per second unless information
21 developed by the Secretary under paragraphs (3)
22 and (4) leads the Secretary to reasonably conclude
23 that a less negative OMR flow rate is necessary to
24 avoid a negative impact on the long-term survival of
25 the Delta smelt. If information available to the Sec-

1 retary indicates that a reverse OMR flow rate more
2 negative than $-5,000$ cubic feet per second can be
3 established without an imminent negative impact on
4 the long-term survival of the Delta smelt, the Sec-
5 retary shall manage export pumping rates to achieve
6 that more negative OMR flow rate;

7 (3) document in writing any significant facts
8 about real-time conditions relevant to the determina-
9 tions of OMR reverse flow rates, including—

10 (A) whether targeted real-time fish moni-
11 toring in the Old River pursuant to this section,
12 including monitoring in the vicinity of Station
13 902, indicates that a significant negative impact
14 on the long-term survival of the Delta smelt is
15 imminent; and

16 (B) whether near-term forecasts with avail-
17 able salvage models show under prevailing con-
18 ditions that OMR flow of $-5,000$ cubic feet per
19 second or higher will cause a significant nega-
20 tive impact on the long-term survival of the
21 Delta smelt;

22 (4) show in writing that any determination to
23 manage OMR reverse flow at rates less negative
24 than $-5,000$ cubic feet per second is necessary to
25 avoid a significant negative impact on the long-term

1 survival of the Delta smelt, including an explanation
2 of the data examined and the connection between
3 those data and the choice made, after considering—

4 (A) the distribution of Delta smelt
5 throughout the Delta;

6 (B) the potential effects of documented,
7 quantified entrainment on subsequent Delta
8 smelt abundance;

9 (C) the water temperature;

10 (D) other significant factors relevant to
11 the determination; and

12 (E) whether any alternative measures
13 could have a substantially lesser water supply
14 impact; and

15 (5) for any subsequent biological opinion, make
16 the showing required in paragraph (4) for any deter-
17 mination to manage OMR reverse flow at rates less
18 negative than the most negative limit in the biologi-
19 cal opinion if the most negative limit in the biologi-
20 cal opinion is more negative than $-5,000$ cubic feet
21 per second.

22 (f) MEMORANDUM OF UNDERSTANDING.—No later
23 than December 1, 2015, the Commissioner and the Direc-
24 tor will execute a Memorandum of Understanding (MOU)
25 to ensure that the smelt biological opinion is implemented

1 in a manner that maximizes water supply while complying
2 with applicable laws and regulations. If that MOU alters
3 any procedures set out in the biological opinion, there will
4 be no need to reinitiate consultation if those changes will
5 not have a significant negative impact on the long-term
6 survival on listed species and the implementation of the
7 MOU would not be a major change to implementation of
8 the biological opinion. Any change to procedures that does
9 not create a significant negative impact on the long-term
10 survival to listed species will not alter application of the
11 take permitted by the incidental take statement in the bio-
12 logical opinion under section 7(o)(2) of the Endangered
13 Species Act of 1973.

14 (g) CALCULATION OF REVERSE FLOW IN OMR.—
15 Within 90 days of the enactment of this title, the Sec-
16 retary is directed, in consultation with the California De-
17 partment of Water Resources to revise the method used
18 to calculate reverse flow in Old and Middle Rivers for im-
19 plementation of the reasonable and prudent alternatives
20 in the smelt biological opinion and the salmonid biological
21 opinion, and any succeeding biological opinions, for the
22 purpose of increasing Central Valley Project and State
23 Water Project water supplies. The method of calculating
24 reverse flow in Old and Middle Rivers shall be reevaluated
25 not less than every five years thereafter to achieve max-

1 imum export pumping rates within limits established by
2 the smelt biological opinion, the salmonid biological opin-
3 ion, and any succeeding biological opinions.

4 **Subtitle** **B—ENSURING**
5 **SALMONID MANAGEMENT IS**
6 **RESPONSIVE TO NEW**
7 **SCIENCE**

8 **SEC. 1021. DEFINITIONS.**

9 In this subtitle:

10 (1) ASSISTANT ADMINISTRATOR.—The term
11 “Assistant Administrator” means the Assistant Ad-
12 ministrator of the National Oceanic and Atmos-
13 pheric Administration for Fisheries.

14 (2) SECRETARY.—The term “Secretary” means
15 the Secretary of Commerce.

16 (3) OTHER AFFECTED INTERESTS.—The term
17 “other affected interests” means the State of Cali-
18 fornia, Indian tribes, subdivisions of the State of
19 California, public water agencies and those who ben-
20 efit directly and indirectly from the operations of the
21 Central Valley Project and the State Water Project.

22 (4) COMMISSIONER.—The term “Commis-
23 sioner” means the Commissioner of the Bureau of
24 Reclamation.

1 (5) DIRECTOR.—The term “Director” means
2 the Director of the United States Fish and Wildlife
3 Service.

4 **SEC. 1022. PROCESS FOR ENSURING SALMONID MANAGE-**
5 **MENT IS RESPONSIVE TO NEW SCIENCE.**

6 (a) GENERAL DIRECTIVE.—The reasonable and pru-
7 dent alternative described in the salmonid biological opin-
8 ion allows for and anticipates adjustments in Central Val-
9 ley Project and State Water Project operation parameters
10 to reflect the best scientific and commercial data currently
11 available, and authorizes efforts to test and evaluate im-
12 provements in operations that will meet applicable regu-
13 latory requirements and maximize Central Valley Project
14 and State Water Project water supplies and reliability.
15 Implementation of the reasonable and prudent alternative
16 described in the salmonid biological opinion shall be ad-
17 justed accordingly as new scientific and commercial data
18 are developed. The Commissioner and the Assistant Ad-
19 ministrators shall fully utilize these authorities as described
20 below.

21 (b) ANNUAL REVIEWS OF CERTAIN CENTRAL VAL-
22 LEY PROJECT AND STATE WATER PROJECT OPER-
23 ATIONS.—No later than December 31, 2016, and at least
24 annually thereafter:

1 (1) The Commissioner, with the assistance of
2 the Assistant Administrator, shall examine and iden-
3 tify adjustments to the initiation of Action IV.2.3 as
4 set forth in the Biological Opinion and Conference
5 Opinion on the Long-Term Operations of the Cen-
6 tral Valley Project and State Water Project, Endan-
7 gered Species Act Section 7 Consultation, issued by
8 the National Marine Fisheries Service on June 4,
9 2009, pertaining to negative OMR flows, subject to
10 paragraph (5).

11 (2) The Commissioner, with the assistance of
12 the Assistant Administrator, shall examine and iden-
13 tify adjustments in the timing, triggers or other
14 operational details relating to the implementation of
15 pumping restrictions in Action IV.2.1 pertaining to
16 the inflow to export ratio, subject to paragraph (5).

17 (3) Pursuant to the consultation and assess-
18 ments carried out under paragraphs (1) and (2) of
19 this subsection, the Commissioner and the Assistant
20 Administrator shall jointly make recommendations
21 to the Secretary of the Interior and to the Secretary
22 on adjustments to project operations that, in the ex-
23 ercise of the adaptive management provisions of the
24 salmonid biological opinion, will reduce water supply
25 impacts of the salmonid biological opinion on the

1 Central Valley Project and the California State
2 Water Project and are consistent with the require-
3 ments of applicable law and as further described in
4 subsection (c).

5 (4) The Secretary and the Secretary of the In-
6 terior shall direct the Commissioner and Assistant
7 Administrator to implement recommended adjust-
8 ments to Central Valley Project and State Water
9 Project operations for which the conditions under
10 subsection (c) are met.

11 (5) The Assistant Administrator and the Com-
12 missioner shall review and identify adjustments to
13 Central Valley Project and State Water Project op-
14 erations with water supply restrictions in any suc-
15 cessor biological opinion to the salmonid biological
16 opinion, applying the provisions of this section to
17 those water supply restrictions where there are ref-
18 erences to Actions IV.2.1 and IV.2.3.

19 (c) IMPLEMENTATION OF OPERATIONAL ADJUST-
20 MENTS.—After reviewing the recommendations under sub-
21 section (b), the Secretary of the Interior and the Secretary
22 shall direct the Commissioner and the Assistant Adminis-
23 trator to implement those operational adjustments, or any
24 combination, for which, in aggregate—

1 (1) the net effect on listed species is equivalent
2 to those of the underlying project operational param-
3 eters in the salmonid biological opinion, taking into
4 account both—

5 (A) efforts to minimize the adverse effects
6 of the adjustment to project operations; and

7 (B) whatever additional actions or meas-
8 ures may be implemented in conjunction with
9 the adjustments to operations to offset the ad-
10 verse effects to listed species, consistent with
11 (d), that are in excess of the adverse effects of
12 the underlying operational parameters, if any;
13 and

14 (2) the effects of the adjustment can be reason-
15 ably expected to fall within the incidental take au-
16 thorizations.

17 (d) EVALUATION OF OFFSETTING MEASURES.—

18 When examining and identifying opportunities to offset
19 the potential adverse effect of adjustments to operations
20 under subsection (c)(1)(B), the Commissioner and the As-
21 sistant Administrator shall take into account the potential
22 species survival improvements that are likely to result
23 from other measures which, if implemented in conjunction
24 with such adjustments, would offset adverse effects, if any,
25 of the adjustments. When evaluating offsetting measures,

1 the Commissioner and the Assistant Administrator shall
2 consider the type, timing and nature of the adverse effects,
3 if any, to specific species and ensure that the measures
4 likely provide equivalent overall benefits to the listed spe-
5 cies in the aggregate, as long as the change will not cause
6 a significant negative impact on the long-term survival of
7 a listed salmonid species.

8 (e) FRAMEWORK FOR EXAMINING OPPORTUNITIES
9 TO MINIMIZE OR OFFSET THE POTENTIAL ADVERSE EF-
10 FECT OF ADJUSTMENTS TO OPERATIONS.—Not later than
11 December 31, 2015, and every five years thereafter, the
12 Assistant Administrator shall, in collaboration with the
13 Director of the California Department of Fish and Wild-
14 life, based on the best scientific and commercial data avail-
15 able and for each listed salmonid species, issue estimates
16 of the increase in through-Delta survival the Secretary ex-
17 pects to be achieved—

18 (1) through restrictions on export pumping
19 rates as specified by Action IV.2.3 as compared to
20 limiting OMR flow to a fixed rate of $-5,000$ cubic
21 feet per second within the time period Action IV.2.3
22 is applicable, based on a given rate of San Joaquin
23 River inflow to the Delta and holding other relevant
24 factors constant;

- 1 (2) through San Joaquin River inflow to export
- 2 restrictions on export pumping rates specified within
- 3 Action IV.2.1 as compared to the restrictions in the
- 4 April/May period imposed by the State Water Re-
- 5 sources Control Board decision D-1641, based on a
- 6 given rate of San Joaquin River inflow to the Delta
- 7 and holding other relevant factors constant;
- 8 (3) through physical habitat restoration im-
- 9 provements;
- 10 (4) through predation control programs;
- 11 (5) through the installation of temporary bar-
- 12 riers, the management of Cross Channel Gates oper-
- 13 ations, and other projects affecting flow in the
- 14 Delta;
- 15 (6) through salvaging fish that have been en-
- 16 trained near the entrance to Clifton Court Forebay;
- 17 (7) through any other management measures
- 18 that may provide equivalent or better protections for
- 19 listed species while maximizing export pumping rates
- 20 without causing a significant negative impact on the
- 21 long-term survival of a listed salmonid species; and
- 22 (8) through development and implementation of
- 23 conservation hatchery programs for salmon and
- 24 steelhead to aid in the recovery of listed salmon and
- 25 steelhead species.

1 (f) SURVIVAL ESTIMATES.—

2 (1) To the maximum extent practicable, the As-
3 sistant Administrator shall make quantitative esti-
4 mates of survival such as a range of percentage in-
5 creases in through-Delta survival that could result
6 from the management measures, and if the scientific
7 information is lacking for quantitative estimates,
8 shall do so on qualitative terms based upon the best
9 available science.

10 (2) If the Assistant Administrator provides
11 qualitative survival estimates for a species resulting
12 from one or more management measures, the Sec-
13 retary shall, to the maximum extent feasible, rank
14 the management measures described in subsection
15 (e) in terms of their most likely expected contribu-
16 tion to increased through-Delta survival relative to
17 the other measures.

18 (3) If at the time the Assistant Administrator
19 conducts the reviews under subsection (b), the Sec-
20 retary has not issued an estimate of increased
21 through-Delta survival from different management
22 measures pursuant to subsection (e), the Secretary
23 shall compare the protections to the species from
24 different management measures based on the best
25 scientific and commercial data available at the time.

1 (g) COMPARISON OF ADVERSE CONSEQUENCES FOR
2 ALTERNATIVE MANAGEMENT MEASURES OF EQUIVALENT
3 PROTECTION FOR A SPECIES.—

4 (1) For the purposes of this subsection and
5 subsection (c)—

6 (A) the alternative management measure
7 or combination of alternative management
8 measures identified in paragraph (2) shall be
9 known as the “equivalent alternative measure”;

10 (B) the existing measure or measures iden-
11 tified in subparagraphs (2) (A), (B), (C), or
12 (D) shall be known as the “equivalent existing
13 measure”; and

14 (C) an “equivalent increase in through-
15 Delta survival rates for listed salmonid species”
16 shall mean an increase in through-Delta sur-
17 vival rates that is equivalent when considering
18 the change in through-Delta survival rates for
19 the listed salmonid species in the aggregate,
20 and not the same change for each individual
21 species, as long as the change in survival rates
22 will not cause a significant negative impact on
23 the long-term survival of a listed salmonid spe-
24 cies.

1 (2) As part of the reviews of project operations
2 pursuant to subsection (b), the Assistant Adminis-
3 trator shall determine whether any alternative man-
4 agement measures or combination of alternative
5 management measures listed in subsection (e) (3)
6 through (8) would provide an increase in through-
7 Delta survival rates for listed salmonid species that
8 is equivalent to the increase in through-Delta sur-
9 vival rates for listed salmonid species from the fol-
10 lowing:

11 (A) Through restrictions on export pump-
12 ing rates as specified by Action IV.2.3, as com-
13 pared to limiting OMR flow to a fixed rate of
14 – 5,000 cubic feet per second within the time
15 period Action IV.2.3 is applicable.

16 (B) Through restrictions on export pump-
17 ing rates as specified by Action IV.2.3, as com-
18 pared to a modification of Action IV.2.3 that
19 would provide additional water supplies, other
20 than that described in subparagraph (A).

21 (C) Through San Joaquin River inflow to
22 export restrictions on export pumping rates
23 specified within Action IV.2.1, as compared to
24 the restrictions in the April/May period imposed

1 by the State Water Resources Control Board
2 decision D-1641.

3 (D) Through San Joaquin River inflow to
4 export restrictions on export pumping rates
5 specified within Action IV.2.1, as compared to
6 a modification of Action IV.2.1 that would re-
7 duce water supply impacts of the salmonid bio-
8 logical opinion on the Central Valley Project
9 and the California State Water Project, other
10 than that described in subparagraph (C).

11 (3) If the Assistant Administrator identifies an
12 equivalent alternative measure pursuant to para-
13 graph (2), the Assistant Administrator shall deter-
14 mine whether—

15 (A) it is technically feasible and within
16 Federal jurisdiction to implement the equivalent
17 alternative measure;

18 (B) the State of California, or subdivision
19 thereof, or local agency with jurisdiction has
20 certified in writing within 10 calendar days to
21 the Assistant Administrator that it has the au-
22 thority and capability to implement the perti-
23 nent equivalent alternative measure; or

24 (C) the adverse consequences of doing so
25 are less than the adverse consequences of the

1 equivalent existing measure, including a concise
2 evaluation of the adverse consequences to other
3 affected interests.

4 (4) If the Assistant Administrator makes the
5 determinations in subparagraph (3)(A) or (3)(B),
6 the Commissioner shall adjust project operations to
7 implement the equivalent alternative measure in
8 place of the equivalent existing measure in order to
9 increase export rates of pumping to the greatest ex-
10 tent possible while maintaining a net combined effect
11 of equivalent through-Delta survival rates for the
12 listed salmonid species.

13 (h) TRACKING ADVERSE EFFECTS BEYOND THE
14 RANGE OF EFFECTS ACCOUNTED FOR IN THE SALMONID
15 BIOLOGICAL OPINION AND COORDINATED OPERATION
16 WITH THE DELTA SMELT BIOLOGICAL OPINION.—

17 (1) Among the adjustments to the project oper-
18 ations considered through the adaptive management
19 process under this section, the Assistant Adminis-
20 trator and the Commissioner shall—

21 (A) evaluate the effects on listed salmonid
22 species and water supply of the potential ad-
23 justment to operational criteria described in
24 subparagraph (B); and

1 (B) consider requiring that before some or
2 all of the provisions of Actions IV.2.1. or IV.2.3
3 are imposed in any specific instance, the Assist-
4 ant Administrator show that the implementa-
5 tion of these provisions in that specific instance
6 is necessary to avoid a significant negative im-
7 pact on the long-term survival of a listed
8 salmonid species.

9 (2) The Assistant Administrator, the Director,
10 and the Commissioner, in coordination with State of-
11 ficials as appropriate, shall establish operational cri-
12 teria to coordinate management of OMR flows under
13 the smelt and salmonid biological opinions, in order
14 to take advantage of opportunities to provide addi-
15 tional water supplies from the coordinated imple-
16 mentation of the biological opinions.

17 (3) The Assistant Administrator and the Com-
18 missioner shall document the effects of any adaptive
19 management decisions related to the coordinated op-
20 eration of the smelt and salmonid biological opinions
21 that prioritizes the maintenance of one species at the
22 expense of the other.

23 (i) REAL-TIME MONITORING AND MANAGEMENT.—
24 Notwithstanding the calendar based triggers described in
25 the salmonid biological opinion Reasonable and Prudent

1 Alternative (RPA), the Assistant Administrator and the
2 Commissioner shall not limit OMR reverse flow to $-5,000$
3 cubic feet per second unless current monitoring data indi-
4 cate that this OMR flow limitation is reasonably required
5 to avoid a significant negative impact on the long-term
6 survival of a listed salmonid species.

7 (j) EVALUATION AND IMPLEMENTATION OF MANAGE-
8 MENT MEASURES.—If the quantitative estimates of
9 through-Delta survival established by the Secretary for the
10 adjustments in subsection (b)(2) exceed the through-Delta
11 survival established for the RPAs, the Secretary shall
12 evaluate and implement the management measures in sub-
13 section (b)(2) as a prerequisite to implementing the RPAs
14 contained in the Salmonid Biological Opinion.

15 (k) ACCORDANCE WITH OTHER LAW.—Consistent
16 with section 706 of title 5, United States Code, decisions
17 of the Assistant Administrator and the Commissioner de-
18 scribed in subsections (b) through (j) shall be made in
19 writing, on the basis of best scientific and commercial data
20 currently available, and shall include an explanation of the
21 data examined at the connection between those data and
22 the decisions made.

1 **SEC. 1023. NON-FEDERAL PROGRAM TO PROTECT NATIVE**
2 **ANADROMOUS FISH IN THE STANISLAUS**
3 **RIVER.**

4 (a) ESTABLISHMENT OF NONNATIVE PREDATOR
5 FISH REMOVAL PROGRAM.—The Secretary and the dis-
6 tricts, in consultation with the Director, shall jointly de-
7 velop and conduct a nonnative predator fish removal pro-
8 gram to remove nonnative striped bass, smallmouth bass,
9 largemouth bass, black bass, and other nonnative predator
10 fish species from the Stanislaus River. The program
11 shall—

12 (1) be scientifically based;

13 (2) include methods to quantify the number and
14 size of predator fish removed each year, the impact
15 of such removal on the overall abundance of pred-
16 ator fish, and the impact of such removal on the
17 populations of juvenile anadromous fish found in the
18 Stanislaus River by, among other things, evaluating
19 the number of juvenile anadromous fish that migrate
20 past the rotary screw trap located at Caswell;

21 (3) among other methods, use wire fyke trap-
22 ping, portable resistance board weirs, and boat
23 electrofishing; and

24 (4) be implemented as quickly as possible fol-
25 lowing the issuance of all necessary scientific re-
26 search.

1 (b) MANAGEMENT.—The management of the pro-
2 gram shall be the joint responsibility of the Secretary and
3 the districts. Such parties shall work collaboratively to en-
4 sure the performance of the program, and shall discuss
5 and agree upon, among other things, changes in the struc-
6 ture, management, personnel, techniques, strategy, data
7 collection, reporting, and conduct of the program.

8 (c) CONDUCT.—

9 (1) IN GENERAL.—By agreement between the
10 Secretary and the districts, the program may be con-
11 ducted by their own personnel, qualified private con-
12 tractors hired by the districts, personnel of, on loan
13 to, or otherwise assigned to the National Marine
14 Fisheries Service, or a combination thereof.

15 (2) PARTICIPATION BY THE NATIONAL MARINE
16 FISHERIES SERVICE.—If the districts elect to con-
17 duct the program using their own personnel or quali-
18 fied private contractors hired by them in accordance
19 with paragraph (1), the Secretary may assign an
20 employee of, on loan to, or otherwise assigned to the
21 National Marine Fisheries Service, to be present for
22 all activities performed in the field. Such presence
23 shall ensure compliance with the agreed-upon ele-
24 ments specified in subsection (b). The districts shall

1 pay the cost of such participation in accordance with
2 subsection (d).

3 (3) TIMING OF ELECTION.—The districts shall
4 notify the Secretary of their election on or before
5 October 15 of each calendar year of the program.
6 Such an election shall apply to the work performed
7 in the subsequent calendar year.

8 (d) FUNDING.—

9 (1) IN GENERAL.—The districts shall be re-
10 sponsible for 100 percent of the cost of the program.

11 (2) CONTRIBUTED FUNDS.—The Secretary may
12 accept and use contributions of funds from the dis-
13 tricts to carry out activities under the program.

14 (3) ESTIMATION OF COST.—On or before De-
15 cember 1 of each year of the program, the Secretary
16 shall submit to the districts an estimate of the cost
17 to be incurred by the National Marine Fisheries
18 Service for the program in the following calendar
19 year, if any, including the cost of any data collection
20 and posting under subsection (e). If an amount
21 equal to the estimate is not provided through con-
22 tributions pursuant to paragraph (2) before Decem-
23 ber 31 of that year—

24 (A) the Secretary shall have no obligation
25 to conduct the program activities otherwise

1 scheduled for such following calendar year until
2 such amount is contributed by the districts; and

3 (B) the districts may not conduct any as-
4 pect of the program until such amount is con-
5 tributed by the districts.

6 (4) ACCOUNTING.—On or before September 1
7 of each year, the Secretary shall provide to the dis-
8 tricts an accounting of the costs incurred by the Sec-
9 retary for the program in the preceding calendar
10 year. If the amount contributed by the districts pur-
11 suant to paragraph (2) for that year was greater
12 than the costs incurred by the Secretary, the Sec-
13 retary shall—

14 (A) apply the excess contributions to costs
15 of activities to be performed by the Secretary
16 under the program, if any, in the next calendar
17 year; or

18 (B) if no such activities are to be per-
19 formed, repay the excess contribution to the
20 districts.

21 (e) POSTING AND EVALUATION.—On or before the
22 15th day of each month, the Secretary shall post on the
23 Internet website of the National Marine Fisheries Service
24 a tabular summary of the raw data collected under the
25 program in the preceding month.

1 (f) IMPLEMENTATION.—The program is hereby found
2 to be consistent with the requirements of the Central Val-
3 ley Project Improvement Act (Public Law 102–575). No
4 provision, plan or definition established or required by the
5 Central Valley Project Improvement Act (Public Law
6 102–575) shall be used to prohibit the imposition of the
7 program, or to prevent the accomplishment of its goals.

8 (g) TREATMENT OF STRIPED BASS.—For purposes
9 of the application of the Central Valley Project Improve-
10 ment Act (title XXXIV of Public Law 102–575) with re-
11 spect to the program, striped bass shall not be treated as
12 anadromous fish.

13 (h) DEFINITION.—For the purposes of this section,
14 the term “districts” means the Oakdale Irrigation District
15 and the South San Joaquin Irrigation District, California.

16 **SEC. 1024. PILOT PROJECTS TO IMPLEMENT CALFED**
17 **INVASIVE SPECIES PROGRAM.**

18 (a) IN GENERAL.—Not later than January 1, 2017,
19 the Secretary of the Interior, in collaboration with the Sec-
20 retary of Commerce, the Director of the California De-
21 partment of Fish and Wildlife, and other relevant agencies
22 and interested parties, shall begin pilot projects to imple-
23 ment the invasive species control program authorized pur-
24 suant to section 103(d)(6)(A)(iv) of Public Law 108–361
25 (118 Stat. 1690).

1 (b) REQUIREMENTS.—The pilot projects shall—

2 (1) seek to reduce invasive aquatic vegetation,
3 predators, and other competitors which contribute to
4 the decline of native listed pelagic and anadromous
5 species that occupy the Sacramento and San Joa-
6 quin Rivers and their tributaries and the Sac-
7 ramento-San Joaquin Bay-Delta; and

8 (2) remove, reduce, or control the effects of spe-
9 cies, including Asiatic clams, silversides, gobies, Bra-
10 zilian water weed, water hyacinth, largemouth bass,
11 smallmouth bass, striped bass, crappie, bluegill,
12 white and channel catfish, and brown bullheads.

13 (c) SUNSET.—The authorities provided under this
14 subsection shall expire seven years after the Secretaries
15 commence implementation of the pilot projects pursuant
16 to subsection (a).

17 (d) EMERGENCY ENVIRONMENTAL REVIEWS.—To
18 expedite the environmentally beneficial programs for the
19 conservation of threatened and endangered species, the
20 Secretaries shall consult with the Council on Environ-
21 mental Quality in accordance with section 1506.11 of title
22 40, Code of Federal Regulations (or successor regula-
23 tions), to develop alternative arrangements to comply with
24 the National Environmental Policy Act of 1969 (42 U.S.C.
25 4321 et seq.) for the projects pursuant to subsection (a).

1 **Subtitle C—OPERATIONAL FLEXI-**
2 **BILITY AND DROUGHT RE-**
3 **LIEF**

4 **SEC. 1031. DEFINITIONS.**

5 In this subtitle:

6 (1) CENTRAL VALLEY PROJECT.—The term
7 “Central Valley Project” has the meaning given the
8 term in section 3403 of the Central Valley Project
9 Improvement Act (Public Law 102–575; 106 Stat.
10 4707).

11 (2) RECLAMATION PROJECT.—The term “Rec-
12 lamation Project” means a project constructed pur-
13 suant to the authorities of the reclamation laws and
14 whose facilities are wholly or partially located in the
15 State.

16 (3) SECRETARIES.—The term “Secretaries”
17 means—

18 (A) the Secretary of Agriculture;

19 (B) the Secretary of Commerce; and

20 (C) the Secretary of the Interior.

21 (4) STATE WATER PROJECT.—The term “State
22 Water Project” means the water project described
23 by California Water Code section 11550 et seq. and
24 operated by the California Department of Water Re-
25 sources.

1 (5) STATE.—The term “State” means the State
2 of California.

3 **SEC. 1032. OPERATIONAL FLEXIBILITY IN TIMES OF**
4 **DROUGHT.**

5 (a) WATER SUPPLIES.—For the period of time such
6 that in any year that the Sacramento Valley Index is 6.5
7 or lower, or at the request of the State of California, and
8 until two succeeding years following either of those events
9 have been completed where the final Sacramento Valley
10 Index is 7.8 or greater, the Secretaries shall provide the
11 maximum quantity of water supplies practicable to all in-
12 dividuals or district who receive Central Valley Project
13 water under water service or repayments contracts, water
14 rights settlement contracts, exchange contracts, or refuge
15 contracts or agreements entered into prior to or after the
16 date of enactment of this title; State Water Project con-
17 tractors, and any other tribe, locality, water agency, or
18 municipality in the State, by approving, consistent with
19 applicable laws (including regulations), projects and oper-
20 ations to provide additional water supplies as quickly as
21 practicable based on available information to address the
22 emergency conditions.

23 (b) ADMINISTRATION.—In carrying out subsection
24 (a), the Secretaries shall, consistent with applicable laws
25 (including regulations)—

1 (1) issue all necessary permit decisions under
2 the authority of the Secretaries not later than 30
3 days after the date on which the Secretaries receive
4 a completed application from the State to place and
5 use temporary barriers or operable gates in Delta
6 channels to improve water quantity and quality for
7 the State Water Project and the Central Valley
8 Project south of Delta water contractors and other
9 water users, on the condition that the barriers or operable
10 gates—

11 (A) do not result in a significant negative
12 impact on the long-term survival of listed species
13 within the Delta and provide benefits or
14 have a neutral impact on in-Delta water user
15 water quality; and

16 (B) are designed so that formal consultations
17 under section 7 of the Endangered Species
18 Act of 1973 (16 U.S.C. 1536) are not necessary;
19

20 (2) require the Director of the United States
21 Fish and Wildlife Service and the Commissioner of
22 Reclamation—

23 (A) to complete, not later than 30 days
24 after the date on which the Director or the
25 Commissioner receives a complete written re-

1 quest for water transfer, all requirements under
2 the National Environmental Policy Act of 1969
3 (42 U.S.C. 4321 et seq.) and the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.)
5 necessary to make final permit decisions on the
6 request; and

7 (B) to approve any water transfer request
8 described in subparagraph (A) to maximize the
9 quantity of water supplies available for non-
10 habitat uses, on the condition that actions asso-
11 ciated with the water transfer comply with ap-
12 plicable Federal laws (including regulations);

13 (3) adopt a 1:1 inflow to export ratio, as meas-
14 ured as a 3-day running average at Vernalis during
15 the period beginning on April 1, and ending on May
16 31, absent a determination in writing that a more
17 restrictive inflow to export ratio is required to avoid
18 a significant negative impact on the long-term sur-
19 vival of a listed salmonid species under the Endan-
20 gered Species Act of 1973 (16 U.S.C. 1531 et seq.);
21 provided that the 1:1 inflow to export ratio shall
22 apply for the increment of increased flow of the San
23 Joaquin River resulting from the voluntary sale,
24 transfers, or exchanges of water from agencies with
25 rights to divert water from the San Joaquin River

1 or its tributaries and provided that the movement of
2 the acquired, transferred, or exchanged water
3 through the Delta consistent with the Central Valley
4 Project's and the State Water Project's permitted
5 water rights and provided that movement of the
6 Central Valley Project water is consistent with the
7 requirements of section 3405(a)(1)(H) of the Cen-
8 tral Valley Project Improvement Act; and

9 (4) allow and facilitate, consistent with existing
10 priorities, water transfers through the C.W. "Bill"
11 Jones Pumping Plant or the Harvey O. Banks
12 Pumping Plant from April 1 to November 30 pro-
13 vided water transfers comply with State law, includ-
14 ing the California Environmental Quality Act.

15 (c) ACCELERATED PROJECT DECISION AND ELE-
16 VATION.—

17 (1) IN GENERAL.—On request by the Governor
18 of the State, the Secretaries shall use the expedited
19 procedures under this subsection to make final deci-
20 sions relating to a Federal project or operation, or
21 to local or State projects or operations that require
22 decisions by the Secretary of the Interior or the Sec-
23 retary of Commerce to provide additional water sup-
24 plies if the project's or operation's purpose is to pro-

1 vide relief for emergency drought conditions pursu-
2 ant to subsections (a) and (b).

3 (2) REQUEST FOR RESOLUTION.—

4 (A) IN GENERAL.—On request by the Gov-
5 ernor of the State, the Secretaries referenced in
6 paragraph (1), or the head of another Federal
7 agency responsible for carrying out a review of
8 a project, as applicable, the Secretary of the In-
9 terior shall convene a final project decision
10 meeting with the heads of all relevant Federal
11 agencies to decide whether to approve a project
12 to provide relief for emergency drought condi-
13 tions.

14 (B) MEETING.—The Secretary of the Inte-
15 rior shall convene a meeting requested under
16 subparagraph (A) not later than 7 days after
17 the date on which the meeting request is re-
18 ceived.

19 (3) NOTIFICATION.—On receipt of a request for
20 a meeting under paragraph (2), the Secretary of the
21 Interior shall notify the heads of all relevant Federal
22 agencies of the request, including information on the
23 project to be reviewed and the date of the meeting.

24 (4) DECISION.—Not later than 10 days after
25 the date on which a meeting is requested under

1 paragraph (2), the head of the relevant Federal
2 agency shall issue a final decision on the project,
3 subject to subsection (e)(2).

4 (5) MEETING CONVENED BY SECRETARY.—The
5 Secretary of the Interior may convene a final project
6 decision meeting under this subsection at any time,
7 at the discretion of the Secretary, regardless of
8 whether a meeting is requested under paragraph (2).

9 (d) APPLICATION.—To the extent that a Federal
10 agency, other than the agencies headed by the Secretaries,
11 has a role in approving projects described in subsections
12 (a) and (b), this section shall apply to those Federal agen-
13 cies.

14 (e) LIMITATION.—Nothing in this section authorizes
15 the Secretaries to approve projects—

16 (1) that would otherwise require congressional
17 authorization; or

18 (2) without following procedures required by
19 applicable law.

20 (f) DROUGHT PLAN.—For the period of time such
21 that in any year that the Sacramento Valley index is 6.5
22 or lower, or at the request of the State of California, and
23 until two succeeding years following either of those events
24 have been completed where the final Sacramento Valley
25 Index is 7.8 or greater, the Secretaries of Commerce and

1 the Interior, in consultation with appropriate State offi-
2 cials, shall develop a drought operations plan that is con-
3 sistent with the provisions of this Act including the provi-
4 sions that are intended to provide additional water sup-
5 plies that could be of assistance during the current
6 drought.

7 **SEC. 1033. OPERATION OF CROSS-CHANNEL GATES.**

8 (a) IN GENERAL.—The Secretary of Commerce and
9 the Secretary of the Interior shall jointly—

10 (1) authorize and implement activities to ensure
11 that the Delta Cross Channel Gates remain open to
12 the maximum extent practicable using findings from
13 the United States Geological Survey on diurnal be-
14 havior of juvenile salmonids, timed to maximize the
15 peak flood tide period and provide water supply and
16 water quality benefits for the duration of the
17 drought emergency declaration of the State, and for
18 the period of time such that in any year that the
19 Sacramento Valley index is 6.5 or lower, or at the
20 request of the State of California, and until two suc-
21 ceeding years following either of those events have
22 been completed where the final Sacramento Valley
23 Index is 7.8 or greater, consistent with operational
24 criteria and monitoring criteria set forth into the
25 Order Approving a Temporary Urgency Change in

1 License and Permit Terms in Response to Drought
2 Conditions of the California State Water Resources
3 Control Board, effective January 31, 2014 (or a suc-
4 cessor order) and other authorizations associated
5 with it;

6 (2) with respect to the operation of the Delta
7 Cross Channel Gates described in paragraph (1),
8 collect data on the impact of that operation on—

9 (A) species listed as threatened or endan-
10 gered under the Endangered Species Act of
11 1973 (16 U.S.C. 1531 et seq.);

12 (B) water quality; and

13 (C) water supply;

14 (3) collaborate with the California Department
15 of Water Resources to install a deflection barrier at
16 Georgiana Slough in coordination with Delta Cross
17 Channel Gate diurnal operations to protect migrat-
18 ing salmonids, consistent with knowledge gained
19 from activities carried out during 2014 and 2015;

20 (4) evaluate the combined salmonid survival in
21 light of activities carried out pursuant to paragraphs
22 (1) through (3) in deciding how to operate the Delta
23 Cross Channel gates to enhance salmonid survival
24 and water supply benefits; and

1 (5) not later than May 15, 2016, submit to the
2 appropriate committees of the House of Representa-
3 tives and the Senate a notice and explanation on the
4 extent to which the gates are able to remain open.

5 (b) **RECOMMENDATIONS.**—After assessing the infor-
6 mation collected under subsection (a), the Secretary of the
7 Interior shall recommend revisions to the operation of the
8 Delta Cross-Channel Gates, to the Central Valley Project,
9 and to the State Water Project, including, if appropriate,
10 any reasonable and prudent alternative contained in the
11 biological opinion issued by the National Marine Fisheries
12 Service on June 4, 2009, that are likely to produce water
13 supply benefits without causing a significant negative im-
14 pact on the long-term survival of the listed fish species
15 within the Delta or on water quality.

16 **SEC. 1034. FLEXIBILITY FOR EXPORT/INFLOW RATIO.**

17 For the period of time such that in any year that
18 the Sacramento Valley index is 6.5 or lower, or at the re-
19 quest of the State of California, and until two succeeding
20 years following either of those events have been completed
21 where the final Sacramento Valley Index is 7.8 or greater,
22 the Commissioner of the Bureau of Reclamation shall con-
23 tinue to vary the averaging period of the Delta Export/
24 Inflow ratio pursuant to the California State Water Re-
25 sources Control Board decision D1641—

1 (1) to operate to a 35-percent Export/Inflow
2 ratio with a 3-day averaging period on the rising
3 limb of a Delta inflow hydrograph; and

4 (2) to operate to a 14-day averaging period on
5 the falling limb of the Delta inflow hydrograph.

6 **SEC. 1035. EMERGENCY ENVIRONMENTAL REVIEWS.**

7 (a) NEPA COMPLIANCE.—To minimize the time
8 spent carrying out environmental reviews and to deliver
9 water quickly that is needed to address emergency drought
10 conditions in the State during the duration of an emer-
11 gency drought declaration, the Secretaries shall, in car-
12 rying out this Act, consult with the Council on Environ-
13 mental Quality in accordance with section 1506.11 of title
14 40, Code of Federal Regulations (including successor reg-
15 ulations), to develop alternative arrangements to comply
16 with the National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) during the emergency.

18 (b) DETERMINATIONS.—For the purposes of this sec-
19 tion, a Secretary may deem a project to be in compliance
20 with all necessary environmental regulations and reviews
21 if the Secretary determines that the immediate implemen-
22 tation of the project is necessary to address—

23 (1) human health and safety; or

24 (2) a specific and imminent loss of agriculture
25 production upon which an identifiable region de-

1 pends for 25 percent or more of its tax revenue used
2 to support public services including schools, fire or
3 police services, city or county health facilities, unem-
4 ployment services or other associated social services.

5 **SEC. 1036. INCREASED FLEXIBILITY FOR REGULAR**
6 **PROJECT OPERATIONS.**

7 The Secretaries shall, consistent with applicable laws
8 (including regulations)—

9 (1) in coordination with the California Depart-
10 ment of Water Resources and the California Depart-
11 ment of Fish and Wildlife, implement offsite up-
12 stream projects in the Delta and upstream of the
13 Sacramento River and San Joaquin basins that off-
14 set the effects on species listed as threatened or en-
15 dangered under the Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.) due to activities carried out
17 pursuant this Act, as determined by the Secretaries;

18 (2) manage reverse flow in the Old and Middle
19 Rivers at $-6,100$ cubic feet per second if real-time
20 monitoring indicates that flows of $-6,100$ cubic feet
21 per second or more negative can be established for
22 specific periods without causing a significant nega-
23 tive impact on the long-term survival of the Delta
24 smelt, or if real-time monitoring does not support
25 flows of $-6,100$ cubic feet per second than manage

1 OMR flows at $-5,000$ cubic feet per second subject
2 to section 1013(e)(3) and (4); and

3 (3) use all available scientific tools to identify
4 any changes to real-time operations of the Bureau of
5 Reclamation, State, and local water projects that
6 could result in the availability of additional water
7 supplies.

8 **SEC. 1037. TEMPORARY OPERATIONAL FLEXIBILITY FOR**
9 **FIRST FEW STORMS OF THE WATER YEAR.**

10 (a) IN GENERAL.—Consistent with avoiding a signifi-
11 cant negative impact on the long-term survival in the short
12 term upon listed fish species beyond the range of those
13 authorized under the Endangered Species Act of 1973 and
14 other environmental protections under subsection (e), the
15 Secretaries shall authorize the Central Valley Project and
16 the State Water Project, combined, to operate at levels
17 that result in negative OMR flows at $-7,500$ cubic feet
18 per second (based on United States Geological Survey
19 gauges on Old and Middle Rivers) daily average for 56
20 cumulative days after October 1 as described in subsection
21 (c).

22 (b) DAYS OF TEMPORARY OPERATIONAL FLEXI-
23 BILITY.—The temporary operational flexibility described
24 in subsection (a) shall be authorized on days that the Cali-
25 fornia Department of Water Resources determines the

1 daily average river flow of the Sacramento River is at, or
2 above, 17,000 cubic feet per second as measured at the
3 Sacramento River at Freeport gauge maintained by the
4 United States Geologic Survey.

5 (c) COMPLIANCE WITH ENDANGERED SPECIES ACT
6 AUTHORIZATIONS.—In carrying out this section, the Sec-
7 retaries may continue to impose any requirements under
8 the smelt and salmonid biological opinions during any pe-
9 riod of temporary operational flexibility as they determine
10 are reasonably necessary to avoid an additional significant
11 negative impacts on the long-term survival of a listed fish
12 species beyond the range of those authorized under the
13 Endangered Species Act of 1973, provided that the re-
14 quirements imposed do not reduce water supplies available
15 for the Central Valley Project and the State Water
16 Project.

17 (d) OTHER ENVIRONMENTAL PROTECTIONS.—

18 (1) STATE LAW.—The Secretaries' actions
19 under this section shall be consistent with applicable
20 regulatory requirements under State law.

21 (2) FIRST SEDIMENT FLUSH.—During the first
22 flush of sediment out of the Delta in each water
23 year, and provided that such determination is based
24 upon objective evidence, OMR flow may be managed
25 at rates less negative than $-5,000$ cubic feet per

1 second for a minimum duration to avoid movement
2 of adult Delta smelt (*Hypomesus transpacificus*) to
3 areas in the southern Delta that would be likely to
4 increase entrainment at Central Valley Project and
5 State Water Project pumping plants.

6 (3) APPLICABILITY OF OPINION.—This section
7 shall not affect the application of the salmonid bio-
8 logical opinion from April 1 to May 31, unless the
9 Secretary of Commerce finds that some or all of
10 such applicable requirements may be adjusted dur-
11 ing this time period to provide emergency water sup-
12 ply relief without resulting in additional adverse ef-
13 fects beyond those authorized under the Endangered
14 Species Act of 1973. In addition to any other ac-
15 tions to benefit water supply, the Secretary of the
16 Interior and the Secretary of Commerce shall con-
17 sider allowing through-Delta water transfers to
18 occur during this period if they can be accomplished
19 consistent with section 3405(a)(1)(H) of the Central
20 Valley Project Improvement Act. Water transfers
21 solely or exclusively through the State Water Project
22 are not required to be consistent with section
23 3405(a)(1)(H) of the Central Valley Project Im-
24 provement Act.

1 (4) MONITORING.—During operations under
2 this section, the Commissioner of Reclamation, in
3 coordination with the Fish and Wildlife Service, Na-
4 tional Marine Fisheries Service, and California De-
5 partment of Fish and Wildlife, shall undertake a
6 monitoring program and other data gathering to en-
7 sure incidental take levels are not exceeded, and to
8 identify potential negative impacts and actions, if
9 any, necessary to mitigate impacts of the temporary
10 operational flexibility to species listed under the En-
11 dangered Species Act of 1973 (16 U.S.C. 1531 et
12 seq.).

13 (e) TECHNICAL ADJUSTMENTS TO TARGET PE-
14 RIOD.—If, before temporary operational flexibility has
15 been implemented on 56 cumulative days, the Secretaries
16 operate the Central Valley Project and the State Water
17 Project combined at levels that result in OMR flows less
18 negative than $-7,500$ cubic feet per second during days
19 of temporary operational flexibility as defined in sub-
20 section (c), the duration of such operation shall not be
21 counted toward the 56 cumulative days specified in sub-
22 section (a).

23 (f) EMERGENCY CONSULTATION; EFFECT ON RUN-
24 NING AVERAGES.—

1 (1) If necessary to implement the provisions of
2 this section, the Commissioner is authorized to take
3 any action necessary to implement this section for
4 up to 56 cumulative days. If during the 56 cumu-
5 lative days the Commissioner determines that ac-
6 tions necessary to implement this section will exceed
7 56 days, the Commissioner shall use the emergency
8 consultation procedures under the Endangered Spe-
9 cies Act of 1973 and its implementing regulation at
10 section 402.05 of title 50, Code of Federal Regula-
11 tions, to temporarily adjust the operating criteria
12 under the biological opinions—

13 (A) solely for extending beyond the 56 cu-
14 mulative days for additional days of temporary
15 operational flexibility—

16 (i) no more than necessary to achieve
17 the purposes of this section consistent with
18 the environmental protections in sub-
19 sections (d) and (e); and

20 (ii) including, as appropriate, adjust-
21 ments to ensure that the actual flow rates
22 during the periods of temporary oper-
23 ational flexibility do not count toward the
24 5-day and 14-day running averages of

1 tidally filtered daily OMR flow require-
2 ments under the biological opinions, or

3 (B) for other adjustments to operating cri-
4 teria or to take other urgent actions to address
5 water supply shortages for the least amount of
6 time or volume of diversion necessary as deter-
7 mined by the Commissioner.

8 (2) Following the conclusion of the 56 cumu-
9 lative days of temporary operational flexibility, or
10 the extended number of days covered by the emer-
11 gency consultation procedures, the Commissioner
12 shall not reinitiate consultation on these adjusted
13 operations, and no mitigation shall be required, if
14 the effects on listed fish species of these operations
15 under this section remain within the range of those
16 authorized under the Endangered Species Act of
17 1973 (16 U.S.C. 1531 et seq.). If the Commissioner
18 reinitiates consultation, no mitigation measures shall
19 be required.

20 (g) LEVEL OF DETAIL REQUIRED FOR ANALYSIS.—

21 In articulating the determinations required under this sec-
22 tion, the Secretaries shall fully satisfy the requirements
23 herein but shall not be expected to provide a greater level
24 of supporting detail for the analysis than feasible to pro-
25 vide within the short timeframe permitted for timely deci-

1 sionmaking in response to changing conditions in the
2 Delta.

3 **SEC. 1038. EXPEDITING WATER TRANSFERS.**

4 (a) IN GENERAL.—Section 3405(a) of the Central
5 Valley Project Improvement Act (Public Law 102–575;
6 106 Stat. 4709(a)) is amended—

7 (1) by redesignating paragraphs (1) through
8 (3) as paragraphs (4) through (6), respectively;

9 (2) in the matter preceding paragraph (4) (as
10 so designated)—

11 (A) in the first sentence, by striking “In
12 order to” and inserting the following:

13 “(1) IN GENERAL.—In order to”; and

14 (B) in the second sentence, by striking
15 “Except as provided herein” and inserting the
16 following:

17 “(3) TERMS.—Except as otherwise provided in
18 this section”;

19 (3) by inserting before paragraph (3) (as so
20 designated) the following:

21 “(2) EXPEDITED TRANSFER OF WATER.—The
22 Secretary shall take all necessary actions to facilitate
23 and expedite transfers of Central Valley Project
24 water in accordance with—

25 “(A) this Act;

1 “(B) any other applicable provision of the
2 reclamation laws; and

3 “(C) the National Environmental Policy
4 Act of 1969 (42 U.S.C. 4321 et seq.)”;

5 (4) in paragraph (4) (as so designated)—

6 (A) in subparagraph (A), by striking “to
7 combination” and inserting “or combination”;
8 and

9 (B) by striking “3405(a)(2) of this title”
10 each place it appears and inserting “(5)”;

11 (5) in paragraph (5) (as so designated), by add-
12 ing at the end the following:

13 “(E) The contracting district from which
14 the water is coming, the agency, or the Sec-
15 retary shall determine if a written transfer pro-
16 posal is complete within 45 days after the date
17 of submission of the proposal. If the contracting
18 district or agency or the Secretary determines
19 that the proposal is incomplete, the district or
20 agency or the Secretary shall state with speci-
21 ficity what must be added to or revised for the
22 proposal to be complete.”; and

23 (6) in paragraph (6) (as so designated), by
24 striking “3405(a)(1)(A)–(C), (E), (G), (H), (I), (L),
25 and (M) of this title” and inserting “(A) through

1 (C), (E), (G), (H), (I), (L), and (M) of paragraph
2 (4)”.

3 (b) CONFORMING AMENDMENTS.—The Central Val-
4 ley Project Improvement Act (Public Law 102–575) is
5 amended—

6 (1) in section 3407(c)(1) (106 Stat. 4726), by
7 striking “3405(a)(1)(C)” and inserting
8 “3405(a)(4)(C)”; and

9 (2) in section 3408(i)(1) (106 Stat. 4729), by
10 striking “3405(a)(1) (A) and (J) of this title” and
11 inserting “subparagraphs (A) and (J) of section
12 3405(a)(4)”.

13 **SEC. 1039. ADDITIONAL EMERGENCY CONSULTATION.**

14 For adjustments to operating criteria other than
15 under section 1038 of this subtitle or to take urgent ac-
16 tions to address water supply shortages for the least
17 amount of time or volume of diversion necessary as deter-
18 mined by the Commissioner of Reclamation, no mitigation
19 measures shall be required during any year that the Sac-
20 ramento Valley index is 6.5 or lower, or at the request
21 of the State of California, and until two succeeding years
22 following either of those events have been completed where
23 the final Sacramento Valley Index is 7.8 or greater, and
24 any mitigation measures imposed must be based on quan-

1 titative data and required only to the extent that such data
2 demonstrates actual harm to species.

3 **SEC. 1040. ADDITIONAL STORAGE AT NEW MELONES.**

4 The Commissioner of Reclamation is directed to work
5 with local water and irrigation districts in the Stanislaus
6 River Basin to ascertain the water storage made available
7 by the Draft Plan of Operations in New Melones Reservoir
8 (DRPO) for water conservation programs, conjunctive use
9 projects, water transfers, rescheduled project water and
10 other projects to maximize water storage and ensure the
11 beneficial use of the water resources in the Stanislaus
12 River Basin. All such programs and projects shall be im-
13 plemented according to all applicable laws and regulations.
14 The source of water for any such storage program at New
15 Melones Reservoir shall be made available under a valid
16 water right, consistent with the State of California water
17 transfer guidelines and any other applicable State water
18 law. The Commissioner shall inform the Congress within
19 18 months setting forth the amount of storage made avail-
20 able by the DRPO that has been put to use under this
21 program, including proposals received by the Commis-
22 sioner from interested parties for the purpose of this sec-
23 tion.

1 **SEC. 1041. REGARDING THE OPERATION OF FOLSOM RES-**
2 **ERVOIR.**

3 The Secretary of the Interior, in collaboration with
4 the Sacramento Water Forum, shall expedite evaluation,
5 completion and implementation of the Modified Lower
6 American River Flow Management Standard developed by
7 the Water Forum in 2015 to improve water supply reli-
8 ability for Central Valley Project American River water
9 contractors and resource protection in the lower American
10 River during consecutive dry-years under current and fu-
11 ture demand and climate change conditions.

12 **SEC. 1042. APPLICANTS.**

13 In the event that the Bureau of Reclamation or an-
14 other Federal agency initiates or reinitiates consultation
15 with the U.S. Fish and Wildlife Service or the National
16 Marine Fisheries Service under section 7(a)(2) of the En-
17 dangered Species Act of 1973 (16 U.S.C. 1536(a)(2)),
18 with respect to construction or operation of the Central
19 Valley Project and State Water Project, or any part there-
20 of, the State Water Project contractors and the Central
21 Valley Project contractors will be accorded all the rights
22 and responsibilities extended to applicants in the consulta-
23 tion process.

24 **SEC. 1043. SAN JOAQUIN RIVER SETTLEMENT.**

25 (a) CALIFORNIA STATE LAW SATISFIED BY WARM
26 WATER FISHERY.—

1 (1) IN GENERAL.—Sections 5930 through 5948
2 of the California Fish and Game Code, and all appli-
3 cable Federal laws, including the San Joaquin River
4 Restoration Settlement Act (Public Law 111–11)
5 and the Stipulation of Settlement (Natural Re-
6 sources Defense Council, et al. v. Kirk Rodgers, et
7 al., Eastern District of California, No. Civ. S–88–
8 1658–LKK/GGH), shall be satisfied by the existence
9 of a warm water fishery in the San Joaquin River
10 below Friant Dam, but upstream of Gravelly Ford.

11 (2) DEFINITION OF WARM WATER FISHERY.—
12 For the purposes of this section, the term “warm
13 water fishery” means a water system that has an
14 environment suitable for species of fish other than
15 salmon (including all subspecies) and trout (includ-
16 ing all subspecies).

17 (b) REPEAL OF THE SAN JOAQUIN RIVER SETTLE-
18 MENT.—As of the date of enactment of this section, the
19 Secretary of the Interior shall cease any action to imple-
20 ment the San Joaquin River Restoration Settlement Act
21 (subtitle A of title X of Public Law 111–11) and the Stip-
22 ulation of Settlement (Natural Resources Defense Council,
23 et al. v. Kirk Rodgers, et al., Eastern District of Cali-
24 fornia, No. Civ. S–88–1658 LKK/GGH).

1 **SEC. 1044. PROGRAM FOR WATER RESCHEDULING.**

2 By December 31, 2015, the Secretary of the Interior
3 shall develop and implement a program, including resched-
4 uling guidelines for Shasta and Folsom Reservoirs, to
5 allow existing Central Valley Project agricultural water
6 service contractors within the Sacramento River Water-
7 shed, and refuge service and municipal and industrial
8 water service contractors within the Sacramento River
9 Watershed and the American River Watershed to resched-
10 ule water, provided for under their Central Valley Project
11 contracts, from one year to the next; provided, that the
12 program is consistent with existing rescheduling guidelines
13 as utilized by the Bureau of Reclamation for rescheduling
14 water for Central Valley Project water service contractors
15 that are located South of the Delta.

16 **Subtitle D—CALFED STORAGE**
17 **FEASIBILITY STUDIES**

18 **SEC. 1051. STUDIES.**

19 The Secretary of the Interior, through the Commis-
20 sioner of Reclamation, shall—

21 (1) complete the feasibility studies described in
22 clauses (i)(I) and (ii)(II) of section 103(d)(1)(A) of
23 Public Law 108–361 (118 Stat. 1684) and submit
24 such studies to the appropriate committees of the
25 House of Representatives and the Senate not later
26 than December 31, 2015;

1 (2) complete the feasibility study described in
2 clause (i)(II) of section 103(d)(1)(A) of Public Law
3 108–361 and submit such study to the appropriate
4 committees of the House of Representatives and the
5 Senate not later than November 30, 2016;

6 (3) complete a publicly available draft of the
7 feasibility study described in clause (ii)(I) of section
8 103(d)(1)(A) of Public Law 108–361 and submit
9 such study to the appropriate committees of the
10 House of Representatives and the Senate not later
11 than November 30, 2016;

12 (4) complete the feasibility study described in
13 clause (ii)(I) of section 103(d)(1)(A) of Public Law
14 108–361 and submit such study to the appropriate
15 committees of the House of Representatives and the
16 Senate not later than November 30, 2017;

17 (5) complete the feasibility study described in
18 section 103(f)(1)(A) of Public Law 108–361 (118
19 Stat. 1694) and submit such study to the appro-
20 priate Committees of the House of Representatives
21 and the Senate not later than December 31, 2017;

22 (6) provide a progress report on the status of
23 the feasibility studies referred to in paragraphs (1)
24 through (3) to the appropriate committees of the
25 House of Representatives and the Senate not later

1 than 90 days after the date of the enactment of this
2 Act and each 180 days thereafter until December
3 31, 2017, as applicable. The report shall include
4 timelines for study completion, draft environmental
5 impact statements, final environmental impact state-
6 ments, and Records of Decision;

7 (7) in conducting any feasibility study under
8 this Act, the reclamation laws, the Central Valley
9 Project Improvement Act (title XXXIV of Public
10 Law 102–575; 106 Stat. 4706), the Fish and Wild-
11 life Coordination Act (16 U.S.C. 661 et seq.), the
12 Endangered Species Act of 1973 (16 U.S.C. 1531 et
13 seq.), and other applicable law, for the purposes of
14 determining feasibility the Secretary shall document,
15 delineate, and publish costs directly relating to the
16 engineering and construction of a water storage
17 project separately from the costs resulting from reg-
18 ulatory compliance or the construction of auxiliary
19 facilities necessary to achieve regulatory compliance;
20 and

21 (8) communicate, coordinate and cooperate with
22 public water agencies that contract with the United
23 States for Central Valley Project water and that are
24 expected to participate in the cost pools that will be

1 created for the projects proposed in the feasibility
2 studies under this section.

3 **SEC. 1052. TEMPERANCE FLAT.**

4 (a) DEFINITIONS.—For the purposes of this section:

5 (1) PROJECT.—The term “Project” means the
6 Temperance Flat Reservoir Project on the Upper
7 San Joaquin River.

8 (2) RMP.—The term “RMP” means the docu-
9 ment titled “Bakersfield Field Office, Record of De-
10 cision and Approved Resource Management Plan,”
11 dated December 2014.

12 (3) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (b) APPLICABILITY OF RMP.—The RMP and find-
15 ings related thereto shall have no effect on or applicability
16 to the Secretary’s determination of feasibility of, or on any
17 findings or environmental review documents related to—

18 (1) the Project; or

19 (2) actions taken by the Secretary pursuant to
20 section 103(d)(1)(A)(ii)(II) of the Bay-Delta Au-
21 thorization Act (title I of Public Law 108–361).

22 (c) DUTIES OF SECRETARY UPON DETERMINATION
23 OF FEASIBILITY.—If the Secretary finds the Project to
24 be feasible, the Secretary shall manage the land rec-
25 ommended in the RMP for designation under the Wild and

1 Scenic Rivers Act (16 U.S.C. 1271 et seq.) in a manner
2 that does not impede any environmental reviews,
3 preconstruction, construction, or other activities of the
4 Project, regardless of whether or not the Secretary sub-
5 mits any official recommendation to Congress under the
6 Wild and Scenic Rivers Act.

7 (d) RESERVED WATER RIGHTS.—Effective Decem-
8 ber 22, 2014, there shall be no Federal reserved water
9 rights to any segment of the San Joaquin River related
10 to the Project as a result of any designation made under
11 the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

12 **SEC. 1053. CALFED STORAGE ACCOUNTABILITY.**

13 If the Secretary of the Interior fails to provide the
14 feasibility studies described in section 1051 to the appro-
15 priate committees of the House of Representatives and the
16 Senate by the times prescribed, the Secretary shall notify
17 each committee chair individually in person on the status
18 of each project once a month until the feasibility study
19 for that project is provided to Congress.

20 **SEC. 1054. WATER STORAGE PROJECT CONSTRUCTION.**

21 (a) PARTNERSHIP AND AGREEMENTS.—The Sec-
22 retary of the Interior, acting through the Commissioner
23 of the Bureau of Reclamation, may partner or enter into
24 an agreement on the water storage projects identified in
25 section 103(d)(1) of the Water Supply Reliability and En-

1 vironmental Improvement Act (Public Law 108–361) (and
2 Acts supplemental and amendatory to the Act) with local
3 joint powers authorities formed pursuant to State law by
4 irrigation districts and other local water districts and local
5 governments within the applicable hydrologic region, to
6 advance those projects.

7 (b) AUTHORIZATION FOR PROJECT.—If the Secretary
8 determines a project described in section 1052(a)(1) and
9 (2) is feasible, the Secretary is authorized to carry out
10 the project in a manner that is substantially in accordance
11 with the recommended plan, and subject to the conditions
12 described in the feasibility study, provided that no Federal
13 funding shall be used to construct the project.

14 **Subtitle E—WATER RIGHTS**
15 **PROTECTIONS**

16 **SEC. 1061. OFFSET FOR STATE WATER PROJECT.**

17 (a) IMPLEMENTATION IMPACTS.—The Secretary of
18 the Interior shall confer with the California Department
19 of Fish and Wildlife in connection with the implementa-
20 tion of this Act on potential impacts to any consistency
21 determination for operations of the State Water Project
22 issued pursuant to California Fish and Game Code section
23 2080.1.

1 (b) ADDITIONAL YIELD.—If, as a result of the appli-
2 cation of this Act, the California Department of Fish and
3 Wildlife—

4 (1) revokes the consistency determinations pur-
5 suant to California Fish and Game Code section
6 2080.1 that are applicable to the State Water
7 Project;

8 (2) amends or issues one or more new consist-
9 ency determinations pursuant to California Fish and
10 Game Code section 2080.1 in a manner that directly
11 or indirectly results in reduced water supply to the
12 State Water Project as compared with the water
13 supply available under the smelt biological opinion
14 and the salmonid biological opinion; or

15 (3) requires take authorization under California
16 Fish and Game Code section 2081 for operation of
17 the State Water Project in a manner that directly or
18 indirectly results in reduced water supply to the
19 State Water Project as compared with the water
20 supply available under the smelt biological opinion
21 and the salmonid biological opinion, and as a con-
22 sequence of the Department's action, Central Valley
23 Project yield is greater than it would have been ab-
24 sent the Department's actions, then that additional
25 yield shall be made available to the State Water

1 Project for delivery to State Water Project contrac-
2 tors to offset losses resulting from the Department's
3 action.

4 (c) NOTIFICATION RELATED TO ENVIRONMENTAL
5 PROTECTIONS.—The Secretary of the Interior shall imme-
6 diately notify the Director of the California Department
7 of Fish and Wildlife in writing if the Secretary of the Inte-
8 rior determines that implementation of the smelt biological
9 opinion and the salmonid biological opinion consistent with
10 this Act reduces environmental protections for any species
11 covered by the opinions.

12 **SEC. 1062. AREA OF ORIGIN PROTECTIONS.**

13 (a) IN GENERAL.—The Secretary of the Interior is
14 directed, in the operation of the Central Valley Project,
15 to adhere to California's water rights laws governing water
16 rights priorities and to honor water rights senior to those
17 held by the United States for operation of the Central Val-
18 ley Project, regardless of the source of priority, including
19 any appropriative water rights initiated prior to December
20 19, 1914, as well as water rights and other priorities per-
21 fected or to be perfected pursuant to California Water
22 Code Part 2 of Division 2. Article 1.7 (commencing with
23 section 1215 of chapter 1 of part 2 of division 2, sections
24 10505, 10505.5, 11128, 11460, 11461, 11462, and
25 11463, and sections 12200 to 12220, inclusive).

1 (b) DIVERSIONS.—Any action undertaken by the Sec-
2 retary of the Interior and the Secretary of Commerce pur-
3 suant to both this Act and section 7 of the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.) that requires
5 that diversions from the Sacramento River or the San Joa-
6 quin River watersheds upstream of the Delta be bypassed
7 shall not be undertaken in a manner that alters the water
8 rights priorities established by California law.

9 (c) ENDANGERED SPECIES ACT.—Nothing in this
10 subtitle alters the existing authorities provided to and obli-
11 gations placed upon the Federal Government under the
12 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
13 as amended.

14 (d) CONTRACTS.—With respect to individuals and en-
15 tities with water rights on the Sacramento River, the man-
16 dates of this section may be met, in whole or in part,
17 through a contract with the Secretary of the Interior exe-
18 cuted pursuant to section 14 of Public Law 76–260; 53
19 Stat. 1187 (43 U.S.C. 389) that is in conformance with
20 the Sacramento River Settlement Contracts renewed by
21 the Secretary of the Interior in 2005.

22 **SEC. 1063. NO REDIRECTED ADVERSE IMPACTS.**

23 (a) IN GENERAL.—The Secretary of the Interior shall
24 ensure that, except as otherwise provided for in a water
25 service or repayment contract, actions taken in compliance

1 with legal obligations imposed pursuant to or as a result
2 of this Act, including such actions under section 7 of the
3 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
4 and other applicable Federal and State laws, shall not di-
5 rectly or indirectly—

6 (1) result in the involuntary reduction of water
7 supply or fiscal impacts to individuals or districts
8 who receive water from either the State Water
9 Project or the United States under water rights set-
10 tlement contracts, exchange contracts, water service
11 contracts, repayment contracts, or water supply con-
12 tracts; or

13 (2) cause redirected adverse water supply or fis-
14 cal impacts to those within the Sacramento River
15 watershed, the San Joaquin River watershed or the
16 State Water Project service area.

17 (b) COSTS.—To the extent that costs are incurred
18 solely pursuant to or as a result of this Act and would
19 not otherwise have been incurred by any entity or public
20 or local agency or subdivision of the State of California,
21 such costs shall not be borne by any such entity, agency,
22 or subdivision of the State of California, unless such costs
23 are incurred on a voluntary basis.

1 (c) RIGHTS AND OBLIGATIONS NOT MODIFIED OR
2 AMENDED.—Nothing in this Act shall modify or amend
3 the rights and obligations of the parties to any existing—

4 (1) water service, repayment, settlement, pur-
5 chase, or exchange contract with the United States,
6 including the obligation to satisfy exchange contracts
7 and settlement contracts prior to the allocation of
8 any other Central Valley Project water; or

9 (2) State Water Project water supply or settle-
10 ment contract with the State.

11 **SEC. 1064. ALLOCATIONS FOR SACRAMENTO VALLEY CON-**
12 **TRACTORS.**

13 (a) ALLOCATIONS.—

14 (1) IN GENERAL.—Subject to paragraph (2)
15 and subsection (b), the Secretary of the Interior is
16 directed, in the operation of the Central Valley
17 Project, to allocate water provided for irrigation pur-
18 poses to existing Central Valley Project agricultural
19 water service contractors within the Sacramento
20 River Watershed in compliance with the following:

21 (A) Not less than 100 percent of their con-
22 tract quantities in a “Wet” year.

23 (B) Not less than 100 percent of their con-
24 tract quantities in an “Above Normal” year.

1 (C) Not less than 100 percent of their con-
2 tract quantities in a “Below Normal” year that
3 is preceded by an “Above Normal” or a “Wet”
4 year.

5 (D) Not less than 50 percent of their con-
6 tract quantities in a “Dry” year that is pre-
7 ceded by a “Below Normal,” an “Above Nor-
8 mal,” or a “Wet” year.

9 (E) In all other years not identified herein,
10 the allocation percentage for existing Central
11 Valley Project agricultural water service con-
12 tractors within the Sacramento River Water-
13 shed shall not be less than twice the allocation
14 percentage to south-of-Delta Central Valley
15 Project agricultural water service contractors,
16 up to 100 percent; provided, that nothing here-
17 in shall preclude an allocation to existing Cen-
18 tral Valley Project agricultural water service
19 contractors within the Sacramento River Water-
20 shed that is greater than twice the allocation
21 percentage to south-of-Delta Central Valley
22 Project agricultural water service contractors.

23 (2) CONDITIONS.—The Secretary’s actions
24 under paragraph (a) shall be subject to—

1 (A) the priority of individuals or entities
2 with Sacramento River water rights, including
3 those with Sacramento River Settlement Con-
4 tracts, that have priority to the diversion and
5 use of Sacramento River water over water
6 rights held by the United States for operations
7 of the Central Valley Project;

8 (B) the United States obligation to make
9 a substitute supply of water available to the
10 San Joaquin River Exchange Contractors; and

11 (C) the Secretary's obligation to make
12 water available to managed wetlands pursuant
13 to section 3406(d) of the Central Valley Project
14 Improvement Act (Public Law 102-575).

15 (b) PROTECTION OF MUNICIPAL AND INDUSTRIAL
16 SUPPLIES.—Nothing in subsection (a) shall be deemed
17 to—

18 (1) modify any provision of a water service con-
19 tract that addresses municipal and industrial water
20 shortage policies of the Secretary;

21 (2) affect or limit the authority of the Secretary
22 to adopt or modify municipal and industrial water
23 shortage policies;

1 (3) affect or limit the authority of the Secretary
2 to implement municipal and industrial water short-
3 age policies; or

4 (4) affect allocations to Central Valley Project
5 municipal and industrial contractors pursuant to
6 such policies.

7 Neither subsection (a) nor the Secretary's implementation
8 of subsection (a) shall constrain, govern or affect, directly,
9 the operations of the Central Valley Project's American
10 River Division or any deliveries from that Division, its
11 units or facilities.

12 (c) NO EFFECT ON ALLOCATIONS.—This section
13 shall not—

14 (1) affect the allocation of water to Friant Divi-
15 sion contractors; or

16 (2) result in the involuntary reduction in con-
17 tract water allocations to individuals or entities with
18 contracts to receive water from the Friant Division.

19 (d) PROGRAM FOR WATER RESCHEDULING.—The
20 Secretary of the Interior shall develop and implement a
21 program, not later than 1 year after the date of the enact-
22 ment of this Act, to provide for the opportunity for exist-
23 ing Central Valley Project agricultural water service con-
24 tractors within the Sacramento River Watershed to re-

1 schedule water, provided for under their Central Valley
2 Project water service contracts, from one year to the next.

3 (e) DEFINITIONS.—In this section:

4 (1) The term “existing Central Valley Project
5 agricultural water service contractors within the
6 Sacramento River Watershed” means water service
7 contractors within the Shasta, Trinity, and Sac-
8 ramento River Divisions of the Central Valley
9 Project, that have a water service contract in effect,
10 on the date of the enactment of this section, that
11 provides water for irrigation.

12 (2) The year type terms used in subsection (a)
13 have the meaning given those year types in the Sac-
14 ramento Valley Water Year Type (40–30–30) Index.

15 **SEC. 1065. EFFECT ON EXISTING OBLIGATIONS.**

16 Nothing in this Act preempts or modifies any existing
17 obligation of the United States under Federal reclamation
18 law to operate the Central Valley Project in conformity
19 with State law, including established water rights prior-
20 ities.

21 **Subtitle F—MISCELLANEOUS**

22 **SEC. 1071. AUTHORIZED SERVICE AREA.**

23 (a) IN GENERAL.—The authorized service area of the
24 Central Valley Project authorized under the Central Valley
25 Project Improvement Act (Public Law 102–575; 106 Stat.

1 4706) shall include the area within the boundaries of the
2 Kettleman City Community Services District, California,
3 as in existence on the date of enactment of this Act.

4 (b) LONG-TERM CONTRACT.—

5 (1) IN GENERAL.—Notwithstanding the Central
6 Valley Project Improvement Act (Public Law 102–
7 575; 106 Stat. 4706) and subject to paragraph (2),
8 the Secretary of the Interior, in accordance with the
9 Federal reclamation laws, shall enter into a long-
10 term contract with the Kettleman City Community
11 Services District, California, under terms and condi-
12 tions mutually agreeable to the parties, for the deliv-
13 ery of up to 900 acre-feet of Central Valley Project
14 water for municipal and industrial use.

15 (2) LIMITATION.—Central Valley Project water
16 deliveries authorized under the contract entered into
17 under paragraph (1) shall be limited to the minimal
18 quantity necessary to meet the immediate needs of
19 the Kettleman City Community Services District,
20 California, in the event that local supplies or State
21 Water Project allocations are insufficient to meet
22 those needs.

23 (c) PERMIT.—The Secretary shall apply for a permit
24 with the State for a joint place of use for water deliveries
25 authorized under the contract entered into under sub-

1 section (b) with respect to the expanded service area under
2 subsection (a), consistent with State law.

3 (d) **ADDITIONAL COSTS.**—If any additional infra-
4 structure, water treatment, or related costs are needed to
5 implement this section, those costs shall be the responsi-
6 bility of the non-Federal entity.

7 **SEC. 1072. OVERSIGHT BOARD FOR RESTORATION FUND.**

8 (a) **PLAN; ADVISORY BOARD.**—Section 3407 of the
9 Central Valley Project Improvement Act (Public Law
10 102–575; 106 Stat. 4726) is amended by adding at the
11 end the following:

12 “(g) **PLAN ON EXPENDITURE OF FUNDS.**—

13 “(1) **IN GENERAL.**—For each fiscal year, the
14 Secretary, in consultation with the Advisory Board,
15 shall submit to Congress a plan for the expenditure
16 of all of the funds deposited into the Restoration
17 Fund during the preceding fiscal year.

18 “(2) **CONTENTS.**—The plan shall include an
19 analysis of the cost-effectiveness of each expenditure.

20 “(h) **ADVISORY BOARD.**—

21 “(1) **ESTABLISHMENT.**—There is established
22 the Restoration Fund Advisory Board (referred to in
23 this section as the ‘Advisory Board’), which shall be
24 composed of 11 members appointed by the Sec-
25 retary.

1 “(2) MEMBERSHIP.—

2 “(A) IN GENERAL.—The Secretary shall
3 appoint members to the Advisory Board that
4 represent the various Central Valley Project
5 stakeholders, of whom—

6 “(i) 4 members shall be agricultural
7 users of the Central Valley Project, includ-
8 ing at least one agricultural user from
9 north-of-the-Delta and one agricultural
10 user from south-of-the-Delta;

11 “(ii) 2 members shall be municipal
12 and industrial users of the Central Valley
13 Project, including one municipal and in-
14 dustrial user from north-of-the-Delta and
15 one municipal and industrial user from
16 south-of-the-Delta;

17 “(iii) 2 members shall be power con-
18 tractors of the Central Valley Project, in-
19 cluding at least one power contractor from
20 north-of-the-Delta and from south-of-the-
21 Delta;

22 “(iv) 1 member shall be a representa-
23 tive of a Federal national wildlife refuge
24 that contracts for Central Valley Project

1 water supplies with the Bureau of Rec-
2 lamation;

3 “(v) 1 member shall have expertise in
4 the economic impacts of the changes to
5 water operations; and

6 “(vi) 1 member shall be a representa-
7 tive of a wildlife entity that primarily fo-
8 cuses on waterfowl.

9 “(B) OBSERVER.—The Secretary and the
10 Secretary of Commerce may each designate a
11 representative to act as an observer of the Advi-
12 sory Board.

13 “(C) CHAIR.—The Secretary shall appoint
14 1 of the members described in subparagraph
15 (A) to serve as Chair of the Advisory Board.

16 “(3) TERMS.—The term of each member of the
17 Advisory Board shall be 4 years.

18 “(4) DATE OF APPOINTMENTS.—The appoint-
19 ment of a member of the Panel shall be made not
20 later than—

21 “(A) the date that is 120 days after the
22 date of enactment of this Act; or

23 “(B) in the case of a vacancy on the Panel
24 described in subsection (c)(2), the date that is

1 120 days after the date on which the vacancy
2 occurs.

3 “(5) VACANCIES.—

4 “(A) IN GENERAL.—A vacancy on the
5 Panel shall be filled in the manner in which the
6 original appointment was made and shall be
7 subject to any conditions that applied with re-
8 spect to the original appointment.

9 “(B) FILLING UNEXPIRED TERM.—An in-
10 dividual chosen to fill a vacancy shall be ap-
11 pointed for the unexpired term of the member
12 replaced.

13 “(C) EXPIRATION OF TERMS.—The term
14 of any member shall not expire before the date
15 on which the successor of the member takes of-
16 fice.

17 “(6) REMOVAL.—A member of the Panel may
18 be removed from office by the Secretary of the Inte-
19 rior.

20 “(7) FEDERAL ADVISORY COMMITTEE ACT.—
21 The Panel shall not be subject to the requirements
22 of the Federal Advisory Committee Act.

23 “(8) DUTIES.—The duties of the Advisory
24 Board are—

1 “(A) to meet not less frequently than semi-
2 annually to develop and make recommendations
3 to the Secretary regarding priorities and spend-
4 ing levels on projects and programs carried out
5 under this title;

6 “(B) to ensure that any advice given or
7 recommendation made by the Advisory Board
8 reflects the independent judgment of the Advi-
9 sory Board;

10 “(C) not later than December 31, 2015,
11 and annually thereafter, to submit to the Sec-
12 retary and Congress the recommendations
13 under subparagraph (A); and

14 “(D) not later than December 31, 2015,
15 and biennially thereafter, to submit to Congress
16 details of the progress made in achieving the
17 actions required under section 3406.

18 “(9) ADMINISTRATION.—With the consent of
19 the appropriate agency head, the Advisory Board
20 may use the facilities and services of any Federal
21 agency.

22 “(10) COOPERATION AND ASSISTANCE.—

23 “(A) PROVISION OF INFORMATION.—Upon
24 request of the Panel Chair for information or
25 assistance to facilitate carrying out this section,

1 the Secretary of the Interior shall promptly pro-
2 vide such information, unless otherwise prohib-
3 ited by law.

4 “(B) SPACE AND ASSISTANCE.—The Sec-
5 retary of the Interior shall provide the Panel
6 with appropriate and adequate office space, to-
7 gether with such equipment, office supplies, and
8 communications facilities and services as may
9 be necessary for the operation of the Panel, and
10 shall provide necessary maintenance services for
11 such offices and the equipment and facilities lo-
12 cated therein.”.

13 **SEC. 1073. WATER SUPPLY ACCOUNTING.**

14 (a) IN GENERAL.—All Central Valley Project water,
15 except Central Valley Project water released pursuant to
16 U.S. Department of the Interior Record of Decision, Trin-
17 ity River Mainstem Fishery Restoration Final Environ-
18 mental Impact Statement/Environmental Impact Report
19 dated December 2000 used to implement an action under-
20 taken for a fishery beneficial purpose that was not im-
21 posed by terms and conditions existing in licenses, per-
22 mits, and other agreements pertaining to the Central Val-
23 ley Project under applicable State or Federal law existing
24 on October 30, 1992, shall be credited to the quantity of
25 Central Valley Project yield dedicated and managed under

1 this section; provided, that nothing herein shall affect the
2 Secretary of the Interior's duty to comply with any other-
3 wise lawful requirement imposed on operations of the Cen-
4 tral Valley Project under any provision of Federal or State
5 law.

6 (b) RECLAMATION POLICIES AND ALLOCATIONS.—
7 Reclamation policies and allocations shall not be based
8 upon any premise or assumption that Central Valley
9 Project contract supplies are supplemental or secondary
10 to any other contractor source of supply.

11 **SEC. 1074. IMPLEMENTATION OF WATER REPLACEMENT**
12 **PLAN.**

13 (a) IN GENERAL.—Not later than October 1, 2016,
14 the Secretary of the Interior shall update and implement
15 the plan required by section 3408(j) of title XXXIV of
16 Public Law 102–575. The Secretary shall notify the Con-
17 gress annually describing the progress of implementing
18 the plan required by section 3408(j) of title XXXIV of
19 Public Law 102–575.

20 (b) POTENTIAL AMENDMENT.—If the plan required
21 in subsection (a) has not increased the Central Valley
22 Project yield by 800,000 acre-feet within 5 years after the
23 enactment of this Act, then section 3406 of the Central
24 Valley Project Improvement Act (title XXXIV of Public
25 Law 102–575) is amended as follows:

1 (1) In subsection (b)—

2 (A) by amending paragraph (2)(C) to read:

3 “(C) If by March 15, 2021, and any year
4 thereafter the quantity of Central Valley
5 Project water forecasted to be made available to
6 all water service or repayment contractors of
7 the Central Valley Project is below 50 percent
8 of the total quantity of water to be made avail-
9 able under said contracts, the quantity of Cen-
10 tral Valley Project yield dedicated and managed
11 for that year under this paragraph shall be re-
12 duced by 25 percent.”.

13 **SEC. 1075. NATURAL AND ARTIFICIALLY SPAWNED SPE-**
14 **CIES.**

15 After the date of the enactment of this title, and re-
16 gardless of the date of listing, the Secretaries of the Inte-
17 rior and Commerce shall not distinguish between natural-
18 spawned and hatchery-spawned or otherwise artificially
19 propagated strains of a species in making any determina-
20 tion under the Endangered Species Act of 1973 (16
21 U.S.C. 1531 et seq.) that relates to any anadromous or
22 pelagic fish species that resides for all or a portion of its
23 life in the Sacramento-San Joaquin Delta or rivers tribu-
24 tary thereto.

1 **SEC. 1076. TRANSFER THE NEW MELONES UNIT, CENTRAL**
2 **VALLEY PROJECT TO INTERESTED PRO-**
3 **VIDERS.**

4 (a) DEFINITIONS.—For the purposes of this section,
5 the following terms apply:

6 (1) INTERESTED LOCAL WATER AND POWER
7 PROVIDERS.—The term “interested local water and
8 power providers” includes the Calaveras County
9 Water District, Calaveras Public Power Agency,
10 Central San Joaquin Water Conservation District,
11 Oakdale Irrigation District, Stockton East Water
12 District, South San Joaquin Irrigation District,
13 Tuolumne Utilities District, Tuolumne Public Power
14 Agency, and Union Public Utilities District.

15 (2) NEW MELONES UNIT, CENTRAL VALLEY
16 PROJECT.—The term “New Melones Unit, Central
17 Valley Project” means all Federal reclamation
18 projects located within or diverting water from or to
19 the watershed of the Stanislaus and San Joaquin
20 rivers and their tributaries as authorized by the Act
21 of August 26, 1937 (50 Stat. 850), and all Acts
22 amendatory or supplemental thereto, including the
23 Act of October 23, 1962 (76 Stat. 1173).

24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

1 (b) NEGOTIATIONS.—Notwithstanding any other pro-
2 vision of law, not later than 180 days after the date of
3 the enactment of this Act, the Secretary shall enter into
4 negotiations with interested local water and power pro-
5 viders for the transfer ownership, control, and operation
6 of the New Melones Unit, Central Valley Project to inter-
7 ested local water and power providers within the State of
8 California.

9 (c) TRANSFER.—The Secretary shall transfer the
10 New Melones Unit, Central Valley Project in accordance
11 with an agreement reached pursuant to negotiations con-
12 ducted under subsection (b).

13 (d) NOTIFICATION.—Not later than 360 days after
14 the date of the enactment of this Act, and every 6 months
15 thereafter, the Secretary shall notify the appropriate com-
16 mittees of the House of Representatives and the Senate—

17 (1) if an agreement is reached pursuant to ne-
18 gotiations conducted under subsection (b), the terms
19 of that agreement;

20 (2) of the status of formal discussions with in-
21 terested local water and power providers for the
22 transfer of ownership, control, and operation of the
23 New Melones Unit, Central Valley Project to inter-
24 ested local water and power providers;

1 (3) of all unresolved issues that are preventing
2 execution of an agreement for the transfer of owner-
3 ship, control, and operation of the New Melones
4 Unit, Central Valley Project to interested local water
5 and power providers;

6 (4) on analysis and review of studies, reports,
7 discussions, hearing transcripts, negotiations, and
8 other information about past and present formal dis-
9 cussions that—

10 (A) have a serious impact on the progress
11 of the formal discussions;

12 (B) explain or provide information about
13 the issues that prevent progress or finalization
14 of formal discussions; or

15 (C) are, in whole or in part, preventing
16 execution of an agreement for the transfer; and

17 (5) of any actions the Secretary recommends
18 that the United States should take to finalize an
19 agreement for that transfer.

20 **SEC. 1077. BASIN STUDIES.**

21 (a) **AUTHORIZED STUDIES.**—The Secretary of the In-
22 terior is authorized and directed to expand opportunities
23 and expedite completion of assessments under section
24 9503(b) of the **SECURE** Water Act (42 U.S.C.
25 10363(b)), with non-Federal partners, of individual sub-

1 basins and watersheds within major Reclamation river ba-
2 sins; and shall ensure timely decision and expedited imple-
3 mentation of adaptation and mitigation strategies devel-
4 oped through the special study process.

5 (b) FUNDING.—

6 (1) IN GENERAL.—The non-Federal partners
7 shall be responsible for 100 percent of the cost of
8 the special studies.

9 (2) CONTRIBUTED FUNDS.—The Secretary may
10 accept and use contributions of funds from the non-
11 Federal partners to carry out activities under the
12 special studies.

13 **SEC. 1078. OPERATIONS OF THE TRINITY RIVER DIVISION.**

14 The Secretary of the Interior, in the operation of the
15 Trinity River Division of the Central Valley Project, shall
16 not make releases from Lewiston Dam in excess of the
17 volume for each water-year type required by the U.S. De-
18 partment of the Interior Record of Decision, Trinity River
19 Mainstem Fishery Restoration Final Environmental Im-
20 pact Statement/Environmental Impact Report dated De-
21 cember 2000.

22 (1) A maximum of 369,000 acre-feet in a
23 “Critically Dry” year.

24 (2) A maximum of 453,000 acre-feet in a
25 “Dry” year.

1 (3) A maximum of 647,000 acre-feet in a “Nor-
2 mal” year.

3 (4) A maximum of 701,000 acre-feet in a
4 “Wet” year.

5 (5) A maximum of 815,000 acre-feet in an
6 “Extremely Wet” year.

7 **SEC. 1079. AMENDMENT TO PURPOSES.**

8 Section 3402 of the Central Valley Project Improve-
9 ment Act (106 Stat. 4706) is amended—

10 (1) in subsection (f), by striking the period at
11 the end; and

12 (2) by adding at the end the following:

13 “(g) to ensure that water dedicated to fish and wild-
14 life purposes by this title is replaced and provided to Cen-
15 tral Valley Project water contractors by December 31,
16 2018, at the lowest cost reasonably achievable; and

17 “(h) to facilitate and expedite water transfers in ac-
18 cordance with this Act.”.

19 **SEC. 1080. AMENDMENT TO DEFINITION.**

20 Section 3403 of the Central Valley Project Improve-
21 ment Act (106 Stat. 4707) is amended—

22 (1) by amending subsection (a) to read as fol-
23 lows:

24 “(a) the term ‘anadromous fish’ means those native
25 stocks of salmon (including steelhead) and sturgeon that,

1 as of October 30, 1992, were present in the Sacramento
2 and San Joaquin Rivers and their tributaries and ascend
3 those rivers and their tributaries to reproduce after matur-
4 ing in San Francisco Bay or the Pacific Ocean;”;

5 (2) in subsection (l), by striking “and,”;

6 (3) in subsection (m), by striking the period
7 and inserting “; and”; and

8 (4) by adding at the end the following:

9 “(n) the term ‘reasonable flow’ means water flows ca-
10 pable of being maintained taking into account competing
11 consumptive uses of water and economic, environmental,
12 and social factors.”.

13 **SEC. 1081. REPORT ON RESULTS OF WATER USAGE.**

14 The Secretary of the Interior, in consultation with the
15 Secretary of Commerce and the Secretary of Natural Re-
16 sources of the State of California, shall publish an annual
17 report detailing instream flow releases from the Central
18 Valley Project and California State Water Project, their
19 explicit purpose and authority, and all measured environ-
20 mental benefit as a result of the releases.

21 **SEC. 1082. KLAMATH PROJECT CONSULTATION APPLI-**
22 **CANTS.**

23 If the Bureau of Reclamation initiates or reinitiates
24 consultation with the U.S. Fish and Wildlife Service or
25 the National Marine Fisheries Service under section

1 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C.
2 1536(a)(2)), with respect to construction or operation of
3 the Klamath Project (or any part thereof), Klamath
4 Project contractors shall be accorded all the rights and
5 responsibilities extended to applicants in the consultation
6 process. Upon request of the Klamath Project contractors,
7 they may be represented through an association or organi-
8 zation.

9 **Subtitle G—Water Supply**
10 **Permitting Act**

11 **SEC. 1091. SHORT TITLE.**

12 This subtitle may be cited as the “Water Supply Per-
13 mitting Coordination Act”.

14 **SEC. 1092. DEFINITIONS.**

15 In this subtitle:

16 (1) SECRETARY.—The term “Secretary” means
17 the Secretary of the Interior.

18 (2) BUREAU.—The term “Bureau” means the
19 Bureau of Reclamation.

20 (3) QUALIFYING PROJECTS.—The term “quali-
21 fying projects” means new surface water storage
22 projects in the States covered under the Act of June
23 17, 1902 (32 Stat. 388, chapter 1093), and Acts
24 supplemental to and amendatory of that Act (43
25 U.S.C. 371 et seq.) constructed on lands adminis-

1 tered by the Department of the Interior or the De-
2 partment of Agriculture, exclusive of any easement,
3 right-of-way, lease, or any private holding.

4 (4) COOPERATING AGENCIES.—The term “co-
5 operating agency” means a Federal agency with ju-
6 risdiction over a review, analysis, opinion, statement,
7 permit, license, or other approval or decision re-
8 quired for a qualifying project under applicable Fed-
9 eral laws and regulations, or a State agency subject
10 to section 1093(e).

11 **SEC. 1093. ESTABLISHMENT OF LEAD AGENCY AND CO-**
12 **OPERATING AGENCIES.**

13 (a) ESTABLISHMENT OF LEAD AGENCY.—The Bu-
14 reau of Reclamation is established as the lead agency for
15 purposes of coordinating all reviews, analyses, opinions,
16 statements, permits, licenses, or other approvals or deci-
17 sions required under Federal law to construct qualifying
18 projects.

19 (b) IDENTIFICATION AND ESTABLISHMENT OF CO-
20 OPERATING AGENCIES.—The Commissioner of the Bureau
21 shall—

22 (1) identify, as early as practicable upon receipt
23 of an application for a qualifying project, any Fed-
24 eral agency that may have jurisdiction over a review,
25 analysis, opinion, statement, permit, license, ap-

1 proval, or decision required for a qualifying project
2 under applicable Federal laws and regulations; and

3 (2) notify any such agency, within a reasonable
4 timeframe, that the agency has been designated as
5 a cooperating agency in regards to the qualifying
6 project unless that agency responds to the Bureau in
7 writing, within a timeframe set forth by the Bureau,
8 notifying the Bureau that the agency—

9 (A) has no jurisdiction or authority with
10 respect to the qualifying project;

11 (B) has no expertise or information rel-
12 evant to the qualifying project or any review,
13 analysis, opinion, statement, permit, license, or
14 other approval or decision associated therewith;
15 or

16 (C) does not intend to submit comments
17 on the qualifying project or conduct any review
18 of such a project or make any decision with re-
19 spect to such project in a manner other than in
20 cooperation with the Bureau.

21 (c) STATE AUTHORITY.—A State in which a quali-
22 fying project is being considered may choose, consistent
23 with State law—

24 (1) to participate as a cooperating agency; and

1 (2) to make subject to the processes of this sub-
2 title all State agencies that—

3 (A) have jurisdiction over the qualifying
4 project;

5 (B) are required to conduct or issue a re-
6 view, analysis, or opinion for the qualifying
7 project; or

8 (C) are required to make a determination
9 on issuing a permit, license, or approval for the
10 qualifying project.

11 **SEC. 1094. BUREAU RESPONSIBILITIES.**

12 (a) IN GENERAL.—The principal responsibilities of
13 the Bureau under this subtitle are to—

14 (1) serve as the point of contact for applicants,
15 State agencies, Indian tribes, and others regarding
16 proposed qualifying projects;

17 (2) coordinate preparation of unified environ-
18 mental documentation that will serve as the basis for
19 all Federal decisions necessary to authorize the use
20 of Federal lands for qualifying projects; and

21 (3) coordinate all Federal agency reviews nec-
22 essary for project development and construction of
23 qualifying projects.

24 (b) COORDINATION PROCESS.—The Bureau shall
25 have the following coordination responsibilities:

1 (1) PRE-APPLICATION COORDINATION.—Notify
2 cooperating agencies of proposed qualifying projects
3 not later than 30 days after receipt of a proposal
4 and facilitate a preapplication meeting for prospec-
5 tive applicants, relevant Federal and State agencies,
6 and Indian tribes to—

7 (A) explain applicable processes, data re-
8 quirements, and applicant submissions nec-
9 essary to complete the required Federal agency
10 reviews within the timeframe established; and

11 (B) establish the schedule for the quali-
12 fying project.

13 (2) CONSULTATION WITH COOPERATING AGEN-
14 CIES.—Consult with the cooperating agencies
15 throughout the Federal agency review process, iden-
16 tify and obtain relevant data in a timely manner,
17 and set necessary deadlines for cooperating agencies.

18 (3) SCHEDULE.—Work with the qualifying
19 project applicant and cooperating agencies to estab-
20 lish a project schedule. In establishing the schedule,
21 the Bureau shall consider, among other factors—

22 (A) the responsibilities of cooperating
23 agencies under applicable laws and regulations;

1 (B) the resources available to the cooper-
2 ating agencies and the non-Federal qualifying
3 project sponsor, as applicable;

4 (C) the overall size and complexity of the
5 qualifying project;

6 (D) the overall schedule for and cost of the
7 qualifying project; and

8 (E) the sensitivity of the natural and his-
9 toric resources that may be affected by the
10 qualifying project.

11 (4) ENVIRONMENTAL COMPLIANCE.—Prepare a
12 unified environmental review document for each
13 qualifying project application, incorporating a single
14 environmental record on which all cooperating agen-
15 cies with authority to issue approvals for a given
16 qualifying project shall base project approval deci-
17 sions. Help ensure that cooperating agencies make
18 necessary decisions, within their respective authori-
19 ties, regarding Federal approvals in accordance with
20 the following timelines:

21 (A) Not later than one year after accept-
22 ance of a completed project application when an
23 environmental assessment and finding of no sig-
24 nificant impact is determined to be the appro-
25 priate level of review under the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4321
2 et seq.).

3 (B) Not later than one year and 30 days
4 after the close of the public comment period for
5 a draft environmental impact statement under
6 the National Environmental Policy Act of 1969
7 (42 U.S.C. 4321 et seq.), when an environ-
8 mental impact statement is required under the
9 same.

10 (5) CONSOLIDATED ADMINISTRATIVE
11 RECORD.—Maintain a consolidated administrative
12 record of the information assembled and used by the
13 cooperating agencies as the basis for agency deci-
14 sions.

15 (6) PROJECT DATA RECORDS.—To the extent
16 practicable and consistent with Federal law, ensure
17 that all project data is submitted and maintained in
18 generally accessible electronic format, compile, and
19 where authorized under existing law, make available
20 such project data to cooperating agencies, the quali-
21 fying project applicant, and to the public.

22 (7) PROJECT MANAGER.—Appoint a project
23 manager for each qualifying project. The project
24 manager shall have authority to oversee the project
25 and to facilitate the issuance of the relevant final

1 authorizing documents, and shall be responsible for
2 ensuring fulfillment of all Bureau responsibilities set
3 forth in this section and all cooperating agency re-
4 sponsibilities under section 1095.

5 **SEC. 1095. COOPERATING AGENCY RESPONSIBILITIES.**

6 (a) ADHERENCE TO BUREAU SCHEDULE.—Upon no-
7 tification of an application for a qualifying project, all co-
8 operating agencies shall submit to the Bureau a timeframe
9 under which the cooperating agency reasonably considers
10 it will be able to complete its authorizing responsibilities.
11 The Bureau shall use the timeframe submitted under this
12 subsection to establish the project schedule under section
13 1094, and the cooperating agencies shall adhere to the
14 project schedule established by the Bureau.

15 (b) ENVIRONMENTAL RECORD.—Cooperating agen-
16 cies shall submit to the Bureau all environmental review
17 material produced or compiled in the course of carrying
18 out activities required under Federal law consistent with
19 the project schedule established by the Bureau.

20 (c) DATA SUBMISSION.—To the extent practicable
21 and consistent with Federal law, the cooperating agencies
22 shall submit all relevant project data to the Bureau in a
23 generally accessible electronic format subject to the project
24 schedule set forth by the Bureau.

1 **SEC. 1096. FUNDING TO PROCESS PERMITS.**

2 (a) IN GENERAL.—The Secretary, after public notice
3 in accordance with the Administrative Procedures Act (5
4 U.S.C. 553), may accept and expend funds contributed by
5 a non-Federal public entity to expedite the evaluation of
6 a permit of that entity related to a qualifying project.

7 (b) EFFECT ON PERMITTING.—

8 (1) IN GENERAL.—In carrying out this section,
9 the Secretary shall ensure that the use of funds ac-
10 cepted under subsection (a) will not impact impartial
11 decisionmaking with respect to permits, either sub-
12 stantively or procedurally.

13 (2) EVALUATION OF PERMITS.—In carrying out
14 this section, the Secretary shall ensure that the eval-
15 uation of permits carried out using funds accepted
16 under this section shall—

17 (A) be reviewed by the Regional Director
18 of the Bureau, or the Regional Director's des-
19 ignee, of the region in which the qualifying
20 project or activity is located; and

21 (B) use the same procedures for decisions
22 that would otherwise be required for the evalua-
23 tion of permits for similar projects or activities
24 not carried out using funds authorized under
25 this section.

1 (3) IMPARTIAL DECISIONMAKING.—In carrying
2 out this section, the Secretary and the cooperating
3 agencies receiving funds under this section for quali-
4 fying projects shall ensure that the use of the funds
5 accepted under this section for such projects shall
6 not—

7 (A) impact impartial decisionmaking with
8 respect to the issuance of permits, either sub-
9 stantively or procedurally; or

10 (B) diminish, modify, or otherwise affect
11 the statutory or regulatory authorities of such
12 agencies.

13 (c) LIMITATION ON USE OF FUNDS.—None of the
14 funds accepted under this section shall be used to carry
15 out a review of the evaluation of permits required under
16 subsection (b)(2)(A).

17 (d) PUBLIC AVAILABILITY.—The Secretary shall en-
18 sure that all final permit decisions carried out using funds
19 authorized under this section are made available to the
20 public, including on the Internet.

21 **Subtitle H—Bureau of Reclamation** 22 **Project Streamlining**

23 **SEC. 1101. SHORT TITLE.**

24 This subtitle may be cited as the “Bureau of Rec-
25 lamation Project Streamlining Act”.

1 **SEC. 1102. DEFINITIONS.**

2 In this subtitle:

3 (1) ENVIRONMENTAL IMPACT STATEMENT.—

4 The term “environmental impact statement” means
5 the detailed statement of environmental impacts of
6 a project required to be prepared pursuant to the
7 National Environmental Policy Act of 1969 (42
8 U.S.C. 4321 et seq.).

9 (2) ENVIRONMENTAL REVIEW PROCESS.—

10 (A) IN GENERAL.—The term “environ-
11 mental review process” means the process of
12 preparing an environmental impact statement,
13 environmental assessment, categorical exclusion,
14 or other document under the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4321 et
16 seq.) for a project study.

17 (B) INCLUSIONS.—The term “environ-
18 mental review process” includes the process for
19 and completion of any environmental permit,
20 approval, review, or study required for a project
21 study under any Federal law other than the
22 National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.).

24 (3) FEDERAL JURISDICTIONAL AGENCY.—The
25 term “Federal jurisdictional agency” means a Fed-
26 eral agency with jurisdiction delegated by law, regu-

1 lation, order, or otherwise over a review, analysis,
2 opinion, statement, permit, license, or other approval
3 or decision required for a project study under appli-
4 cable Federal laws (including regulations).

5 (4) FEDERAL LEAD AGENCY.—The term “Fed-
6 eral lead agency” means the Bureau of Reclamation.

7 (5) PROJECT.—The term “project” means a
8 surface water project, a project under the purview of
9 title XVI of Public Law 102–575, or a rural water
10 supply project investigated under Public Law 109–
11 451 to be carried out, funded or operated in whole
12 or in part by the Secretary pursuant to the Act of
13 June 17, 1902 (32 Stat. 388, chapter 1093), and
14 Acts supplemental to and amendatory of that Act
15 (43 U.S.C. 371 et seq.).

16 (6) PROJECT SPONSOR.—The term “project
17 sponsor” means a State, regional, or local authority
18 or instrumentality or other qualifying entity, such as
19 a water conservation district, irrigation district,
20 water conservancy district, joint powers authority,
21 mutual water company, canal company, rural water
22 district or association, or any other entity that has
23 the capacity to contract with the United States
24 under Federal reclamation law.

1 (7) PROJECT STUDY.—The term “project
2 study” means a feasibility study for a project carried
3 out pursuant to the Act of June 17, 1902 (32 Stat.
4 388, chapter 1093), and Acts supplemental to and
5 amendatory of that Act (43 U.S.C. 371 et seq.).

6 (8) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

8 (9) SURFACE WATER STORAGE.—The term
9 “surface water storage” means any surface water
10 reservoir or impoundment that would be owned,
11 funded or operated in whole or in part by the Bu-
12 reau of Reclamation or that would be integrated into
13 a larger system owned, operated or administered in
14 whole or in part by the Bureau of Reclamation.

15 **SEC. 1103. ACCELERATION OF STUDIES.**

16 (a) IN GENERAL.—To the extent practicable, a
17 project study initiated by the Secretary, after the date of
18 enactment of this Act, under the Reclamation Act of 1902
19 (32 Stat. 388), and all Acts amendatory thereof or supple-
20 mentary thereto, shall—

21 (1) result in the completion of a final feasibility
22 report not later than 3 years after the date of initi-
23 ation;

24 (2) have a maximum Federal cost of
25 \$3,000,000; and

1 (3) ensure that personnel from the local project
2 area, region, and headquarters levels of the Bureau
3 of Reclamation concurrently conduct the review re-
4 quired under this section.

5 (b) EXTENSION.—If the Secretary determines that a
6 project study described in subsection (a) will not be con-
7 ducted in accordance with subsection (a), the Secretary,
8 not later than 30 days after the date of making the deter-
9 mination, shall—

10 (1) prepare an updated project study schedule
11 and cost estimate;

12 (2) notify the non-Federal project cost-sharing
13 partner that the project study has been delayed; and

14 (3) provide written notice to the Committee on
15 Natural Resources of the House of Representatives
16 and the Committee on Energy and Natural Re-
17 sources of the Senate as to the reasons the require-
18 ments of subsection (a) are not attainable.

19 (c) EXCEPTION.—

20 (1) IN GENERAL.—Notwithstanding the re-
21 quirements of subsection (a), the Secretary may ex-
22 tend the timeline of a project study by a period not
23 to exceed 3 years, if the Secretary determines that
24 the project study is too complex to comply with the
25 requirements of subsection (a).

1 (2) FACTORS.—In making a determination that
2 a study is too complex to comply with the require-
3 ments of subsection (a), the Secretary shall con-
4 sider—

5 (A) the type, size, location, scope, and
6 overall cost of the project;

7 (B) whether the project will use any inno-
8 vative design or construction techniques;

9 (C) whether the project will require signifi-
10 cant action by other Federal, State, or local
11 agencies;

12 (D) whether there is significant public dis-
13 pute as to the nature or effects of the project;
14 and

15 (E) whether there is significant public dis-
16 pute as to the economic or environmental costs
17 or benefits of the project.

18 (3) NOTIFICATION.—Each time the Secretary
19 makes a determination under this subsection, the
20 Secretary shall provide written notice to the Com-
21 mittee on Natural Resources of the House of Rep-
22 resentatives and the Committee on Energy and Nat-
23 ural Resources of the Senate as to the results of
24 that determination, including an identification of the

1 specific one or more factors used in making the de-
2 termination that the project is complex.

3 (4) LIMITATION.—The Secretary shall not ex-
4 tend the timeline for a project study for a period of
5 more than 7 years, and any project study that is not
6 completed before that date shall no longer be au-
7 thORIZED.

8 (d) REVIEWS.—Not later than 90 days after the date
9 of the initiation of a project study described in subsection
10 (a), the Secretary shall—

11 (1) take all steps necessary to initiate the proc-
12 ess for completing federally mandated reviews that
13 the Secretary is required to complete as part of the
14 study, including the environmental review process
15 under section 1105;

16 (2) convene a meeting of all Federal, tribal, and
17 State agencies identified under section 1105(d) that
18 may—

19 (A) have jurisdiction over the project;

20 (B) be required by law to conduct or issue
21 a review, analysis, opinion, or statement for the
22 project study; or

23 (C) be required to make a determination
24 on issuing a permit, license, or other approval
25 or decision for the project study; and

1 (3) take all steps necessary to provide informa-
2 tion that will enable required reviews and analyses
3 related to the project to be conducted by other agen-
4 cies in a thorough and timely manner.

5 (e) INTERIM REPORT.—Not later than 18 months
6 after the date of enactment of this Act, the Secretary shall
7 submit to the Committee on Natural Resources of the
8 House of Representatives and the Committee on Energy
9 and Natural Resources of the Senate and make publicly
10 available a report that describes—

11 (1) the status of the implementation of the
12 planning process under this section, including the
13 number of participating projects;

14 (2) a review of project delivery schedules, in-
15 cluding a description of any delays on those studies
16 initiated prior to the date of the enactment of this
17 Act; and

18 (3) any recommendations for additional author-
19 ity necessary to support efforts to expedite the
20 project.

21 (f) FINAL REPORT.—Not later than 4 years after the
22 date of enactment of this Act, the Secretary shall submit
23 to the Committee on Natural Resources of the House of
24 Representatives and the Committee on Energy and Nat-

1 ural Resources of the Senate and make publicly available
2 a report that describes—

3 (1) the status of the implementation of this sec-
4 tion, including a description of each project study
5 subject to the requirements of this section;

6 (2) the amount of time taken to complete each
7 project study; and

8 (3) any recommendations for additional author-
9 ity necessary to support efforts to expedite the
10 project study process, including an analysis of
11 whether the limitation established by subsection
12 (a)(2) needs to be adjusted to address the impacts
13 of inflation.

14 **SEC. 1104. EXPEDITED COMPLETION OF REPORTS.**

15 The Secretary shall—

16 (1) expedite the completion of any ongoing
17 project study initiated before the date of enactment
18 of this Act; and

19 (2) if the Secretary determines that the project
20 is justified in a completed report, proceed directly to
21 preconstruction planning, engineering, and design of
22 the project in accordance with the Reclamation Act
23 of 1902 (32 Stat. 388), and all Acts amendatory
24 thereof or supplementary thereto.

1 **SEC. 1105. PROJECT ACCELERATION.**

2 (a) APPLICABILITY.—

3 (1) IN GENERAL.—This section shall apply to—

4 (A) each project study that is initiated
5 after the date of enactment of this Act and for
6 which an environmental impact statement is
7 prepared under the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.);

9 (B) the extent determined appropriate by
10 the Secretary, to other project studies initiated
11 before the date of enactment of this Act and for
12 which an environmental review process docu-
13 ment is prepared under the National Environ-
14 mental Policy Act of 1969 (42 U.S.C. 4321 et
15 seq.); and

16 (C) any project study for the development
17 of a non-federally owned and operated surface
18 water storage project for which the Secretary
19 determines there is a demonstrable Federal in-
20 terest and the project—

21 (i) is located in a river basin where
22 other Bureau of Reclamation water
23 projects are located;

24 (ii) will create additional water sup-
25 plies that support Bureau of Reclamation
26 water projects; or

1 (iii) will become integrated into the
2 operation of Bureau of Reclamation water
3 projects.

4 (2) FLEXIBILITY.—Any authority granted
5 under this section may be exercised, and any re-
6 quirement established under this section may be sat-
7 isfied, for the conduct of an environmental review
8 process for a project study, a class of project stud-
9 ies, or a program of project studies.

10 (3) LIST OF PROJECT STUDIES.—

11 (A) IN GENERAL.—The Secretary shall an-
12 nually prepare, and make publicly available, a
13 list of all project studies that the Secretary has
14 determined—

15 (i) meets the standards described in
16 paragraph (1); and

17 (ii) does not have adequate funding to
18 make substantial progress toward the com-
19 pletion of the project study.

20 (B) INCLUSIONS.—The Secretary shall in-
21 clude for each project study on the list under
22 subparagraph (A) a description of the estimated
23 amounts necessary to make substantial progress
24 on the project study.

25 (b) PROJECT REVIEW PROCESS.—

1 (1) IN GENERAL.—The Secretary shall develop
2 and implement a coordinated environmental review
3 process for the development of project studies.

4 (2) COORDINATED REVIEW.—The coordinated
5 environmental review process described in paragraph
6 (1) shall require that any review, analysis, opinion,
7 statement, permit, license, or other approval or deci-
8 sion issued or made by a Federal, State, or local
9 governmental agency or an Indian tribe for a project
10 study described in subsection (b) be conducted, to
11 the maximum extent practicable, concurrently with
12 any other applicable governmental agency or Indian
13 tribe.

14 (3) TIMING.—The coordinated environmental
15 review process under this subsection shall be com-
16 pleted not later than the date on which the Sec-
17 retary, in consultation and concurrence with the
18 agencies identified under section 1105(d), estab-
19 lishes with respect to the project study.

20 (c) LEAD AGENCIES.—

21 (1) JOINT LEAD AGENCIES.—

22 (A) IN GENERAL.—Subject to the require-
23 ments of the National Environmental Policy
24 Act of 1969 (42 U.S.C. 4321 et seq.) and the
25 requirements of section 1506.8 of title 40, Code

1 of Federal Regulations (or successor regula-
2 tions), including the concurrence of the pro-
3 posed joint lead agency, a project sponsor may
4 serve as the joint lead agency.

5 (B) PROJECT SPONSOR AS JOINT LEAD
6 AGENCY.—A project sponsor that is a State or
7 local governmental entity may—

8 (i) with the concurrence of the Sec-
9 retary, serve as a joint lead agency with
10 the Federal lead agency for purposes of
11 preparing any environmental document
12 under the National Environmental Policy
13 Act of 1969 (42 U.S.C. 4321 et seq.); and

14 (ii) prepare any environmental review
15 process document under the National En-
16 vironmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.) required in support of any
18 action or approval by the Secretary if—

19 (I) the Secretary provides guid-
20 ance in the preparation process and
21 independently evaluates that docu-
22 ment;

23 (II) the project sponsor complies
24 with all requirements applicable to the
25 Secretary under—

1 (aa) the National Environ-
2 mental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.);

4 (bb) any regulation imple-
5 menting that Act; and

6 (cc) any other applicable
7 Federal law; and

8 (III) the Secretary approves and
9 adopts the document before the Sec-
10 retary takes any subsequent action or
11 makes any approval based on that
12 document, regardless of whether the
13 action or approval of the Secretary re-
14 sults in Federal funding.

15 (2) DUTIES.—The Secretary shall ensure
16 that—

17 (A) the project sponsor complies with all
18 design and mitigation commitments made joint-
19 ly by the Secretary and the project sponsor in
20 any environmental document prepared by the
21 project sponsor in accordance with this sub-
22 section; and

23 (B) any environmental document prepared
24 by the project sponsor is appropriately supple-

1 mented to address any changes to the project
2 the Secretary determines are necessary.

3 (3) ADOPTION AND USE OF DOCUMENTS.—Any
4 environmental document prepared in accordance
5 with this subsection shall be adopted and used by
6 any Federal agency making any determination re-
7 lated to the project study to the same extent that
8 the Federal agency could adopt or use a document
9 prepared by another Federal agency under—

10 (A) the National Environmental Policy Act
11 of 1969 (42 U.S.C. 4321 et seq.); and

12 (B) parts 1500 through 1508 of title 40,
13 Code of Federal Regulations (or successor regu-
14 lations).

15 (4) ROLES AND RESPONSIBILITY OF LEAD
16 AGENCY.—With respect to the environmental review
17 process for any project study, the Federal lead agen-
18 cy shall have authority and responsibility—

19 (A) to take such actions as are necessary
20 and proper and within the authority of the Fed-
21 eral lead agency to facilitate the expeditious
22 resolution of the environmental review process
23 for the project study; and

24 (B) to prepare or ensure that any required
25 environmental impact statement or other envi-

1 ronmental review document for a project study
2 required to be completed under the National
3 Environmental Policy Act of 1969 (42 U.S.C.
4 4321 et seq.) is completed in accordance with
5 this section and applicable Federal law.

6 (d) PARTICIPATING AND COOPERATING AGENCIES.—

7 (1) IDENTIFICATION OF JURISDICTIONAL AGEN-
8 CIES.—With respect to carrying out the environ-
9 mental review process for a project study, the Sec-
10 retary shall identify, as early as practicable in the
11 environmental review process, all Federal, State, and
12 local government agencies and Indian tribes that
13 may—

14 (A) have jurisdiction over the project;

15 (B) be required by law to conduct or issue
16 a review, analysis, opinion, or statement for the
17 project study; or

18 (C) be required to make a determination
19 on issuing a permit, license, or other approval
20 or decision for the project study.

21 (2) STATE AUTHORITY.—If the environmental
22 review process is being implemented by the Sec-
23 retary for a project study within the boundaries of
24 a State, the State, consistent with State law, may

1 choose to participate in the process and to make
2 subject to the process all State agencies that—

3 (A) have jurisdiction over the project;

4 (B) are required to conduct or issue a re-
5 view, analysis, opinion, or statement for the
6 project study; or

7 (C) are required to make a determination
8 on issuing a permit, license, or other approval
9 or decision for the project study.

10 (3) INVITATION.—

11 (A) IN GENERAL.—The Federal lead agen-
12 cy shall invite, as early as practicable in the en-
13 vironmental review process, any agency identi-
14 fied under paragraph (1) to become a partici-
15 pating or cooperating agency, as applicable, in
16 the environmental review process for the project
17 study.

18 (B) DEADLINE.—An invitation to partici-
19 pate issued under subparagraph (A) shall set a
20 deadline by which a response to the invitation
21 shall be submitted, which may be extended by
22 the Federal lead agency for good cause.

23 (4) PROCEDURES.—Section 1501.6 of title 40,
24 Code of Federal Regulations (as in effect on the
25 date of enactment of the Bureau of Reclamation

1 Project Streamlining Act) shall govern the identi-
2 fication and the participation of a cooperating agen-
3 cy.

4 (5) FEDERAL COOPERATING AGENCIES.—Any
5 Federal agency that is invited by the Federal lead
6 agency to participate in the environmental review
7 process for a project study shall be designated as a
8 cooperating agency by the Federal lead agency un-
9 less the invited agency informs the Federal lead
10 agency, in writing, by the deadline specified in the
11 invitation that the invited agency—

12 (A)(i) has no jurisdiction or authority with
13 respect to the project;

14 (ii) has no expertise or information rel-
15 evant to the project; or

16 (iii) does not have adequate funds to par-
17 ticipate in the project; and

18 (B) does not intend to submit comments
19 on the project.

20 (6) ADMINISTRATION.—A participating or co-
21 operating agency shall comply with this section and
22 any schedule established under this section.

23 (7) EFFECT OF DESIGNATION.—Designation as
24 a participating or cooperating agency under this

1 subsection shall not imply that the participating or
2 cooperating agency—

3 (A) supports a proposed project; or

4 (B) has any jurisdiction over, or special ex-
5 pertise with respect to evaluation of, the
6 project.

7 (8) CONCURRENT REVIEWS.—Each partici-
8 pating or cooperating agency shall—

9 (A) carry out the obligations of that agen-
10 cy under other applicable law concurrently and
11 in conjunction with the required environmental
12 review process, unless doing so would prevent
13 the participating or cooperating agency from
14 conducting needed analysis or otherwise car-
15 rying out those obligations; and

16 (B) formulate and implement administra-
17 tive, policy, and procedural mechanisms to en-
18 able the agency to ensure completion of the en-
19 vironmental review process in a timely, coordi-
20 nated, and environmentally responsible manner.

21 (e) NON-FEDERAL PROJECTS INTEGRATED INTO
22 RECLAMATION SYSTEMS.—The Federal lead agency shall
23 serve in that capacity for the entirety of all non-Federal
24 projects that will be integrated into a larger system owned,

1 operated or administered in whole or in part by the Bu-
2 reau of Reclamation.

3 (f) NON-FEDERAL PROJECT.—If the Secretary deter-
4 mines that a project can be expedited by a non-Federal
5 sponsor and that there is a demonstrable Federal interest
6 in expediting that project, the Secretary shall take such
7 actions as are necessary to advance such a project as a
8 non-Federal project, including, but not limited to, entering
9 into agreements with the non-Federal sponsor of such
10 project to support the planning, design and permitting of
11 such project as a non-Federal project.

12 (g) PROGRAMMATIC COMPLIANCE.—

13 (1) IN GENERAL.—The Secretary shall issue
14 guidance regarding the use of programmatic ap-
15 proaches to carry out the environmental review proc-
16 ess that—

17 (A) eliminates repetitive discussions of the
18 same issues;

19 (B) focuses on the actual issues ripe for
20 analyses at each level of review;

21 (C) establishes a formal process for coordi-
22 nating with participating and cooperating agen-
23 cies, including the creation of a list of all data
24 that are needed to carry out an environmental
25 review process; and

1 (D) complies with—

2 (i) the National Environmental Policy
3 Act of 1969 (42 U.S.C. 4321 et seq.); and

4 (ii) all other applicable laws.

5 (2) REQUIREMENTS.—In carrying out para-
6 graph (1), the Secretary shall—

7 (A) as the first step in drafting guidance
8 under that paragraph, consult with relevant
9 Federal, State, and local governmental agen-
10 cies, Indian tribes, and the public on the appro-
11 priate use and scope of the programmatic ap-
12 proaches;

13 (B) emphasize the importance of collabora-
14 tion among relevant Federal, State, and local
15 governmental agencies, and Indian tribes in un-
16 dertaking programmatic reviews, especially with
17 respect to including reviews with a broad geo-
18 graphical scope;

19 (C) ensure that the programmatic re-
20 views—

21 (i) promote transparency, including of
22 the analyses and data used in the environ-
23 mental review process, the treatment of
24 any deferred issues raised by Federal,
25 State, and local governmental agencies, In-

1 dian tribes, or the public, and the temporal
2 and special scales to be used to analyze
3 those issues;

4 (ii) use accurate and timely informa-
5 tion in the environmental review process,
6 including—

7 (I) criteria for determining the
8 general duration of the usefulness of
9 the review; and

10 (II) the timeline for updating any
11 out-of-date review;

12 (iii) describe—

13 (I) the relationship between pro-
14 grammatic analysis and future tiered
15 analysis; and

16 (II) the role of the public in the
17 creation of future tiered analysis; and

18 (iv) are available to other relevant
19 Federal, State, and local governmental
20 agencies, Indian tribes, and the public;

21 (D) allow not fewer than 60 days of public
22 notice and comment on any proposed guidance;
23 and

24 (E) address any comments received under
25 subparagraph (D).

1 (h) COORDINATED REVIEWS.—

2 (1) COORDINATION PLAN.—

3 (A) ESTABLISHMENT.—The Federal lead
4 agency shall, after consultation with and with
5 the concurrence of each participating and co-
6 operating agency and the project sponsor or
7 joint lead agency, as applicable, establish a plan
8 for coordinating public and agency participation
9 in, and comment on, the environmental review
10 process for a project study or a category of
11 project studies.

12 (B) SCHEDULE.—

13 (i) IN GENERAL.—As soon as prac-
14 ticable but not later than 45 days after the
15 close of the public comment period on a
16 draft environmental impact statement, the
17 Federal lead agency, after consultation
18 with and the concurrence of each partici-
19 pating and cooperating agency and the
20 project sponsor or joint lead agency, as ap-
21 plicable, shall establish, as part of the co-
22 ordination plan established in subpara-
23 graph (A), a schedule for completion of the
24 environmental review process for the
25 project study.

1 (ii) FACTORS FOR CONSIDERATION.—

2 In establishing a schedule, the Secretary
3 shall consider factors such as—

4 (I) the responsibilities of partici-
5 pating and cooperating agencies under
6 applicable laws;

7 (II) the resources available to the
8 project sponsor, joint lead agency, and
9 other relevant Federal and State
10 agencies, as applicable;

11 (III) the overall size and com-
12 plexity of the project;

13 (IV) the overall schedule for and
14 cost of the project; and

15 (V) the sensitivity of the natural
16 and historical resources that could be
17 affected by the project.

18 (iii) MODIFICATIONS.—The Secretary
19 may—

20 (I) lengthen a schedule estab-
21 lished under clause (i) for good cause;
22 and

23 (II) shorten a schedule only with
24 concurrence of the affected partici-
25 pating and cooperating agencies and

1 the project sponsor or joint lead agen-
2 cy, as applicable.

3 (iv) DISSEMINATION.—A copy of a
4 schedule established under clause (i) shall
5 be—

6 (I) provided to each participating
7 and cooperating agency and the
8 project sponsor or joint lead agency,
9 as applicable; and

10 (II) made available to the public.

11 (2) COMMENT DEADLINES.—The Federal lead
12 agency shall establish the following deadlines for
13 comment during the environmental review process
14 for a project study:

15 (A) DRAFT ENVIRONMENTAL IMPACT
16 STATEMENTS.—For comments by Federal and
17 State agencies and the public on a draft envi-
18 ronmental impact statement, a period of not
19 more than 60 days after publication in the Fed-
20 eral Register of notice of the date of public
21 availability of the draft environmental impact
22 statement, unless—

23 (i) a different deadline is established
24 by agreement of the Federal lead agency,
25 the project sponsor or joint lead agency, as

1 applicable, and all participating and co-
2 operating agencies; or

3 (ii) the deadline is extended by the
4 Federal lead agency for good cause.

5 (B) OTHER ENVIRONMENTAL REVIEW
6 PROCESSES.—For all other comment periods es-
7 tablished by the Federal lead agency for agency
8 or public comments in the environmental review
9 process, a period of not more than 30 days
10 after the date on which the materials on which
11 comment is requested are made available, un-
12 less—

13 (i) a different deadline is established
14 by agreement of the Federal lead agency,
15 the project sponsor, or joint lead agency,
16 as applicable, and all participating and co-
17 operating agencies; or

18 (ii) the deadline is extended by the
19 Federal lead agency for good cause.

20 (3) DEADLINES FOR DECISIONS UNDER OTHER
21 LAWS.—In any case in which a decision under any
22 Federal law relating to a project study, including the
23 issuance or denial of a permit or license, is required
24 to be made by the date described in subsection
25 (i)(5)(B), the Secretary shall submit to the Com-

1 mittee on Natural Resources of the House of Rep-
2 resentatives and the Committee on Energy and Nat-
3 ural Resources of the Senate—

4 (A) as soon as practicable after the 180-
5 day period described in subsection (i)(5)(B), an
6 initial notice of the failure of the Federal agen-
7 cy to make the decision; and

8 (B) every 60 days thereafter until such
9 date as all decisions of the Federal agency re-
10 lating to the project study have been made by
11 the Federal agency, an additional notice that
12 describes the number of decisions of the Fed-
13 eral agency that remain outstanding as of the
14 date of the additional notice.

15 (4) INVOLVEMENT OF THE PUBLIC.—Nothing
16 in this subsection reduces any time period provided
17 for public comment in the environmental review
18 process under applicable Federal law (including reg-
19 ulations).

20 (5) TRANSPARENCY REPORTING.—

21 (A) REPORTING REQUIREMENTS.—Not
22 later than 1 year after the date of enactment of
23 this Act, the Secretary shall establish and main-
24 tain an electronic database and, in coordination
25 with other Federal and State agencies, issue re-

1 porting requirements to make publicly available
2 the status and progress with respect to compli-
3 ance with applicable requirements of the Na-
4 tional Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.) and any other Federal,
6 State, or local approval or action required for a
7 project study for which this section is applica-
8 ble.

9 (B) PROJECT STUDY TRANSPARENCY.—
10 Consistent with the requirements established
11 under subparagraph (A), the Secretary shall
12 make publicly available the status and progress
13 of any Federal, State, or local decision, action,
14 or approval required under applicable laws for
15 each project study for which this section is ap-
16 plicable.

17 (i) ISSUE IDENTIFICATION AND RESOLUTION.—

18 (1) COOPERATION.—The Federal lead agency,
19 the cooperating agencies, and any participating
20 agencies shall work cooperatively in accordance with
21 this section to identify and resolve issues that could
22 delay completion of the environmental review process
23 or result in the denial of any approval required for
24 the project study under applicable laws.

1 (2) FEDERAL LEAD AGENCY RESPONSIBIL-
2 ITIES.—

3 (A) IN GENERAL.—The Federal lead agen-
4 cy shall make information available to the co-
5 operating agencies and participating agencies as
6 early as practicable in the environmental review
7 process regarding the environmental and socio-
8 economic resources located within the project
9 area and the general locations of the alter-
10 natives under consideration.

11 (B) DATA SOURCES.—The information
12 under subparagraph (A) may be based on exist-
13 ing data sources, including geographic informa-
14 tion systems mapping.

15 (3) COOPERATING AND PARTICIPATING AGENCY
16 RESPONSIBILITIES.—Based on information received
17 from the Federal lead agency, cooperating and par-
18 ticipating agencies shall identify, as early as prac-
19 ticable, any issues of concern regarding the potential
20 environmental or socioeconomic impacts of the
21 project, including any issues that could substantially
22 delay or prevent an agency from granting a permit
23 or other approval that is needed for the project
24 study.

1 (4) ACCELERATED ISSUE RESOLUTION AND
2 ELEVATION.—

3 (A) IN GENERAL.—On the request of a
4 participating or cooperating agency or project
5 sponsor, the Secretary shall convene an issue
6 resolution meeting with the relevant partici-
7 pating and cooperating agencies and the project
8 sponsor or joint lead agency, as applicable, to
9 resolve issues that may—

10 (i) delay completion of the environ-
11 mental review process; or

12 (ii) result in denial of any approval re-
13 quired for the project study under applica-
14 ble laws.

15 (B) MEETING DATE.—A meeting requested
16 under this paragraph shall be held not later
17 than 21 days after the date on which the Sec-
18 retary receives the request for the meeting, un-
19 less the Secretary determines that there is good
20 cause to extend that deadline.

21 (C) NOTIFICATION.—On receipt of a re-
22 quest for a meeting under this paragraph, the
23 Secretary shall notify all relevant participating
24 and cooperating agencies of the request, includ-

1 ing the issue to be resolved and the date for the
2 meeting.

3 (D) ELEVATION OF ISSUE RESOLUTION.—

4 If a resolution cannot be achieved within the
5 30-day period beginning on the date of a meet-
6 ing under this paragraph and a determination
7 is made by the Secretary that all information
8 necessary to resolve the issue has been ob-
9 tained, the Secretary shall forward the dispute
10 to the heads of the relevant agencies for resolu-
11 tion.

12 (E) CONVENTION BY SECRETARY.—The
13 Secretary may convene an issue resolution
14 meeting under this paragraph at any time, at
15 the discretion of the Secretary, regardless of
16 whether a meeting is requested under subpara-
17 graph (A).

18 (5) FINANCIAL PENALTY PROVISIONS.—

19 (A) IN GENERAL.—A Federal jurisdictional
20 agency shall complete any required approval or
21 decision for the environmental review process
22 on an expeditious basis using the shortest exist-
23 ing applicable process.

24 (B) FAILURE TO DECIDE.—

25 (i) IN GENERAL.—

1 (I) TRANSFER OF FUNDS.—If a
2 Federal jurisdictional agency fails to
3 render a decision required under any
4 Federal law relating to a project study
5 that requires the preparation of an
6 environmental impact statement or
7 environmental assessment, including
8 the issuance or denial of a permit, li-
9 cense, statement, opinion, or other ap-
10 proval by the date described in clause
11 (ii), the amount of funds made avail-
12 able to support the office of the head
13 of the Federal jurisdictional agency
14 shall be reduced by an amount of
15 funding equal to the amount specified
16 in item (aa) or (bb) of subclause (II),
17 and those funds shall be made avail-
18 able to the division of the Federal ju-
19 risdictional agency charged with ren-
20 dering the decision by not later than
21 1 day after the applicable date under
22 clause (ii), and once each week there-
23 after until a final decision is rendered,
24 subject to subparagraph (C).

1 (II) AMOUNT TO BE TRANS-
2 FERRED.—The amount referred to in
3 subclause (I) is—

4 (aa) \$20,000 for any project
5 study requiring the preparation
6 of an environmental assessment
7 or environmental impact state-
8 ment; or

9 (bb) \$10,000 for any project
10 study requiring any type of re-
11 view under the National Environ-
12 mental Policy Act of 1969 (42
13 U.S.C. 4321 et seq.) other than
14 an environmental assessment or
15 environmental impact statement.

16 (ii) DESCRIPTION OF DATE.—The
17 date referred to in clause (i) is the later
18 of—

19 (I) the date that is 180 days
20 after the date on which an application
21 for the permit, license, or approval is
22 complete; and

23 (II) the date that is 180 days
24 after the date on which the Federal
25 lead agency issues a decision on the

1 project under the National Environ-
2 mental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.).

4 (C) LIMITATIONS.—

5 (i) IN GENERAL.—No transfer of
6 funds under subparagraph (B) relating to
7 an individual project study shall exceed, in
8 any fiscal year, an amount equal to 1 per-
9 cent of the funds made available for the
10 applicable agency office.

11 (ii) FAILURE TO DECIDE.—The total
12 amount transferred in a fiscal year as a re-
13 sult of a failure by an agency to make a
14 decision by an applicable deadline shall not
15 exceed an amount equal to 5 percent of the
16 funds made available for the applicable
17 agency office for that fiscal year.

18 (iii) AGGREGATE.—Notwithstanding
19 any other provision of law, for each fiscal
20 year, the aggregate amount of financial
21 penalties assessed against each applicable
22 agency office under this Act and any other
23 Federal law as a result of a failure of the
24 agency to make a decision by an applicable
25 deadline for environmental review, includ-

1 ing the total amount transferred under this
2 paragraph, shall not exceed an amount
3 equal to 9.5 percent of the funds made
4 available for the agency office for that fis-
5 cal year.

6 (D) NOTIFICATION OF TRANSFERS.—Not
7 later than 10 days after the last date in a fiscal
8 year on which funds of the Federal jurisdic-
9 tional agency may be transferred under sub-
10 paragraph (B)(5) with respect to an individual
11 decision, the agency shall submit to the appro-
12 priate committees of the House of Representa-
13 tives and the Senate written notification that
14 includes a description of—

- 15 (i) the decision;
- 16 (ii) the project study involved;
- 17 (iii) the amount of each transfer
18 under subparagraph (B) in that fiscal year
19 relating to the decision;
- 20 (iv) the total amount of all transfers
21 under subparagraph (B) in that fiscal year
22 relating to the decision; and
- 23 (v) the total amount of all transfers of
24 the agency under subparagraph (B) in that
25 fiscal year.

1 (E) NO FAULT OF AGENCY.—

2 (i) IN GENERAL.—A transfer of funds
3 under this paragraph shall not be made if
4 the applicable agency described in subpara-
5 graph (A) notifies, with a supporting ex-
6 planation, the Federal lead agency, cooper-
7 ating agencies, and project sponsor, as ap-
8 plicable, that—

9 (I) the agency has not received
10 necessary information or approvals
11 from another entity in a manner that
12 affects the ability of the agency to
13 meet any requirements under Federal,
14 State, or local law;

15 (II) significant new information,
16 including from public comments, or
17 circumstances, including a major
18 modification to an aspect of the
19 project, requires additional analysis
20 for the agency to make a decision on
21 the project application; or

22 (III) the agency lacks the finan-
23 cial resources to complete the review
24 under the scheduled timeframe, in-
25 cluding a description of the number of

1 full-time employees required to com-
2 plete the review, the amount of fund-
3 ing required to complete the review,
4 and a justification as to why not
5 enough funding is available to com-
6 plete the review by the deadline.

7 (ii) LACK OF FINANCIAL RE-
8 SOURCES.—If the agency provides notice
9 under clause (i)(III), the Inspector General
10 of the agency shall—

11 (I) conduct a financial audit to
12 review the notice; and

13 (II) not later than 90 days after
14 the date on which the review described
15 in subclause (I) is completed, submit
16 to the Committee on Natural Re-
17 sources of the House of Representa-
18 tives and the Committee on Energy
19 and Natural Resources of the Senate
20 the results of the audit conducted
21 under subclause (I).

22 (F) LIMITATION.—The Federal agency
23 from which funds are transferred pursuant to
24 this paragraph shall not reprogram funds to the
25 office of the head of the agency, or equivalent

1 office, to reimburse that office for the loss of
2 the funds.

3 (G) EFFECT OF PARAGRAPH.—Nothing in
4 this paragraph affects or limits the application
5 of, or obligation to comply with, any Federal,
6 State, local, or tribal law.

7 (j) MEMORANDUM OF AGREEMENTS FOR EARLY CO-
8 ORDINATION.—

9 (1) SENSE OF CONGRESS.—It is the sense of
10 Congress that—

11 (A) the Secretary and other Federal agen-
12 cies with relevant jurisdiction in the environ-
13 mental review process should cooperate with
14 each other, State and local agencies, and Indian
15 tribes on environmental review and Bureau of
16 Reclamation project delivery activities at the
17 earliest practicable time to avoid delays and du-
18 plication of effort later in the process, prevent
19 potential conflicts, and ensure that planning
20 and project development decisions reflect envi-
21 ronmental values; and

22 (B) the cooperation referred to in subpara-
23 graph (A) should include the development of
24 policies and the designation of staff that advise
25 planning agencies and project sponsors of stud-

1 ies or other information foreseeably required for
2 later Federal action and early consultation with
3 appropriate State and local agencies and Indian
4 tribes.

5 (2) TECHNICAL ASSISTANCE.—If requested at
6 any time by a State or project sponsor, the Sec-
7 retary and other Federal agencies with relevant ju-
8 risdiction in the environmental review process, shall,
9 to the maximum extent practicable and appropriate,
10 as determined by the agencies, provide technical as-
11 sistance to the State or project sponsor in carrying
12 out early coordination activities.

13 (3) MEMORANDUM OF AGENCY AGREEMENT.—
14 If requested at any time by a State or project spon-
15 sor, the Federal lead agency, in consultation with
16 other Federal agencies with relevant jurisdiction in
17 the environmental review process, may establish
18 memoranda of agreement with the project sponsor,
19 Indian tribes, State and local governments, and
20 other appropriate entities to carry out the early co-
21 ordination activities, including providing technical
22 assistance in identifying potential impacts and miti-
23 gation issues in an integrated fashion.

24 (k) LIMITATIONS.—Nothing in this section preempts
25 or interferes with—

1 (1) any obligation to comply with the provisions
2 of any Federal law, including—

3 (A) the National Environmental Policy Act
4 of 1969 (42 U.S.C. 4321 et seq.); and

5 (B) any other Federal environmental law;

6 (2) the reviewability of any final Federal agency
7 action in a court of the United States or in the court
8 of any State;

9 (3) any requirement for seeking, considering, or
10 responding to public comment; or

11 (4) any power, jurisdiction, responsibility, duty,
12 or authority that a Federal, State, or local govern-
13 mental agency, Indian tribe, or project sponsor has
14 with respect to carrying out a project or any other
15 provision of law applicable to projects.

16 (l) TIMING OF CLAIMS.—

17 (1) TIMING.—

18 (A) IN GENERAL.—Notwithstanding any
19 other provision of law, a claim arising under
20 Federal law seeking judicial review of a permit,
21 license, or other approval issued by a Federal
22 agency for a project study shall be barred un-
23 less the claim is filed not later than 3 years
24 after publication of a notice in the Federal Reg-
25 ister announcing that the permit, license, or

1 other approval is final pursuant to the law
2 under which the agency action is taken, unless
3 a shorter time is specified in the Federal law
4 that allows judicial review.

5 (B) APPLICABILITY.—Nothing in this sub-
6 section creates a right to judicial review or
7 places any limit on filing a claim that a person
8 has violated the terms of a permit, license, or
9 other approval.

10 (2) NEW INFORMATION.—

11 (A) IN GENERAL.—The Secretary shall
12 consider new information received after the
13 close of a comment period if the information
14 satisfies the requirements for a supplemental
15 environmental impact statement under title 40,
16 Code of Federal Regulations (including suc-
17 cessor regulations).

18 (B) SEPARATE ACTION.—The preparation
19 of a supplemental environmental impact state-
20 ment or other environmental document, if re-
21 quired under this section, shall be considered a
22 separate final agency action and the deadline
23 for filing a claim for judicial review of the ac-
24 tion shall be 3 years after the date of publica-
25 tion of a notice in the Federal Register an-

1 nouncing the action relating to such supple-
2 mental environmental impact statement or
3 other environmental document.

4 (m) CATEGORICAL EXCLUSIONS.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of this Act, the Sec-
7 retary shall—

8 (A) survey the use by the Bureau of Rec-
9 lamation of categorical exclusions in projects
10 since 2005;

11 (B) publish a review of the survey that in-
12 cludes a description of—

13 (i) the types of actions that were cat-
14 egorically excluded or could be the basis
15 for developing a new categorical exclusion;
16 and

17 (ii) any requests previously received
18 by the Secretary for new categorical exclu-
19 sions; and

20 (C) solicit requests from other Federal
21 agencies and project sponsors for new categor-
22 ical exclusions.

23 (2) NEW CATEGORICAL EXCLUSIONS.—Not
24 later than 1 year after the date of enactment of this
25 Act, if the Secretary has identified a category of ac-

1 activities that merit establishing a categorical exclusion
2 that did not exist on the day before the date of en-
3 actment this Act based on the review under para-
4 graph (1), the Secretary shall publish a notice of
5 proposed rulemaking to propose that new categorical
6 exclusion, to the extent that the categorical exclusion
7 meets the criteria for a categorical exclusion under
8 section 1508.4 of title 40, Code of Federal Regula-
9 tions (or successor regulation).

10 (n) REVIEW OF PROJECT ACCELERATION RE-
11 FORMS.—

12 (1) IN GENERAL.—The Comptroller General of
13 the United States shall—

14 (A) assess the reforms carried out under
15 this section; and

16 (B) not later than 5 years and not later
17 than 10 years after the date of enactment of
18 this Act, submit to the Committee on Natural
19 Resources of the House of Representatives and
20 the Committee on Energy and Natural Re-
21 sources of the Senate a report that describes
22 the results of the assessment.

23 (2) CONTENTS.—The reports under paragraph
24 (1) shall include an evaluation of impacts of the re-
25 forms carried out under this section on—

- 1 (A) project delivery;
- 2 (B) compliance with environmental laws;
- 3 and
- 4 (C) the environmental impact of projects.

5 (o) PERFORMANCE MEASUREMENT.—The Secretary

6 shall establish a program to measure and report on

7 progress made toward improving and expediting the plan-

8 ning and environmental review process.

9 (p) CATEGORICAL EXCLUSIONS IN EMERGENCIES.—

10 For the repair, reconstruction, or rehabilitation of a Bu-

11 reau of Reclamation surface water storage project that is

12 in operation or under construction when damaged by an

13 event or incident that results in a declaration by the Presi-

14 dent of a major disaster or emergency pursuant to the

15 Robert T. Stafford Disaster Relief and Emergency Assist-

16 ance Act (42 U.S.C. 5121 et seq.), the Secretary shall

17 treat such repair, reconstruction, or rehabilitation activity

18 as a class of action categorically excluded from the re-

19 quirements relating to environmental assessments or envi-

20 ronmental impact statements under section 1508.4 of title

21 40, Code of Federal Regulations (or successor regula-

22 tions), if the repair or reconstruction activity is—

- 23 (1) in the same location with the same capacity,
- 24 dimensions, and design as the original Bureau of

1 Reclamation surface water storage project as before
2 the declaration described in this section; and

3 (2) commenced within a 2-year period begin-
4 ning on the date of a declaration described in this
5 subsection.

6 **SEC. 1106. ANNUAL REPORT TO CONGRESS.**

7 (a) IN GENERAL.—Not later than February 1 of each
8 year, the Secretary shall develop and submit to the Com-
9 mittee on Natural Resources of the House of Representa-
10 tives and the Committee on Energy and Natural Re-
11 sources of the Senate an annual report, to be entitled “Re-
12 port to Congress on Future Water Project Development”,
13 that identifies the following:

14 (1) PROJECT REPORTS.—Each project report
15 that meets the criteria established in subsection
16 (c)(1)(A).

17 (2) PROPOSED PROJECT STUDIES.—Any pro-
18 posed project study submitted to the Secretary by a
19 non-Federal interest pursuant to subsection (b) that
20 meets the criteria established in subsection
21 (c)(1)(A).

22 (3) PROPOSED MODIFICATIONS.—Any proposed
23 modification to an authorized water project or
24 project study that meets the criteria established in
25 subsection (c)(1)(A) that—

1 (A) is submitted to the Secretary by a non-
2 Federal interest pursuant to subsection (b); or
3 (B) is identified by the Secretary for au-
4 thorization.

5 (4) EXPEDITED COMPLETION OF REPORT AND
6 DETERMINATIONS.—Any project study that was ex-
7 pedited and any Secretarial determinations under
8 section 1104.

9 (b) REQUESTS FOR PROPOSALS.—

10 (1) PUBLICATION.—Not later than May 1 of
11 each year, the Secretary shall publish in the Federal
12 Register a notice requesting proposals from non-
13 Federal interests for proposed project studies and
14 proposed modifications to authorized projects and
15 project studies to be included in the annual report.

16 (2) DEADLINE FOR REQUESTS.—The Secretary
17 shall include in each notice required by this sub-
18 section a requirement that non-Federal interests
19 submit to the Secretary any proposals described in
20 paragraph (1) by not later than 120 days after the
21 date of publication of the notice in the Federal Reg-
22 ister in order for the proposals to be considered for
23 inclusion in the annual report.

1 (3) NOTIFICATION.—On the date of publication
2 of each notice required by this subsection, the Sec-
3 retary shall—

4 (A) make the notice publicly available, in-
5 cluding on the Internet; and

6 (B) provide written notification of the pub-
7 lication to the Committee on Natural Resources
8 of the House of Representatives and the Com-
9 mittee on Energy and Natural Resources of the
10 Senate.

11 (c) CONTENTS.—

12 (1) PROJECT REPORTS, PROPOSED PROJECT
13 STUDIES, AND PROPOSED MODIFICATIONS.—

14 (A) CRITERIA FOR INCLUSION IN RE-
15 PORT.—The Secretary shall include in the an-
16 nual report only those project reports, proposed
17 project studies, and proposed modifications to
18 authorized projects and project studies that—

19 (i) are related to the missions and au-
20 thorities of the Bureau of Reclamation;

21 (ii) require specific congressional au-
22 thorization, including by an Act of Con-
23 gress;

24 (iii) have not been congressionally au-
25 thorized;

1 (iv) have not been included in any
2 previous annual report; and

3 (v) if authorized, could be carried out
4 by the Bureau of Reclamation.

5 (B) DESCRIPTION OF BENEFITS.—

6 (i) DESCRIPTION.—The Secretary
7 shall describe in the annual report, to the
8 extent applicable and practicable, for each
9 proposed project study and proposed modi-
10 fication to an authorized water resources
11 development project or project study in-
12 cluded in the annual report, the benefits,
13 as described in clause (ii), of each such
14 study or proposed modification.

15 (ii) BENEFITS.—The benefits (or ex-
16 pected benefits, in the case of a proposed
17 project study) described in this clause are
18 benefits to—

19 (I) the protection of human life
20 and property;

21 (II) improvement to domestic ir-
22 rigated water and power supplies;

23 (III) the national economy;

24 (IV) the environment; or

1 (V) the national security inter-
2 ests of the United States.

3 (C) IDENTIFICATION OF OTHER FAC-
4 TORS.—The Secretary shall identify in the an-
5 nual report, to the extent practicable—

6 (i) for each proposed project study in-
7 cluded in the annual report, the non-Fed-
8 eral interest that submitted the proposed
9 project study pursuant to subsection (b);
10 and

11 (ii) for each proposed project study
12 and proposed modification to a project or
13 project study included in the annual re-
14 port, whether the non-Federal interest has
15 demonstrated—

16 (I) that local support exists for
17 the proposed project study or pro-
18 posed modification to an authorized
19 project or project study (including the
20 surface water storage development
21 project that is the subject of the pro-
22 posed feasibility study or the proposed
23 modification to an authorized project
24 study); and

1 (II) the financial ability to pro-
2 vide the required non-Federal cost
3 share.

4 (2) TRANSPARENCY.—The Secretary shall in-
5 clude in the annual report, for each project report,
6 proposed project study, and proposed modification to
7 a project or project study included under paragraph
8 (1)(A)—

9 (A) the name of the associated non-Fed-
10 eral interest, including the name of any non-
11 Federal interest that has contributed, or is ex-
12 pected to contribute, a non-Federal share of the
13 cost of—

14 (i) the project report;

15 (ii) the proposed project study;

16 (iii) the authorized project study for
17 which the modification is proposed; or

18 (iv) construction of—

19 (I) the project that is the subject
20 of—

21 (aa) the water report;

22 (bb) the proposed project
23 study; or

1 (cc) the authorized project
2 study for which a modification is
3 proposed; or

4 (II) the proposed modification to
5 a project;

6 (B) a letter or statement of support for the
7 water report, proposed project study, or pro-
8 posed modification to a project or project study
9 from each associated non-Federal interest;

10 (C) the purpose of the feasibility report,
11 proposed feasibility study, or proposed modi-
12 fication to a project or project study;

13 (D) an estimate, to the extent practicable,
14 of the Federal, non-Federal, and total costs
15 of—

16 (i) the proposed modification to an
17 authorized project study; and

18 (ii) construction of—

19 (I) the project that is the subject
20 of—

21 (aa) the project report; or

22 (bb) the authorized project
23 study for which a modification is
24 proposed, with respect to the

1 change in costs resulting from
2 such modification; or

3 (II) the proposed modification to
4 an authorized project; and

5 (E) an estimate, to the extent practicable,
6 of the monetary and nonmonetary benefits of—

7 (i) the project that is the subject of—

8 (I) the project report; or

9 (II) the authorized project study
10 for which a modification is proposed,
11 with respect to the benefits of such
12 modification; or

13 (ii) the proposed modification to an
14 authorized project.

15 (3) CERTIFICATION.—The Secretary shall in-
16 clude in the annual report a certification stating
17 that each feasibility report, proposed feasibility
18 study, and proposed modification to a project or
19 project study included in the annual report meets
20 the criteria established in paragraph (1)(A).

21 (4) APPENDIX.—The Secretary shall include in
22 the annual report an appendix listing the proposals
23 submitted under subsection (b) that were not in-
24 cluded in the annual report under paragraph (1)(A)
25 and a description of why the Secretary determined

1 that those proposals did not meet the criteria for in-
2 clusion under such paragraph.

3 (d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—

4 Notwithstanding any other deadlines required by this sec-
5 tion, the Secretary shall—

6 (1) not later than 60 days after the date of en-
7 actment of this Act, publish in the Federal Register
8 a notice required by subsection (b)(1); and

9 (2) include in such notice a requirement that
10 non-Federal interests submit to the Secretary any
11 proposals described in subsection (b)(1) by not later
12 than 120 days after the date of publication of such
13 notice in the Federal Register in order for such pro-
14 posals to be considered for inclusion in the first an-
15 nual report developed by the Secretary under this
16 section.

17 (e) PUBLICATION.—Upon submission of an annual
18 report to Congress, the Secretary shall make the annual
19 report publicly available, including through publication on
20 the Internet.

21 (f) DEFINITION.—In this section, the term “project
22 report” means a final feasibility report developed under
23 the Reclamation Act of 1902 (32 Stat. 388), and all Acts
24 amendatory thereof or supplementary thereto.

1 **Subtitle I—Accelerated Revenue,**
2 **Repayment, and Surface Water**
3 **Storage Enhancement**

4 **SEC. 1111. SHORT TITLE.**

5 This subtitle may be cited as the “Accelerated Rev-
6 enue, Repayment, and Surface Water Storage Enhance-
7 ment Act”.

8 **SEC. 1112. PREPAYMENT OF CERTAIN REPAYMENT CON-**
9 **TRACTS BETWEEN THE UNITED STATES AND**
10 **CONTRACTORS OF FEDERALLY DEVELOPED**
11 **WATER SUPPLIES.**

12 (a) **CONVERSION AND PREPAYMENT OF CON-**
13 **TRACTS.—**

14 (1) **CONVERSION.**—Upon request of the con-
15 tractor, the Secretary of the Interior shall convert
16 any water service contract in effect on the date of
17 enactment of this Act and between the United
18 States and a water users’ association to allow for
19 prepayment of the repayment contract pursuant to
20 paragraph (2) under mutually agreeable terms and
21 conditions. The manner of conversion under this
22 paragraph shall be as follows:

23 (A) Water service contracts that were en-
24 tered into under section 9(e) of the Act of Au-
25 gust 4, 1939 (53 Stat. 1196), to be converted

1 under this section shall be converted to repay-
2 ment contracts under section 9(d) of that Act
3 (53 Stat. 1195).

4 (B) Water service contracts that were en-
5 tered under subsection (c)(2) of section 9 of the
6 Act of August 4, 1939 (53 Stat. 1194), to be
7 converted under this section shall be converted
8 to a contract under subsection (c)(1) of section
9 9 of that Act (53 Stat. 1195).

10 (2) PREPAYMENT.—Except for those repayment
11 contracts under which the contractor has previously
12 negotiated for prepayment, all repayment contracts
13 under section 9(d) of that Act (53 Stat. 1195) in ef-
14 fect on the date of enactment of this Act at the re-
15 quest of the contractor, and all contracts converted
16 pursuant to paragraph (1)(A) shall—

17 (A) provide for the repayment, either in
18 lump sum or by accelerated prepayment, of the
19 remaining construction costs identified in water
20 project specific irrigation rate repayment sched-
21 ules, as adjusted to reflect payment not re-
22 flected in such schedule, and properly assign-
23 able for ultimate return by the contractor, or if
24 made in approximately equal installments, no
25 later than 3 years after the effective date of the

1 repayment contract, such amount to be dis-
2 counted by $\frac{1}{2}$ the Treasury rate. An estimate
3 of the remaining construction costs, as ad-
4 justed, shall be provided by the Secretary to the
5 contractor no later than 90 days following re-
6 ceipt of request of the contractor;

7 (B) require that construction costs or
8 other capitalized costs incurred after the effec-
9 tive date of the contract or not reflected in the
10 rate schedule referenced in subparagraph (A),
11 and properly assignable to such contractor shall
12 be repaid in not more than 5 years after notifi-
13 cation of the allocation if such amount is a re-
14 sult of a collective annual allocation of capital
15 costs to the contractors exercising contract con-
16 versation under this subsection of less than
17 \$5,000,000. If such amount is \$5,000,000 or
18 greater, such cost shall be repaid as provided by
19 applicable reclamation law;

20 (C) provide that power revenues will not be
21 available to aid in repayment of construction
22 costs allocated to irrigation under the contract;
23 and

24 (D) continue so long as the contractor
25 pays applicable charges, consistent with section

1 9(d) of the Act of August 4, 1939 (53 Stat.
2 1195), and applicable law.

3 (3) CONTRACT REQUIREMENTS.—Except for
4 those repayment contracts under which the con-
5 tractor has previously negotiated for prepayment,
6 the following shall apply with regard to all repay-
7 ment contracts under subsection (c)(1) of section 9
8 of that Act (53 Stat. 1195) in effect on the date of
9 enactment of this Act at the request of the con-
10 tractor, and all contracts converted pursuant to
11 paragraph (1)(B):

12 (A) Provide for the repayment in lump
13 sum of the remaining construction costs identi-
14 fied in water project specific municipal and in-
15 dustrial rate repayment schedules, as adjusted
16 to reflect payments not reflected in such sched-
17 ule, and properly assignable for ultimate return
18 by the contractor. An estimate of the remaining
19 construction costs, as adjusted, shall be pro-
20 vided by the Secretary to the contractor no
21 later than 90 days after receipt of request of
22 contractor.

23 (B) The contract shall require that con-
24 struction costs or other capitalized costs in-
25 curred after the effective date of the contract or

1 not reflected in the rate schedule referenced in
2 subparagraph (A), and properly assignable to
3 such contractor, shall be repaid in not more
4 than 5 years after notification of the allocation
5 if such amount is a result of a collective annual
6 allocation of capital costs to the contractors ex-
7 ercising contract conversation under this sub-
8 section of less than \$5,000,000. If such amount
9 is \$5,000,000 or greater, such cost shall be re-
10 paid as provided by applicable reclamation law.

11 (C) Continue so long as the contractor
12 pays applicable charges, consistent with section
13 9(e)(1) of the Act of August 4, 1939 (53 Stat.
14 1195), and applicable law.

15 (4) CONDITIONS.—All contracts entered into
16 pursuant to paragraphs (1), (2), and (3) shall—

17 (A) not be adjusted on the basis of the
18 type of prepayment financing used by the water
19 users' association;

20 (B) conform to any other agreements, such
21 as applicable settlement agreements and new
22 constructed appurtenant facilities; and

23 (C) not modify other water service, repay-
24 ment, exchange and transfer contractual rights
25 between the water users' association, and the

1 Bureau of Reclamation, or any rights, obliga-
2 tions, or relationships of the water users' asso-
3 ciation and their landowners as provided under
4 State law.

5 (b) ACCOUNTING.—The amounts paid pursuant to
6 subsection (a) shall be subject to adjustment following a
7 final cost allocation by the Secretary of the Interior. In
8 the event that the final cost allocation indicates that the
9 costs properly assignable to the contractor are greater
10 than what has been paid by the contractor, the contractor
11 shall be obligated to pay the remaining allocated costs.
12 The term of such additional repayment contract shall be
13 not less than one year and not more than 10 years, how-
14 ever, mutually agreeable provisions regarding the rate of
15 repayment of such amount may be developed by the par-
16 ties. In the event that the final cost allocation indicates
17 that the costs properly assignable to the contractor are
18 less than what the contractor has paid, the Secretary shall
19 credit such overpayment as an offset against any out-
20 standing or future obligation of the contractor.

21 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

22 (1) EFFECT OF EXISTING LAW.—Upon a con-
23 tractor's compliance with and discharge of the obli-
24 gation of repayment of the construction costs pursu-
25 ant to a contract entered into pursuant to subsection

1 (a)(2)(A), subsections (a) and (b) of section 213 of
2 the Reclamation Reform Act of 1982 (96 Stat.
3 1269) shall apply to affected lands.

4 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
5 ligation of a contractor to repay construction costs
6 or other capitalized costs described in subsection
7 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-
8 tractor's status as having repaid all of the construc-
9 tion costs assignable to the contractor or the appli-
10 cability of subsections (a) and (b) of section 213 of
11 the Reclamation Reform Act of 1982 (96 Stat.
12 1269) once the amount required to be paid by the
13 contractor under the repayment contract entered
14 into pursuant to subsection (a)(2)(A) have been
15 paid.

16 (d) EFFECT ON EXISTING LAW NOT ALTERED.—Im-
17 plementation of the provisions of this subtitle shall not
18 alter—

19 (1) the repayment obligation of any water serv-
20 ice or repayment contractor receiving water from the
21 same water project, or shift any costs that would
22 otherwise have been properly assignable to the water
23 users' association identified in subsections (a)(1),
24 (a)(2), and (a)(3) absent this section, including op-
25 eration and maintenance costs, construction costs, or

1 other capitalized costs incurred after the date of the
2 enactment of this Act, or to other contractors; and

3 (2) specific requirements for the disposition of
4 amounts received as repayments by the Secretary
5 under the Act of June 17, 1902 (32 Stat. 388, chap-
6 ter 1093), and Acts supplemental to and amend-
7 atory of that Act (43 U.S.C. 371 et seq.).

8 (e) SURFACE WATER STORAGE ENHANCEMENT PRO-
9 GRAM.—

10 (1) IN GENERAL.—Except as provided in sub-
11 section (d)(2), three years following the date of en-
12 actment of this Act, 50 percent of receipts generated
13 from prepayment of contracts under this section be-
14 yond amounts necessary to cover the amount of re-
15 ceipts forgone from scheduled payments under cur-
16 rent law for the 10-year period following the date of
17 enactment of this Act shall be directed to the Rec-
18 lamation Surface Water Storage Account under
19 paragraph (2).

20 (2) SURFACE STORAGE ACCOUNT.—The Sec-
21 retary shall allocate amounts collected under para-
22 graph (1) into the “Reclamation Surface Storage
23 Account” to fund the construction of surface water
24 storage. The Secretary may also enter into coopera-
25 tive agreements with water users’ associations for

1 the construction of surface water storage and
2 amounts within the Surface Storage Account may be
3 used to fund such construction. Surface water stor-
4 age projects that are otherwise not federally author-
5 ized shall not be considered Federal facilities as a
6 result of any amounts allocated from the Surface
7 Storage Account for part or all of such facilities.

8 (3) REPAYMENT.—Amounts used for surface
9 water storage construction from the Account shall be
10 fully reimbursed to the Account consistent with the
11 requirements under Federal reclamation law (the
12 law (the Act of June 17, 1902 (32 Stat. 388, chap-
13 ter 1093))), and Acts supplemental to and amend-
14 atory of that Act (43 U.S.C. 371 et seq.) except that
15 all funds reimbursed shall be deposited in the Ac-
16 count established under paragraph (2).

17 (4) AVAILABILITY OF AMOUNTS.—Amounts de-
18 posited in the Account under this subsection shall—

19 (A) be made available in accordance with
20 this section, subject to appropriation; and

21 (B) be in addition to amounts appropriated
22 for such purposes under any other provision of
23 law.

1 (5) PURPOSES OF SURFACE WATER STORAGE.—

2 Construction of surface water storage under this sec-
3 tion shall be made for the following purposes:

4 (A) Increased municipal and industrial
5 water supply.

6 (B) Agricultural floodwater, erosion, and
7 sedimentation reduction.

8 (C) Agricultural drainage improvements.

9 (D) Agricultural irrigation.

10 (E) Increased recreation opportunities.

11 (F) Reduced adverse impacts to fish and
12 wildlife from water storage or diversion projects
13 within watersheds associated with water storage
14 projects funded under this section.

15 (G) Any other purposes consistent with
16 reclamation laws or other Federal law.

17 (f) DEFINITIONS.—For the purposes of this subtitle,
18 the following definitions apply:

19 (1) ACCOUNT.—The term “Account” means the
20 Reclamation Surface Water Storage Account estab-
21 lished under subsection (e)(2).

22 (2) CONSTRUCTION.—The term “construction”
23 means the designing, materials engineering and test-
24 ing, surveying, and building of surface water storage
25 including additions to existing surface water storage

1 and construction of new surface water storage facili-
2 ties, exclusive of any Federal statutory or regulatory
3 obligations relating to any permit, review, approval,
4 or other such requirement.

5 (3) SURFACE WATER STORAGE.—The term
6 “surface water storage” means any federally owned
7 facility under the jurisdiction of the Bureau of Rec-
8 lamation or any non-Federal facility used for the
9 surface storage and supply of water resources.

10 (4) TREASURY RATE.—The term “Treasury
11 rate” means the 20-year Constant Maturity Treas-
12 ury (CMT) rate published by the United States De-
13 partment of the Treasury existing on the effective
14 date of the contract.

15 (5) WATER USERS’ ASSOCIATION.—The term
16 “water users’ association” means—

17 (A) an entity organized and recognized
18 under State laws that is eligible to enter into
19 contracts with reclamation to receive contract
20 water for delivery to and users of the water and
21 to pay applicable charges; and

22 (B) includes a variety of entities with dif-
23 ferent names and differing functions, such as
24 associations, conservatory district, irrigation

1 district, municipality, and water project con-
2 tract unit.

3 **Subtitle J—Safety of Dams**

4 **SEC. 1121. AUTHORIZATION OF ADDITIONAL PROJECT BEN-** 5 **EFITS.**

6 The Reclamation Safety of Dams Act of 1978 is
7 amended—

8 (1) in section 3, by striking “Construction” and
9 inserting “Except as provided in section 5B, con-
10 struction”; and

11 (2) by inserting after section 5A (43 U.S.C.
12 509) the following:

13 **“SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BEN-** 14 **EFITS.**

15 “Notwithstanding section 3, if the Secretary deter-
16 mines that additional project benefits, including but not
17 limited to additional conservation storage capacity, are
18 feasible and not inconsistent with the purposes of this Act,
19 the Secretary is authorized to develop additional project
20 benefits through the construction of new or supplementary
21 works on a project in conjunction with the Secretary’s ac-
22 tivities under section 2 of this Act and subject to the con-
23 ditions described in the feasibility study, provided—

24 “(1) the Secretary determines that developing
25 additional project benefits through the construction

1 of new or supplementary works on a project will pro-
2 mote more efficient management of water and
3 water-related facilities;

4 “(2) the feasibility study pertaining to addi-
5 tional project benefits has been authorized pursuant
6 to section 8 of the Federal Water Project Recreation
7 Act of 1965 (16 U.S.C. 4601–18); and

8 “(3) the costs associated with developing the
9 additional project benefits are agreed to in writing
10 between the Secretary and project proponents and
11 shall be allocated to the authorized purposes of the
12 structure and repaid consistent with all provisions of
13 Federal Reclamation law (the Act of June 17, 1902,
14 43 U.S.C. 371 et seq.) and Acts supplemental to
15 and amendatory of that Act.”.

16 **Subtitle K—Water Rights** 17 **Protection**

18 **SEC. 1131. SHORT TITLE.**

19 This subtitle may be cited as the “Water Rights Pro-
20 tection Act”.

21 **SEC. 1132. DEFINITION OF WATER RIGHT.**

22 In this subtitle, the term “water right” means any
23 surface or groundwater right filed, permitted, certified,
24 confirmed, decreed, adjudicated, or otherwise recognized
25 by a judicial proceeding or by the State in which the user

1 acquires possession of the water or puts the water to bene-
2 ficial use, including water rights for federally recognized
3 Indian tribes.

4 **SEC. 1133. TREATMENT OF WATER RIGHTS.**

5 The Secretary of the Interior and the Secretary of
6 Agriculture shall not—

7 (1) condition or withhold, in whole or in part,
8 the issuance, renewal, amendment, or extension of
9 any permit, approval, license, lease, allotment, ease-
10 ment, right-of-way, or other land use or occupancy
11 agreement on—

12 (A) limitation or encumbrance of any
13 water right, or the transfer of any water right
14 (including joint and sole ownership), directly or
15 indirectly to the United States or any other des-
16 ignee; or

17 (B) any other impairment of any water
18 right, in whole or in part, granted or otherwise
19 recognized under State law, by Federal or State
20 adjudication, decree, or other judgment, or pur-
21 suant to any interstate water compact;

22 (2) require any water user (including any feder-
23 ally recognized Indian tribe) to apply for or acquire
24 a water right in the name of the United States
25 under State law as a condition of the issuance, re-

1 newal, amendment, or extension of any permit, ap-
2 proval, license, lease, allotment, easement, right-of-
3 way, or other land use or occupancy agreement;

4 (3) assert jurisdiction over groundwater with-
5 draws or impacts on groundwater resources, unless
6 jurisdiction is asserted, and any regulatory or policy
7 actions taken pursuant to such assertion are, con-
8 sistent with, and impose no greater restrictions or
9 regulatory requirements than, applicable State laws
10 (including regulations) and policies governing the
11 protection and use of groundwater resources; or

12 (4) infringe on the rights and obligations of a
13 State in evaluating, allocating, and adjudicating the
14 waters of the State originating on or under, or flow-
15 ing from, land owned or managed by the Federal
16 Government.

17 **SEC. 1134. RECOGNITION OF STATE AUTHORITY.**

18 (a) IN GENERAL.—In carrying out section 1133, the
19 Secretary of the Interior and the Secretary of Agriculture
20 shall—

21 (1) recognize the longstanding authority of the
22 States relating to evaluating, protecting, allocating,
23 regulating, and adjudicating groundwater by any
24 means, including a rulemaking, permitting, directive,

1 water court adjudication, resource management
2 planning, regional authority, or other policy; and

3 (2) coordinate with the States in the adoption
4 and implementation by the Secretary of the Interior
5 or the Secretary of Agriculture of any rulemaking,
6 policy, directive, management plan, or other similar
7 Federal action so as to ensure that such actions are
8 consistent with, and impose no greater restrictions
9 or regulatory requirements than, State groundwater
10 laws and programs.

11 (b) EFFECT ON STATE WATER RIGHTS.—In carrying
12 out this subtitle, the Secretary of the Interior and the Sec-
13 retary of Agriculture shall not take any action that ad-
14 versely affects—

15 (1) any water rights granted by a State;

16 (2) the authority of a State in adjudicating
17 water rights;

18 (3) definitions established by a State with re-
19 spect to the term “beneficial use”, “priority of water
20 rights”, or “terms of use”;

21 (4) terms and conditions of groundwater with-
22 drawal, guidance and reporting procedures, and con-
23 servation and source protection measures established
24 by a State;

1 (5) the use of groundwater in accordance with
2 State law; or

3 (6) any other rights and obligations of a State
4 established under State law.

5 **SEC. 1135. EFFECT OF TITLE.**

6 (a) **EFFECT ON EXISTING AUTHORITY.**—Nothing in
7 this subtitle limits or expands any existing legally recog-
8 nized authority of the Secretary of the Interior or the Sec-
9 retary of Agriculture to issue, grant, or condition any per-
10 mit, approval, license, lease, allotment, easement, right-of-
11 way, or other land use or occupancy agreement on Federal
12 land subject to the jurisdiction of the Secretary of the In-
13 terior or the Secretary of Agriculture, respectively.

14 (b) **EFFECT ON RECLAMATION CONTRACTS.**—Noth-
15 ing in this subtitle interferes with Bureau of Reclamation
16 contracts entered into pursuant to the reclamation laws.

17 (c) **EFFECT ON ENDANGERED SPECIES ACT.**—Noth-
18 ing in this subtitle affects the implementation of the En-
19 dangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

20 (d) **EFFECT ON FEDERAL RESERVED WATER**
21 **RIGHTS.**—Nothing in this subtitle limits or expands any
22 existing or claimed reserved water rights of the Federal
23 Government on land administered by the Secretary of the
24 Interior or the Secretary of Agriculture.

1 (e) EFFECT ON FEDERAL POWER ACT.—Nothing in
2 this subtitle limits or expands authorities under sections
3 4(e), 10(j), or 18 of the Federal Power Act (16 U.S.C.
4 797(e), 803(j), 811).

5 (f) EFFECT ON INDIAN WATER RIGHTS.—Nothing in
6 this subtitle limits or expands any water right or treaty
7 right of any federally recognized Indian tribe.

8 **TITLE II—SPORTSMEN’S HERIT-**
9 **AGE AND RECREATIONAL EN-**
10 **HANCEMENT ACT**

11 **SEC. 2001. SHORT TITLE.**

12 This title may be cited as the “Sportsmen’s Heritage
13 and Recreational Enhancement Act” or the “SHARE
14 Act”.

15 **SEC. 2002. REPORT ON ECONOMIC IMPACT.**

16 Not later than 12 months after the date of the enact-
17 ment of this Act, the Secretary of Interior shall submit
18 a report to Congress that assesses expected economic im-
19 pacts of the Act. Such report shall include—

20 (1) a review of any expected increases in rec-
21 reational hunting, fishing, shooting, and conserva-
22 tion activities;

23 (2) an estimate of any jobs created in each in-
24 dustry expected to support such activities described

1 in paragraph (1), including in the supply, manufac-
2 turing, distribution, and retail sectors;

3 (3) an estimate of wages related to jobs de-
4 scribed in paragraph (2); and

5 (4) an estimate of anticipated new local, State,
6 and Federal revenue related to jobs described in
7 paragraph (2).

8 **Subtitle A—Hunting, Fishing and**
9 **Recreational Shooting Protec-**
10 **tion Act**

11 **SEC. 2011. SHORT TITLE.**

12 This subtitle may be cited as the “Hunting, Fishing,
13 and Recreational Shooting Protection Act”.

14 **SEC. 2012. MODIFICATION OF DEFINITION.**

15 Section 3(2)(B) of the Toxic Substances Control Act
16 (15 U.S.C. 2602(2)(B)) is amended—

17 (1) in clause (v), by striking “, and” and insert-
18 ing “, or any component of any such article includ-
19 ing, without limitation, shot, bullets and other pro-
20 jectiles, propellants, and primers,”;

21 (2) in clause (vi) by striking the period at the
22 end and inserting “, and”; and

23 (3) by inserting after clause (vi) the following:

24 “(vii) any sport fishing equipment (as such
25 term is defined in subsection (a) of section 4162 of

1 the Internal Revenue Code of 1986) the sale of
2 which is subject to the tax imposed by section
3 4161(a) of such Code (determined without regard to
4 any exemptions from such tax as provided by section
5 4162 or 4221 or any other provision of such Code),
6 and sport fishing equipment components.”.

7 **SEC. 2013. LIMITATION ON AUTHORITY TO REGULATE AM-**
8 **MUNITION AND FISHING TACKLE.**

9 (a) **LIMITATION.**—Except as provided in section
10 20.21 of title 50, Code of Federal Regulations, as in effect
11 on the date of the enactment of this Act, or any substan-
12 tially similar successor regulation thereto, the Secretary
13 of the Interior, the Secretary of Agriculture, and, except
14 as provided by subsection (b), any bureau, service, or of-
15 fice of the Department of the Interior or the Department
16 of Agriculture, may not regulate the use of ammunition
17 cartridges, ammunition components, or fishing tackle
18 based on the lead content thereof if such use is in compli-
19 ance with the law of the State in which the use occurs.

20 (b) **EXCEPTION.**—The limitation in subsection (a)
21 shall not apply to the United States Fish and Wildlife
22 Service or the National Park Service.

1 **Subtitle B—Target Practice and**
2 **Marksmanship Training Sup-**
3 **port Act**

4 **SEC. 2021. SHORT TITLE.**

5 This subtitle may be cited as the “Target Practice
6 and Marksmanship Training Support Act”.

7 **SEC. 2022. FINDINGS; PURPOSE.**

8 (a) FINDINGS.—Congress finds that—

9 (1) the use of firearms and archery equipment
10 for target practice and marksmanship training ac-
11 tivities on Federal land is allowed, except to the ex-
12 tent specific portions of that land have been closed
13 to those activities;

14 (2) in recent years preceding the date of enact-
15 ment of this Act, portions of Federal land have been
16 closed to target practice and marksmanship training
17 for many reasons;

18 (3) the availability of public target ranges on
19 non-Federal land has been declining for a variety of
20 reasons, including continued population growth and
21 development near former ranges;

22 (4) providing opportunities for target practice
23 and marksmanship training at public target ranges
24 on Federal and non-Federal land can help—

1 (A) to promote enjoyment of shooting, rec-
2 reational, and hunting activities; and

3 (B) to ensure safe and convenient locations
4 for those activities;

5 (5) Federal law in effect on the date of enact-
6 ment of this Act, including the Pittman-Robertson
7 Wildlife Restoration Act (16 U.S.C. 669 et seq.),
8 provides Federal support for construction and ex-
9 pansion of public target ranges by making available
10 to States amounts that may be used for construc-
11 tion, operation, and maintenance of public target
12 ranges; and

13 (6) it is in the public interest to provide in-
14 creased Federal support to facilitate the construction
15 or expansion of public target ranges.

16 (b) PURPOSE.—The purpose of this subtitle is to fa-
17 cilitate the construction and expansion of public target
18 ranges, including ranges on Federal land managed by the
19 Forest Service and the Bureau of Land Management.

20 **SEC. 2023. DEFINITION OF PUBLIC TARGET RANGE.**

21 In this subtitle, the term “public target range” means
22 a specific location that—

23 (1) is identified by a governmental agency for
24 recreational shooting;

25 (2) is open to the public;

1 (3) may be supervised; and

2 (4) may accommodate archery or rifle, pistol, or
3 shotgun shooting.

4 **SEC. 2024. AMENDMENTS TO PITTMAN-ROBERTSON WILD-**
5 **LIFE RESTORATION ACT.**

6 (a) DEFINITIONS.—Section 2 of the Pittman-Robert-
7 son Wildlife Restoration Act (16 U.S.C. 669a) is amend-
8 ed—

9 (1) by redesignating paragraphs (2) through
10 (8) as paragraphs (3) through (9), respectively; and

11 (2) by inserting after paragraph (1) the fol-
12 lowing:

13 “(2) the term ‘public target range’ means a
14 specific location that—

15 “(A) is identified by a governmental agen-
16 cy for recreational shooting;

17 “(B) is open to the public;

18 “(C) may be supervised; and

19 “(D) may accommodate archery or rifle,
20 pistol, or shotgun shooting;”.

21 (b) EXPENDITURES FOR MANAGEMENT OF WILD-
22 LIFE AREAS AND RESOURCES.—Section 8(b) of the Pitt-
23 man-Robertson Wildlife Restoration Act (16 U.S.C.
24 669g(b)) is amended—

1 (1) by striking “(b) Each State” and inserting
2 the following:

3 “(b) EXPENDITURES FOR MANAGEMENT OF WILD-
4 LIFE AREAS AND RESOURCES.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), each State”;

7 (2) in paragraph (1) (as so designated), by
8 striking “construction, operation,” and inserting
9 “operation”;

10 (3) in the second sentence, by striking “The
11 non-Federal share” and inserting the following:

12 “(3) NON-FEDERAL SHARE.—The non-Federal
13 share”;

14 (4) in the third sentence, by striking “The Sec-
15 retary” and inserting the following:

16 “(4) REGULATIONS.—The Secretary”; and

17 (5) by inserting after paragraph (1) (as des-
18 ignated by paragraph (1) of this subsection) the fol-
19 lowing:

20 “(2) EXCEPTION.—Notwithstanding the limita-
21 tion described in paragraph (1), a State may pay up
22 to 90 percent of the cost of acquiring land for, ex-
23 panding, or constructing a public target range.”.

24 (c) FIREARM AND BOW HUNTER EDUCATION AND
25 SAFETY PROGRAM GRANTS.—Section 10 of the Pittman-

1 Robertson Wildlife Restoration Act (16 U.S.C. 669h–1)
2 is amended—

3 (1) in subsection (a), by adding at the end the
4 following:

5 “(3) ALLOCATION OF ADDITIONAL AMOUNTS.—
6 Of the amount apportioned to a State for any fiscal
7 year under section 4(b), the State may elect to allo-
8 cate not more than 10 percent, to be combined with
9 the amount apportioned to the State under para-
10 graph (1) for that fiscal year, for acquiring land for,
11 expanding, or constructing a public target range.”;

12 (2) by striking subsection (b) and inserting the
13 following:

14 “(b) COST SHARING.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), the Federal share of the cost of any activ-
17 ity carried out using a grant under this section shall
18 not exceed 75 percent of the total cost of the activ-
19 ity.

20 “(2) PUBLIC TARGET RANGE CONSTRUCTION OR
21 EXPANSION.—The Federal share of the cost of ac-
22 quiring land for, expanding, or constructing a public
23 target range in a State on Federal or non-Federal
24 land pursuant to this section or section 8(b) shall

1 not exceed 90 percent of the cost of the activity.”;

2 and

3 (3) in subsection (c)(1)—

4 (A) by striking “Amounts made” and in-
5 serting the following:

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), amounts made”; and

8 (B) by adding at the end the following:

9 “(B) EXCEPTION.—Amounts provided for
10 acquiring land for, constructing, or expanding a
11 public target range shall remain available for
12 expenditure and obligation during the 5-fiscal-
13 year period beginning on October 1 of the first
14 fiscal year for which the amounts are made
15 available.”.

16 **SEC. 2025. LIMITS ON LIABILITY.**

17 (a) DISCRETIONARY FUNCTION.—For purposes of
18 chapter 171 of title 28, United States Code (commonly
19 referred to as the “Federal Tort Claims Act”), any action
20 by an agent or employee of the United States to manage
21 or allow the use of Federal land for purposes of target
22 practice or marksmanship training by a member of the
23 public shall be considered to be the exercise or perform-
24 ance of a discretionary function.

1 (b) CIVIL ACTION OR CLAIMS.—Except to the extent
2 provided in chapter 171 of title 28, United States Code,
3 the United States shall not be subject to any civil action
4 or claim for money damages for any injury to or loss of
5 property, personal injury, or death caused by an activity
6 occurring at a public target range that is—

- 7 (1) funded in whole or in part by the Federal
8 Government pursuant to the Pittman-Robertson
9 Wildlife Restoration Act (16 U.S.C. 669 et seq.); or
10 (2) located on Federal land.

11 **SEC. 2026. SENSE OF CONGRESS REGARDING COOPERA-**
12 **TION.**

13 It is the sense of Congress that, consistent with appli-
14 cable laws and regulations, the Chief of the Forest Service
15 and the Director of the Bureau of Land Management
16 should cooperate with State and local authorities and
17 other entities to carry out waste removal and other activi-
18 ties on any Federal land used as a public target range
19 to encourage continued use of that land for target practice
20 or marksmanship training.

21 **Subtitle C—Polar Bear**
22 **Conservation and Fairness Act**

23 **SEC. 2031. SHORT TITLE.**

24 This subtitle may be cited as the “Polar Bear Con-
25 servation and Fairness Act”.

1 **SEC. 2032. PERMITS FOR IMPORTATION OF POLAR BEAR**
2 **TROPHIES TAKEN IN SPORT HUNTS IN CAN-**
3 **ADA.**

4 Section 104(c)(5)(D) of the Marine Mammal Protec-
5 tion Act of 1972 (16 U.S.C. 1374(c)(5)(D)) is amended
6 to read as follows:

7 “(D)(i) The Secretary of the Interior shall, ex-
8 peditiously after the expiration of the applicable 30-
9 day period under subsection (d)(2), issue a permit
10 for the importation of any polar bear part (other
11 than an internal organ) from a polar bear taken in
12 a sport hunt in Canada to any person—

13 “(I) who submits, with the permit applica-
14 tion, proof that the polar bear was legally har-
15 vested by the person before February 18, 1997;
16 or

17 “(II) who has submitted, in support of a
18 permit application submitted before May 15,
19 2008, proof that the polar bear was legally har-
20 vested by the person before May 15, 2008, from
21 a polar bear population from which a sport-
22 hunted trophy could be imported before that
23 date in accordance with section 18.30(i) of title
24 50, Code of Federal Regulations.

25 “(ii) The Secretary shall issue permits under
26 clause (i)(I) without regard to subparagraphs (A)

1 and (C)(ii) of this paragraph, subsection (d)(3), and
2 sections 101 and 102. Sections 101(a)(3)(B) and
3 102(b)(3) shall not apply to the importation of any
4 polar bear part authorized by a permit issued under
5 clause (i)(I). This clause shall not apply to polar
6 bear parts that were imported before June 12, 1997.

7 “(iii) The Secretary shall issue permits under
8 clause (i)(II) without regard to subparagraph (C)(ii)
9 of this paragraph or subsection (d)(3). Sections
10 101(a)(3)(B) and 102(b)(3) shall not apply to the
11 importation of any polar bear part authorized by a
12 permit issued under clause (i)(II). This clause shall
13 not apply to polar bear parts that were imported be-
14 fore the date of enactment of the Polar Bear Con-
15 servation and Fairness Act.”

16 **Subtitle D—Recreational Lands**
17 **Self-Defense Act**

18 **SEC. 2041. SHORT TITLE.**

19 This subtitle may be cited as the “Recreational Lands
20 Self-Defense Act”.

21 **SEC. 2042. PROTECTING AMERICANS FROM VIOLENT**
22 **CRIME.**

23 (a) **FINDINGS.**—Congress finds the following:

1 (1) The Second Amendment to the Constitution
2 provides that “the right of the people to keep and
3 bear Arms, shall not be infringed”.

4 (2) Section 327.13 of title 36, Code of Federal
5 Regulations, provides that, except in special cir-
6 cumstances, “possession of loaded firearms, ammu-
7 nition, loaded projectile firing devices, bows and ar-
8 rows, crossbows, or other weapons is prohibited” at
9 water resources development projects administered
10 by the Secretary of the Army.

11 (3) The regulations described in paragraph (2)
12 prevent individuals complying with Federal and
13 State laws from exercising the second amendment
14 rights of the individuals while at such water re-
15 sources development projects.

16 (4) The Federal laws should make it clear that
17 the second amendment rights of an individual at a
18 water resources development project should not be
19 infringed.

20 (b) PROTECTING THE RIGHT OF INDIVIDUALS TO
21 BEAR ARMS AT WATER RESOURCES DEVELOPMENT
22 PROJECTS.—The Secretary of the Army shall not promul-
23 gate or enforce any regulation that prohibits an individual
24 from possessing a firearm, including an assembled or func-
25 tional firearm, at a water resources development project

1 covered under section 327.0 of title 36, Code of Federal
2 Regulations (as in effect on the date of enactment of this
3 Act), if—

4 (1) the individual is not otherwise prohibited by
5 law from possessing the firearm; and

6 (2) the possession of the firearm is in compli-
7 ance with the law of the State in which the water
8 resources development project is located.

9 **Subtitle E—Wildlife and Hunting**
10 **Heritage Conservation Council**
11 **Advisory Committee**

12 **SEC. 2051. WILDLIFE AND HUNTING HERITAGE CONSERVA-**
13 **TION COUNCIL ADVISORY COMMITTEE.**

14 The Fish and Wildlife Coordination Act (16 U.S.C.
15 661 et seq.) is amended by adding at the end the fol-
16 lowing:

17 **“SEC. 10. WILDLIFE AND HUNTING HERITAGE CONSERVA-**
18 **TION COUNCIL ADVISORY COMMITTEE.**

19 “(a) ESTABLISHMENT.—There is hereby established
20 the Wildlife and Hunting Heritage Conservation Council
21 Advisory Committee (in this section referred to as the ‘Ad-
22 visory Committee’) to advise the Secretaries of the Interior
23 and Agriculture on wildlife and habitat conservation,
24 hunting, and recreational shooting.

1 “(b) CONTINUANCE AND ABOLISHMENT OF EXIST-
2 ING WILDLIFE AND HUNTING HERITAGE CONSERVATION
3 COUNCIL.—The Wildlife and Hunting Heritage Conserva-
4 tion Council established pursuant to section 441 of the
5 Revised Statutes (43 U.S.C. 1457), section 2 of the Fish
6 and Wildlife Act of 1956 (16 U.S.C. 742a), and other Acts
7 applicable to specific bureaus of the Department of the
8 Interior—

9 “(1) shall continue until the date of the first
10 meeting of the Wildlife and Hunting Heritage Con-
11 servation Council established by the amendment
12 made by subsection (a); and

13 “(2) is hereby abolished effective on that date.

14 “(c) DUTIES OF THE ADVISORY COMMITTEE.—The
15 Advisory Committee shall advise the Secretaries with re-
16 gard to—

17 “(1) implementation of Executive Order No.
18 13443: Facilitation of Hunting Heritage and Wild-
19 life Conservation, which directs Federal agencies ‘to
20 facilitate the expansion and enhancement of hunting
21 opportunities and the management of game species
22 and their habitat’;

23 “(2) policies or programs to conserve and re-
24 store wetlands, agricultural lands, grasslands, forest,
25 and rangeland habitats;

1 “(3) policies or programs to promote opportuni-
2 ties and access to hunting and shooting sports on
3 Federal lands;

4 “(4) policies or programs to recruit and retain
5 new hunters and shooters;

6 “(5) policies or programs that increase public
7 awareness of the importance of wildlife conservation
8 and the social and economic benefits of recreational
9 hunting and shooting; and

10 “(6) policies or programs that encourage co-
11 ordination among the public, the hunting and shoot-
12 ing sports community, wildlife conservation groups,
13 and States, tribes, and the Federal Government.

14 “(d) MEMBERSHIP.—

15 “(1) APPOINTMENT.—

16 “(A) IN GENERAL.—The Advisory Com-
17 mittee shall consist of no more than 16 discre-
18 tionary members and 8 ex officio members.

19 “(B) EX OFFICIO MEMBERS.—The ex offi-
20 cio members are—

21 “(i) the Director of the United States
22 Fish and Wildlife Service or a designated
23 representative of the Director;

1 “(ii) the Director of the Bureau of
2 Land Management or a designated rep-
3 resentative of the Director;

4 “(iii) the Director of the National
5 Park Service or a designated representa-
6 tive of the Director;

7 “(iv) the Chief of the Forest Service
8 or a designated representative of the Chief;

9 “(v) the Chief of the Natural Re-
10 sources Conservation Service or a des-
11 ignated representative of the Chief;

12 “(vi) the Administrator of the Farm
13 Service Agency or a designated representa-
14 tive of the Administrator;

15 “(vii) the Executive Director of the
16 Association of Fish and Wildlife Agencies;
17 and

18 “(viii) the Administrator of the Small
19 Business Administration or designated rep-
20 resentative.

21 “(C) DISCRETIONARY MEMBERS.—The dis-
22 cretionary members shall be appointed jointly
23 by the Secretaries from at least one of each of
24 the following:

25 “(i) State fish and wildlife agencies.

1 “(ii) Game bird hunting organiza-
2 tions.

3 “(iii) Wildlife conservation organiza-
4 tions.

5 “(iv) Big game hunting organizations.

6 “(v) Waterfowl hunting organizations.

7 “(vi) The tourism, outfitter, or guid-
8 ing industry.

9 “(vii) The firearms or ammunition
10 manufacturing industry.

11 “(viii) The hunting or shooting equip-
12 ment retail industry.

13 “(ix) Tribal resource management or-
14 ganizations.

15 “(x) The agriculture industry.

16 “(xi) The ranching industry.

17 “(xii) Women’s hunting and fishing
18 advocacy, outreach, or education organiza-
19 tion.

20 “(xiii) Minority hunting and fishing
21 advocacy, outreach, or education organiza-
22 tion.

23 “(xiv) Veterans service organization.

24 “(D) ELIGIBILITY.—Prior to the appoint-
25 ment of the discretionary members, the Secre-

1 taries shall determine that all individuals nomi-
2 nated for appointment to the Advisory Com-
3 mittee, and the organization each individual
4 represents, actively support and promote sus-
5 tainable-use hunting, wildlife conservation, and
6 recreational shooting.

7 “(2) TERMS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), members of the Advisory
10 Committee shall be appointed for a term of 4
11 years. Members shall not be appointed for more
12 than 3 consecutive or nonconsecutive terms.

13 “(B) TERMS OF INITIAL APPOINTEES.—As
14 designated by the Secretary at the time of ap-
15 pointment, of the members first appointed—

16 “(i) 6 members shall be appointed for
17 a term of 4 years;

18 “(ii) 5 members shall be appointed for
19 a term of 3 years; and

20 “(iii) 5 members shall be appointed
21 for a term of 2 years.

22 “(3) PRESERVATION OF PUBLIC ADVISORY STA-
23 TUS.—No individual may be appointed as a discre-
24 tionary member of the Advisory Committee while

1 serving as an officer or employee of the Federal
2 Government.

3 “(4) VACANCY AND REMOVAL.—

4 “(A) IN GENERAL.—Any vacancy on the
5 Advisory Committee shall be filled in the man-
6 ner in which the original appointment was
7 made.

8 “(B) REMOVAL.—Advisory Committee
9 members shall serve at the discretion of the
10 Secretaries and may be removed at any time for
11 good cause.

12 “(5) CONTINUATION OF SERVICE.—Each ap-
13 pointed member may continue to serve after the ex-
14 piration of the term of office to which such member
15 was appointed until a successor has been appointed.

16 “(6) CHAIRPERSON.—The Chairperson of the
17 Advisory Committee shall be appointed for a 3-year
18 term by the Secretaries, jointly, from among the
19 members of the Advisory Committee. An individual
20 may not be appointed as Chairperson for more than
21 2 consecutive or nonconsecutive terms.

22 “(7) PAY AND EXPENSES.—Members of the Ad-
23 visory Committee shall serve without pay for such
24 service, but each member of the Advisory Committee
25 may be reimbursed for travel and lodging incurred

1 through attending meetings of the Advisory Com-
2 mittee approved subgroup meetings in the same
3 amounts and under the same conditions as Federal
4 employees (in accordance with section 5703 of title
5 5, United States Code).

6 “(8) MEETINGS.—

7 “(A) IN GENERAL.—The Advisory Com-
8 mittee shall meet at the call of the Secretaries,
9 the chairperson, or a majority of the members,
10 but not less frequently than twice annually.

11 “(B) OPEN MEETINGS.—Each meeting of
12 the Advisory Committee shall be open to the
13 public.

14 “(C) PRIOR NOTICE OF MEETINGS.—Time-
15 ly notice of each meeting of the Advisory Com-
16 mittee shall be published in the Federal Reg-
17 ister and be submitted to trade publications and
18 publications of general circulation.

19 “(D) SUBGROUPS.—The Advisory Com-
20 mittee may establish such workgroups or sub-
21 groups as it deems necessary for the purpose of
22 compiling information or conducting research.
23 However, such workgroups may not conduct
24 business without the direction of the Advisory

1 Committee and must report in full to the Advi-
2 sory Committee.

3 “(9) QUORUM.—Nine members of the Advisory
4 Committee shall constitute a quorum.

5 “(e) EXPENSES.—The expenses of the Advisory Com-
6 mittee that the Secretaries determine to be reasonable and
7 appropriate shall be paid by the Secretaries.

8 “(f) ADMINISTRATIVE SUPPORT, TECHNICAL SERV-
9 ICES, AND ADVICE.—A designated Federal Officer shall
10 be jointly appointed by the Secretaries to provide to the
11 Advisory Committee the administrative support, technical
12 services, and advice that the Secretaries determine to be
13 reasonable and appropriate.

14 “(g) ANNUAL REPORT.—

15 “(1) REQUIRED.—Not later than September 30
16 of each year, the Advisory Committee shall submit
17 a report to the Secretaries, the Committee on Nat-
18 ural Resources and the Committee on Agriculture of
19 the House of Representatives, and the Committee on
20 Energy and Natural Resources and the Committee
21 on Agriculture, Nutrition, and Forestry of the Sen-
22 ate. If circumstances arise in which the Advisory
23 Committee cannot meet the September 30 deadline
24 in any year, the Secretaries shall advise the Chair-
25 persons of each such Committee of the reasons for

1 such delay and the date on which the submission of
2 the report is anticipated.

3 “(2) CONTENTS.—The report required by para-
4 graph (1) shall describe—

5 “(A) the activities of the Advisory Com-
6 mittee during the preceding year;

7 “(B) the reports and recommendations
8 made by the Advisory Committee to the Secre-
9 taries during the preceding year; and

10 “(C) an accounting of actions taken by the
11 Secretaries as a result of the recommendations.

12 “(h) FEDERAL ADVISORY COMMITTEE ACT.—The
13 Advisory Committee shall be exempt from the Federal Ad-
14 visory Committee Act (5 U.S.C. App.).”.

15 **Subtitle F—Recreational Fishing**
16 **and Hunting Heritage Opportu-**
17 **nities Act**

18 **SEC. 2061. SHORT TITLE.**

19 This subtitle may be cited as the “Recreational Fish-
20 ing and Hunting Heritage and Opportunities Act”.

21 **SEC. 2062. FINDINGS.**

22 Congress finds that—

23 (1) recreational fishing and hunting are impor-
24 tant and traditional activities in which millions of
25 Americans participate;

1 (2) recreational anglers and hunters have been
2 and continue to be among the foremost supporters
3 of sound fish and wildlife management and conserva-
4 tion in the United States;

5 (3) recreational fishing and hunting are envi-
6 ronmentally acceptable and beneficial activities that
7 occur and can be provided on Federal lands and
8 waters without adverse effects on other uses or
9 users;

10 (4) recreational anglers, hunters, and sporting
11 organizations provide direct assistance to fish and
12 wildlife managers and enforcement officers of the
13 Federal Government as well as State and local gov-
14 ernments by investing volunteer time and effort to
15 fish and wildlife conservation;

16 (5) recreational anglers, hunters, and the asso-
17 ciated industries have generated billions of dollars of
18 critical funding for fish and wildlife conservation, re-
19 search, and management by providing revenues from
20 purchases of fishing and hunting licenses, permits,
21 and stamps, as well as excise taxes on fishing, hunt-
22 ing, and recreational shooting equipment that have
23 generated billions of dollars of critical funding for
24 fish and wildlife conservation, research, and manage-
25 ment;

1 (6) recreational shooting is also an important
2 and traditional activity in which millions of Ameri-
3 cans participate;

4 (7) safe recreational shooting is a valid use of
5 Federal lands, including the establishment of safe
6 and convenient recreational shooting ranges on such
7 lands, and participation in recreational shooting
8 helps recruit and retain hunters and contributes to
9 wildlife conservation;

10 (8) opportunities to recreationally fish, hunt,
11 and shoot are declining, which depresses participa-
12 tion in these traditional activities, and depressed
13 participation adversely impacts fish and wildlife con-
14 servation and funding for important conservation ef-
15 forts; and

16 (9) the public interest would be served, and our
17 citizens' fish and wildlife resources benefitted, by ac-
18 tion to ensure that opportunities are facilitated to
19 engage in fishing and hunting on Federal land as
20 recognized by Executive Order No. 12962, relating
21 to recreational fisheries, and Executive Order No.
22 13443, relating to facilitation of hunting heritage
23 and wildlife conservation.

1 **SEC. 2063. FISHING, HUNTING, AND RECREATIONAL SHOOT-**
2 **ING.**

3 (a) DEFINITIONS.—In this section:

4 (1) FEDERAL LAND.—The term “Federal land”
5 means any land or water that is owned by the
6 United States and under the administrative jurisdic-
7 tion of the Bureau of Land Management or the For-
8 est Service.

9 (2) FEDERAL LAND MANAGEMENT OFFI-
10 CIALS.—The term “Federal land management offi-
11 cials” means—

12 (A) the Secretary of the Interior and Di-
13 rector of the Bureau of Land Management re-
14 garding Bureau of Land Management lands
15 and interests in lands under the administrative
16 jurisdiction of the Bureau of Land Manage-
17 ment; and

18 (B) the Secretary of Agriculture and Chief
19 of the Forest Service regarding National Forest
20 System lands.

21 (3) HUNTING.—

22 (A) IN GENERAL.—Except as provided in
23 subparagraph (B), the term “hunting” means
24 use of a firearm, bow, or other authorized
25 means in the lawful—

1 (i) pursuit, shooting, capture, collec-
2 tion, trapping, or killing of wildlife;

3 (ii) attempt to pursue, shoot, capture,
4 collect, trap, or kill wildlife; or

5 (iii) the training of hunting dogs, in-
6 cluding field trials.

7 (B) EXCLUSION.—The term “hunting”
8 does not include the use of skilled volunteers to
9 cull excess animals (as defined by other Federal
10 law).

11 (4) RECREATIONAL FISHING.—The term “rec-
12 reational fishing” means the lawful—

13 (A) pursuit, capture, collection, or killing
14 of fish; or

15 (B) attempt to capture, collect, or kill fish.

16 (5) RECREATIONAL SHOOTING.—The term
17 “recreational shooting” means any form of sport,
18 training, competition, or pastime, whether formal or
19 informal, that involves the discharge of a rifle, hand-
20 gun, or shotgun, or the use of a bow and arrow.

21 (b) IN GENERAL.—Subject to valid existing rights
22 and subsection (e), and cooperation with the respective
23 State fish and wildlife agency, Federal land management
24 officials shall exercise authority under existing law, includ-
25 ing provisions regarding land use planning, to facilitate

1 use of and access to Federal lands, including National
2 Monuments, Wilderness Areas, Wilderness Study Areas,
3 and lands administratively classified as wilderness eligible
4 or suitable and primitive or semi-primitive areas, for fish-
5 ing, hunting, and recreational shooting, except as limited
6 by—

7 (1) statutory authority that authorizes action or
8 withholding action for reasons of national security,
9 public safety, or resource conservation;

10 (2) any other Federal statute that specifically
11 precludes fishing, hunting, or recreational shooting
12 on specific Federal lands, waters, or units thereof;
13 and

14 (3) discretionary limitations on fishing, hunt-
15 ing, and recreational shooting determined to be nec-
16 essary and reasonable as supported by the best sci-
17 entific evidence and advanced through a transparent
18 public process.

19 (c) MANAGEMENT.—Consistent with subsection (a),
20 Federal land management officials shall exercise their land
21 management discretion—

22 (1) in a manner that supports and facilitates
23 fishing, hunting, and recreational shooting opportu-
24 nities;

1 (2) to the extent authorized under applicable
2 State law; and

3 (3) in accordance with applicable Federal law.

4 (d) PLANNING.—

5 (1) EVALUATION OF EFFECTS ON OPPORTUNI-
6 TIES TO ENGAGE IN FISHING, HUNTING, OR REC-
7 REATIONAL SHOOTING.—Planning documents that
8 apply to Federal lands, including land resources
9 management plans, resource management plans,
10 travel management plans, and general management
11 plans shall include a specific evaluation of the effects
12 of such plans on opportunities to engage in fishing,
13 hunting, or recreational shooting.

14 (2) STRATEGIC GROWTH POLICY FOR THE NA-
15 TIONAL WILDLIFE REFUGE SYSTEM.—Section
16 4(a)(3) of the National Wildlife Refuge System Ad-
17 ministration Act of 1966 (16 U.S.C. 668dd(a)(3)) is
18 amended—

19 (A) by redesignating subparagraphs (C)
20 and (D) as subparagraphs (D) and (E), respec-
21 tively; and

22 (B) by inserting after subparagraph (B),
23 the following:

24 “(C) the Secretary shall integrate wildlife-de-
25 pendent recreational uses in accordance with their

1 status as priority general public uses into proposed
2 or existing regulations, policies, criteria, plans, or
3 other activities to alter or amend the manner in
4 which individual refuges or the National Wildlife
5 Refuge System (System) are managed, including,
6 but not limited to, any activities which target or
7 prioritize criteria for long and short term System ac-
8 quisitions;”.

9 (3) NO MAJOR FEDERAL ACTION.—No action
10 taken under this subtitle, or under section 4 of the
11 National Wildlife Refuge System Administration Act
12 of 1966 (16 U.S.C. 668dd), either individually or cu-
13 mulatively with other actions involving Federal lands
14 or lands managed by the United States Fish and
15 Wildlife Service, shall be considered to be a major
16 Federal action significantly affecting the quality of
17 the human environment, and no additional identi-
18 fication, analysis, or consideration of environmental
19 effects, including cumulative effects, is necessary or
20 required.

21 (4) OTHER ACTIVITY NOT CONSIDERED.—Fed-
22 eral land management officials are not required to
23 consider the existence or availability of fishing, hunt-
24 ing, or recreational shooting opportunities on adja-
25 cent or nearby public or private lands in the plan-

1 ning for or determination of which Federal lands are
2 open for these activities or in the setting of levels of
3 use for these activities on Federal lands, unless the
4 combination or coordination of such opportunities
5 would enhance the fishing, hunting, or recreational
6 shooting opportunities available to the public.

7 (e) FEDERAL LANDS.—

8 (1) LANDS OPEN.—Lands under the jurisdic-
9 tion of the Bureau of Land Management and the
10 Forest Service, including Wilderness Areas, Wilder-
11 ness Study Areas, lands designated as wilderness or
12 administratively classified as wilderness eligible or
13 suitable and primitive or semi-primitive areas and
14 National Monuments, but excluding lands on the
15 Outer Continental Shelf, shall be open to fishing,
16 hunting, and recreational shooting unless the man-
17 aging Federal agency acts to close lands to such ac-
18 tivity. Lands may be subject to closures or restric-
19 tions if determined by the head of the agency to be
20 necessary and reasonable and supported by facts
21 and evidence, for purposes including resource con-
22 servation, public safety, energy or mineral produc-
23 tion, energy generation or transmission infrastruc-
24 ture, water supply facilities, protection of other per-
25 mittees, protection of private property rights or in-

1 terest, national security, or compliance with other
2 law.

3 (2) RECREATIONAL SHOOTING RANGES.—

4 (A) IN GENERAL.—The head of each Fed-
5 eral agency shall use his or her authorities in
6 a manner consistent with this Act and other ap-
7 plicable law, to—

8 (i) lease or permit use of lands under
9 the jurisdiction of the agency for rec-
10 reational shooting ranges; and

11 (ii) designate specific lands under the
12 jurisdiction of the agency for recreational
13 shooting activities.

14 (B) LIMITATION ON LIABILITY.—Any des-
15 ignation under subparagraph (A)(ii) shall not
16 subject the United States to any civil action or
17 claim for monetary damages for injury or loss
18 of property or personal injury or death caused
19 by any activity occurring at or on such des-
20 ignated lands.

21 (f) NECESSITY IN WILDERNESS AREAS AND “WITH-
22 IN AND SUPPLEMENTAL TO” WILDERNESS PURPOSES.—

23 (1) MINIMUM REQUIREMENTS FOR ADMINIS-
24 TRATION.—The provision of opportunities for fish-
25 ing, hunting, and recreational shooting, and the con-

1 servation of fish and wildlife to provide sustainable
2 use recreational opportunities on designated Federal
3 wilderness areas shall constitute measures necessary
4 to meet the minimum requirements for the adminis-
5 tration of the wilderness area, provided that this de-
6 termination shall not authorize or facilitate com-
7 modity development, use, or extraction, motorized
8 recreational access or use that is not otherwise al-
9 lowed under the Wilderness Act (16 U.S.C. 1131 et
10 seq.), or permanent road construction or mainte-
11 nance within designated wilderness areas.

12 (2) APPLICATION OF WILDERNESS ACT.—Provi-
13 sions of the Wilderness Act (16 U.S.C. 1131 et
14 seq.), stipulating that wilderness purposes are “with-
15 in and supplemental to” the purposes of the under-
16 lying Federal land unit are reaffirmed. When seek-
17 ing to carry out fish and wildlife conservation pro-
18 grams and projects or provide fish and wildlife de-
19 pendent recreation opportunities on designated wil-
20 derness areas, each Federal land management offi-
21 cial shall implement these supplemental purposes so
22 as to facilitate, enhance, or both, but not to impede
23 the underlying Federal land purposes when seeking
24 to carry out fish and wildlife conservation programs
25 and projects or provide fish and wildlife dependent

1 recreation opportunities in designated wilderness
2 areas, provided that such implementation shall not
3 authorize or facilitate commodity development, use
4 or extraction, or permanent road construction or
5 maintenance within designated wilderness areas.

6 (g) NO PRIORITY.—Nothing in this section requires
7 a Federal land management official to give preference to
8 fishing, hunting, or recreational shooting over other uses
9 of Federal land or over land or water management prior-
10 ities established by Federal law.

11 (h) CONSULTATION WITH COUNCILS.—In fulfilling
12 the duties under this section, Federal land management
13 officials shall consult with respective advisory councils as
14 established in Executive Order Nos. 12962 and 13443.

15 (i) AUTHORITY OF THE STATES.—Nothing in this
16 section shall be construed as interfering with, diminishing,
17 or conflicting with the authority, jurisdiction, or responsi-
18 bility of any State to exercise primary management, con-
19 trol, or regulation of fish and wildlife under State law (in-
20 cluding regulations) on land or water within the State, in-
21 cluding on Federal land.

22 (j) FEDERAL LICENSES.—Nothing in this section
23 shall be construed to authorize a Federal land manage-
24 ment official to require a license, fee, or permit to fish,
25 hunt, or trap on land or water in a State, including on

1 Federal land in the States, except that this subsection
2 shall not affect the Migratory Bird Stamp requirement set
3 forth in the Migratory Bird Hunting and Conservation
4 Stamp Act (16 U.S.C. 718 et seq.).

5 **SEC. 2064. VOLUNTEER HUNTERS; REPORTS; CLOSURES**
6 **AND RESTRICTIONS.**

7 (a) DEFINITIONS.—For the purposes of this section:

8 (1) PUBLIC LAND.—The term “public land”
9 means—

10 (A) units of the National Park System;

11 (B) National Forest System lands; and

12 (C) land and interests in land owned by
13 the United States and under the administrative
14 jurisdiction of—

15 (i) the Fish and Wildlife Service; or

16 (ii) the Bureau of Land Management.

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

19 (A) the Secretary of the Interior and in-
20 cludes the Director of the National Park Serv-
21 ice, with regard to units of the National Park
22 System;

23 (B) the Secretary of the Interior and in-
24 cludes the Director of the Fish and Wildlife

1 Service, with regard to Fish and Wildlife Serv-
2 ice lands and waters;

3 (C) the Secretary of the Interior and in-
4 cludes the Director of the Bureau of Land
5 Management, with regard to Bureau of Land
6 Management lands and waters; and

7 (D) the Secretary of Agriculture and in-
8 cludes the Chief of the Forest Service, with re-
9 gard to National Forest System lands.

10 (3) VOLUNTEER FROM THE HUNTING COMMU-
11 NITY.—The term “volunteer from the hunting com-
12 munity” means a volunteer who holds a valid hunt-
13 ing license issued by a State.

14 (b) VOLUNTEER HUNTERS.—When planning wildlife
15 management involving reducing the size of a wildlife popu-
16 lation on public land, the Secretary shall consider the use
17 of and may use volunteers from the hunting community
18 as agents to assist in carrying out wildlife management
19 on public land. The Secretary shall not reject the use of
20 volunteers from the hunting community as agents without
21 the concurrence of the appropriate State wildlife manage-
22 ment authorities.

23 (c) REPORT.—Beginning on the second October 1
24 after the date of the enactment of this Act and biennially
25 on October 1 thereafter, the Secretary shall submit to the

1 Committee on Natural Resources of the House of Rep-
2 resentatives and the Committee on Energy and Natural
3 Resources of the Senate a report that describes—

4 (1) any public land administered by the Sec-
5 retary that was closed to fishing, hunting, and rec-
6 reational shooting at any time during the preceding
7 year; and

8 (2) the reason for the closure.

9 (d) CLOSURES OR SIGNIFICANT RESTRICTIONS.—

10 (1) IN GENERAL.—Other than closures estab-
11 lished or prescribed by land planning actions re-
12 ferred to in section 2064(e) or emergency closures
13 described in paragraph (2), a permanent or tem-
14 porary withdrawal, change of classification, or
15 change of management status of public land that ef-
16 fectively closes or significantly restricts any acreage
17 of public land to access or use for fishing, hunting,
18 recreational shooting, or activities related to fishing,
19 hunting, or recreational shooting, or a combination
20 of those activities, shall take effect only if, before the
21 date of withdrawal or change, the Secretary—

22 (A) publishes appropriate notice of the
23 withdrawal or change, respectively;

1 (B) demonstrates that coordination has oc-
2 curred with a State fish and wildlife agency;
3 and

4 (C) submits to the Committee on Natural
5 Resources of the House of Representatives and
6 the Committee on Energy and Natural Re-
7 sources of the Senate written notice of the with-
8 drawal or change, respectively.

9 (2) EMERGENCY CLOSURES.—Nothing in this
10 Act prohibits the Secretary from establishing or im-
11 plementing emergency closures or restrictions of the
12 smallest practicable area to provide for public safety,
13 resource conservation, national security, or other
14 purposes authorized by law. Such an emergency clo-
15 sure shall terminate after a reasonable period of
16 time unless converted to a permanent closure con-
17 sistent with this Act.

18 **Subtitle G—Farmer and Hunter**
19 **Protection Act**

20 **SEC. 2071. SHORT TITLE.**

21 This subtitle may be cited as the “Hunter and Farm-
22 er Protection Act”.

1 **SEC. 2072. BAITING OF MIGRATORY GAME BIRDS.**

2 Section 3 of the Migratory Bird Treaty Act (16
3 U.S.C. 704) is amended by striking subsection (b) and in-
4 serting the following:

5 “(b) PROHIBITION OF BAITING.—

6 “(1) DEFINITIONS.—In this subsection:

7 “(A) BAITED AREA.—

8 “(i) IN GENERAL.—The term ‘baited
9 area’ means—

10 “(I) any area on which salt,
11 grain, or other feed has been placed,
12 exposed, deposited, distributed, or
13 scattered, if the salt, grain, or feed
14 could lure or attract migratory game
15 birds; and

16 “(II) in the case of waterfowl,
17 cranes (family Gruidae), and coots
18 (family Rallidae), a standing, unhar-
19 vested crop that has been manipulated
20 through activities such as mowing,
21 discing, or rolling, unless the activities
22 are normal agricultural practices.

23 “(ii) EXCLUSIONS.—An area shall not
24 be considered to be a ‘baited area’ if the
25 area—

1 “(I) has been treated with a nor-
2 mal agricultural practice;

3 “(II) has standing crops that
4 have not been manipulated; or

5 “(III) has standing crops that
6 have been or are flooded.

7 “(B) BAITING.—The term ‘baiting’ means
8 the direct or indirect placing, exposing, depos-
9 iting, distributing, or scattering of salt, grain,
10 or other feed that could lure or attract migra-
11 tory game birds to, on, or over any areas on
12 which a hunter is attempting to take migratory
13 game birds.

14 “(C) MIGRATORY GAME BIRD.—The term
15 ‘migratory game bird’ means migratory bird
16 species—

17 “(i) that are within the taxonomic
18 families of Anatidae, Columbidae, Gruidae,
19 Rallidae, and Scolopacidae; and

20 “(ii) for which open seasons are pre-
21 scribed by the Secretary of the Interior.

22 “(D) NORMAL AGRICULTURAL PRAC-
23 TICE.—

1 “(i) IN GENERAL.—The term ‘normal
2 agricultural practice’ means any practice in
3 1 annual growing season that—

4 “(I) is carried out in order to
5 produce a marketable crop, including
6 planting, harvest, postharvest, or soil
7 conservation practices; and

8 “(II) is recommended for the
9 successful harvest of a given crop by
10 the applicable State office of the Co-
11 operative Extension System of the De-
12 partment of Agriculture, in consulta-
13 tion with, and if requested, the con-
14 currence of, the head of the applicable
15 State department of fish and wildlife.

16 “(ii) INCLUSIONS.—

17 “(I) IN GENERAL.—Subject to
18 subclause (II), the term ‘normal agri-
19 cultural practice’ includes the destruc-
20 tion of a crop in accordance with
21 practices required by the Federal
22 Crop Insurance Corporation for agri-
23 cultural producers to obtain crop in-
24 surance under the Federal Crop In-
25 surance Act (7 U.S.C. 1501 et seq.)

1 on land on which a crop during the
2 current or immediately preceding crop
3 year was not harvestable due to a nat-
4 ural disaster (including any hurricane,
5 storm, tornado, flood, high water,
6 wind-driven water, tidal wave, tsu-
7 nami, earthquake, volcanic eruption,
8 landslide, mudslide, drought, fire,
9 snowstorm, or other catastrophe that
10 is declared a major disaster by the
11 President in accordance with section
12 401 of the Robert T. Stafford Dis-
13 aster Relief and Emergency Assist-
14 ance Act (42 U.S.C. 5170)).

15 “(II) LIMITATIONS.—The term
16 ‘normal agricultural practice’ only in-
17 cludes a crop described in subclause
18 (I) that has been destroyed or manip-
19 ulated through activities that include
20 (but are not limited to) mowing,
21 discing, or rolling if the Federal Crop
22 Insurance Corporation certifies that
23 flooding was not an acceptable method
24 of destruction to obtain crop insur-

1 ance under the Federal Crop Insur-
2 ance Act (7 U.S.C. 1501 et seq.).

3 “(E) WATERFOWL.—The term ‘waterfowl’
4 means native species of the family Anatidae.

5 “(2) PROHIBITION.—It shall be unlawful for
6 any person—

7 “(A) to take any migratory game bird by
8 baiting or on or over any baited area, if the
9 person knows or reasonably should know that
10 the area is a baited area; or

11 “(B) to place or direct the placement of
12 bait on or adjacent to an area for the purpose
13 of causing, inducing, or allowing any person to
14 take or attempt to take any migratory game
15 bird by baiting or on or over the baited area.

16 “(3) REGULATIONS.—The Secretary of the In-
17 terior may promulgate regulations to implement this
18 subsection.

19 “(4) REPORTS.—Annually, the Secretary of Ag-
20 riculture shall submit to the Secretary of the Inte-
21 rior a report that describes any changes to normal
22 agricultural practices across the range of crops
23 grown by agricultural producers in each region of
24 the United States in which the recommendations are
25 provided to agricultural producers.”.

1 **Subtitle H—Transporting Bows**
2 **Across National Park Service**
3 **Lands**

4 **SEC. 2081. SHORT TITLE.**

5 This subtitle may be cited as the “Hunter Access
6 Corridors Act”.

7 **SEC. 2082. BOWHUNTING OPPORTUNITY AND WILDLIFE**
8 **STEWARDSHIP.**

9 (a) IN GENERAL.—Subchapter II of chapter 1015 of
10 title 54, United States Code, is amended by adding at the
11 end the following:

12 **“§ 101513. Hunter access corridors**

13 “(a) DEFINITIONS.—In this section:

14 “(1) NOT READY FOR IMMEDIATE USE.—The
15 term ‘not ready for immediate use’ means—

16 “(A) a bow or crossbow, the arrows of
17 which are secured or stowed in a quiver or
18 other arrow transport case; and

19 “(B) with respect to a crossbow, uncocked.

20 “(2) VALID HUNTING LICENSE.—The term
21 ‘valid hunting license’ means a State-issued hunting
22 license that authorizes an individual to hunt on pri-
23 vate or public land adjacent to the System unit in
24 which the individual is located while in possession of

1 a bow or crossbow that is not ready for immediate
2 use.

3 “(b) TRANSPORTATION AUTHORIZED.—

4 “(1) IN GENERAL.—The Director shall not re-
5 quire a permit for, or promulgate or enforce any
6 regulation that prohibits an individual from trans-
7 porting bows and crossbows that are not ready for
8 immediate use across any System unit if—

9 “(A) in the case of an individual traversing
10 the System unit on foot—

11 “(i) the individual is not otherwise
12 prohibited by law from possessing the bows
13 and crossbows;

14 “(ii) the bows or crossbows are not
15 ready for immediate use throughout the
16 period during which the bows or crossbows
17 are transported across the System unit;

18 “(iii) the possession of the bows and
19 crossbows is in compliance with the law of
20 the State in which the System unit is lo-
21 cated; and

22 “(iv)(I) the individual possesses a
23 valid hunting license;

24 “(II) the individual is traversing the
25 System unit en route to a hunting access

1 corridor established under subsection
2 (c)(1); or

3 “(III) the individual is traversing the
4 System unit in compliance with any other
5 applicable regulations or policies; or

6 “(B) the bows or crossbows are not ready
7 for immediate use and remain inside a vehicle.

8 “(2) ENFORCEMENT.—Nothing in this sub-
9 section limits the authority of the Director to en-
10 force laws (including regulations) prohibiting hunt-
11 ing or the taking of wildlife in any System unit.

12 “(c) ESTABLISHMENT OF HUNTER ACCESS COR-
13 RIDORS.—

14 “(1) IN GENERAL.—On a determination by the
15 Director under paragraph (2), the Director may es-
16 tablish and publish (in accordance with section 1.5
17 of title 36, Code of Federal Regulations (or a suc-
18 cessor regulation)), on a publicly available map, hun-
19 ter access corridors across System units that are
20 used to access public land that is—

21 “(A) contiguous to a System unit; and

22 “(B) open to hunting.

23 “(2) DETERMINATION BY DIRECTOR.—The de-
24 termination referred to in paragraph (1) is a deter-
25 mination that the hunter access corridor would pro-

1 vide wildlife management or visitor experience bene-
2 fits within the boundary of the System unit in which
3 the hunter access corridor is located.

4 “(3) HUNTING SEASON.—The hunter access
5 corridors shall be open for use during hunting sea-
6 sons.

7 “(4) EXCEPTION.—The Director may establish
8 limited periods during which access through the
9 hunter access corridors is closed for reasons of pub-
10 lic safety, administration, or compliance with appli-
11 cable law. Such closures shall be clearly marked with
12 signs and dates of closures, and shall not include
13 gates, chains, walls, or other barriers on the hunter
14 access corridor.

15 “(5) IDENTIFICATION OF CORRIDORS.—The Di-
16 rector shall—

17 “(A) make information regarding hunter
18 access corridors available on the individual
19 website of the applicable System unit; and

20 “(B) provide information regarding any
21 processes established by the Director for trans-
22 porting legally taken game through individual
23 hunter access corridors.

24 “(6) REGISTRATION; TRANSPORTATION OF
25 GAME.—The Director may—

1 “(A) provide registration boxes to be lo-
2 cated at the trailhead of each hunter access cor-
3 ridor for self-registration;

4 “(B) provide a process for online self-reg-
5 istration; and

6 “(C) allow nonmotorized conveyances to
7 transport legally taken game through a hunter
8 access corridor established under this sub-
9 section, including game carts and sleds.

10 “(7) CONSULTATION WITH STATES.—The Di-
11 rector shall consult with each applicable State wild-
12 life agency to identify appropriate hunter access cor-
13 ridors.

14 “(d) EFFECT.—Nothing in this section—

15 “(1) diminishes, enlarges, or modifies any Fed-
16 eral or State authority with respect to recreational
17 hunting, recreational shooting, or any other rec-
18 reational activities within the boundaries of a Sys-
19 tem unit; or

20 “(2) authorizes—

21 “(A) the establishment of new trails in
22 System units; or

23 “(B) authorizes individuals to access areas
24 in System units, on foot or otherwise, that are
25 not open to such access.

1 “(e) NO MAJOR FEDERAL ACTION.—

2 “(1) IN GENERAL.—Any action taken under
3 this section shall not be considered a major Federal
4 action significantly affecting the quality of the
5 human environment under the National Environ-
6 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

7 “(2) NO ADDITIONAL ACTION REQUIRED.—No
8 additional identification, analyses, or consideration
9 of environmental effects (including cumulative envi-
10 ronmental effects) is necessary or required with re-
11 spect to an action taken under this section.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for title 54, United States Code, is amended by inserting
14 after the item relating to section 101512 the following:
“101513. Hunter access corridors.”.

15 **Subtitle I—Federal Land Trans-**
16 **action Facilitation Act Reau-**
17 **thorization (FLTFA)**

18 **SEC. 2091. SHORT TITLE.**

19 This subtitle may be cited as the “Federal Land
20 Transaction Facilitation Act Reauthorization”.

21 **SEC. 2092. FEDERAL LAND TRANSACTION FACILITATION**
22 **ACT.**

23 The Federal Land Transaction Facilitation Act is
24 amended—

1 (1) in section 203(1) (43 U.S.C. 2302(1)), by
2 striking “cultural, or” and inserting “cultural, rec-
3 reational access and use, or other”;

4 (2) in section 203(2) in the matter preceding
5 subparagraph (A), by striking “on the date of enact-
6 ment of this Act was” and inserting “is”;

7 (3) in section 205 (43 U.S.C. 2304)—

8 (A) in subsection (a), by striking “section
9 206” and all that follows through the period
10 and inserting the following: “section 206—

11 “(1) to complete appraisals and satisfy other
12 legal requirements for the sale or exchange of public
13 land identified for disposal under approved land use
14 plans under section 202 of the Federal Land Policy
15 and Management Act of 1976 (43 U.S.C. 1712);

16 “(2) not later than 180 days after the date of
17 the enactment of the Federal Land Transaction Fa-
18 cilitation Act Reauthorization, to establish and make
19 available to the public, on the website of the Depart-
20 ment of the Interior, a database containing a com-
21 prehensive list of all the land referred to in para-
22 graph (1); and

23 “(3) to maintain the database referred to in
24 paragraph (2).”;

1 (B) in subsection (d), by striking “11” and
2 inserting “22”;

3 (4) by amending section 206(c)(1) (43 U.S.C.
4 2305(c)(1)) to read as follows:

5 “(1) USE OF FUNDS.—

6 “(A) IN GENERAL.—Funds in the Federal
7 Land Disposal Account shall be expended, sub-
8 ject to appropriation, in accordance with this
9 subsection.

10 “(B) PURPOSES.—Except as authorized
11 under paragraph (2), funds in the Federal
12 Land Disposal Account shall be used for one or
13 more of the following purposes:

14 “(i) To purchase lands or interests
15 therein that are otherwise authorized by
16 law to be acquired and are one or more of
17 the following:

18 “(I) Inholdings.

19 “(II) Adjacent to federally des-
20 ignated areas and contain exceptional
21 resources.

22 “(III) Provide opportunities for
23 hunting, recreational fishing, rec-
24 reational shooting, and other rec-
25 reational activities.

1 “(IV) Likely to aid in the per-
2 formance of deferred maintenance or
3 the reduction of operation and main-
4 tenance costs or other deferred costs.

5 “(ii) To perform deferred mainte-
6 nance or other maintenance activities that
7 enhance opportunities for recreational ac-
8 cess.”;

9 (5) in section 206(c)(2) (43 U.S.C.
10 2305(c)(2))—

11 (A) by striking subparagraph (A);

12 (B) by redesignating subparagraphs (B),
13 (C), and (D) as subparagraphs (A), (B), and
14 (C), respectively;

15 (C) in subparagraph (C) (as so redesign-
16 ated by this paragraph)—

17 (i) by striking “PURCHASES” and in-
18 serting “LAND PURCHASES AND PERFORM-
19 ANCE OF DEFERRED MAINTENANCE AC-
20 TIVITIES”;

21 (ii) by striking “subparagraph (C)”
22 and inserting “subparagraph (B)”;

23 (iii) by inserting “for the activities
24 outlined in paragraph (2)” after “gen-
25 erated”; and

1 (D) by adding at the end the following:

2 “(D) Any funds made available under sub-
3 paragraph (C) that are not obligated or ex-
4 pended by the end of the fourth full fiscal year
5 after the date of the sale or exchange of land
6 that generated the funds may be expended in
7 any State.”;

8 (6) in section 206(c)(3) (43 U.S.C.
9 2305(c)(3))—

10 (A) by inserting after subparagraph (A)
11 the following:

12 “(B) the extent to which the acquisition of
13 the land or interest therein will increase the
14 public availability of resources for, and facilitate
15 public access to, hunting, fishing, and other rec-
16 reational activities;”; and

17 (B) by redesignating subparagraphs (B)
18 and (C) as subparagraphs (C) and (D);

19 (7) in section 206(f) (43 U.S.C. 2305(f)), by
20 amending paragraph (2) to read as follows:

21 “(2) any remaining balance in the account shall
22 be deposited in the Treasury and used for deficit re-
23 duction, except that in the case of a fiscal year for
24 which there is no Federal budget deficit, such
25 amounts shall be used to reduce the Federal debt (in

1 such manner as the Secretary of the Treasury con-
2 siders appropriate.”; and

3 (8) in section 207(b) (43 U.S.C. 2306(b))—

4 (A) in paragraph (1)—

5 (i) by striking “96–568” and insert-
6 ing “96–586”; and

7 (ii) by striking “; or” and inserting a
8 semicolon;

9 (B) in paragraph (2)—

10 (i) by inserting “Public Law 105–
11 263;” before “112 Stat.”; and

12 (ii) by striking the period at the end
13 and inserting a semicolon; and

14 (C) by adding at the end the following:

15 “(3) the White Pine County Conservation,
16 Recreation, and Development Act of 2006 (Public
17 Law 109–432; 120 Stat. 3028);

18 “(4) the Lincoln County Conservation, Recre-
19 ation, and Development Act of 2004 (Public Law
20 108–424; 118 Stat. 2403);

21 “(5) subtitle F of title I of the Omnibus Public
22 Land Management Act of 2009 (16 U.S.C. 1132
23 note; Public Law 111–11);

1 “(6) subtitle O of title I of the Omnibus Public
2 Land Management Act of 2009 (16 U.S.C. 460www
3 note, 1132 note; Public Law 111–11);

4 “(7) section 2601 of the Omnibus Public Land
5 Management Act of 2009 (Public Law 111–11; 123
6 Stat. 1108); or

7 “(8) section 2606 of the Omnibus Public Land
8 Management Act of 2009 (Public Law 111–11; 123
9 Stat. 1121).”.

10 **Subtitle J—African Elephant Con-**
11 **servation and Legal Ivory Pos-**
12 **session Act**

13 **SEC. 2101. SHORT TITLE.**

14 This subtitle may be cited as the “African Elephant
15 Conservation and Legal Ivory Possession Act”.

16 **SEC. 2102. REFERENCES.**

17 Except as otherwise specifically provided, whenever in
18 this subtitle an amendment or repeal is expressed in terms
19 of an amendment to, or repeal of, a provision, the ref-
20 erence shall be considered to be made to a provision of
21 the African Elephant Conservation Act (16 U.S.C. 4201
22 et seq.).

1 **SEC. 2103. PLACEMENT OF UNITED STATES FISH AND WILD-**
2 **LIFE SERVICE LAW ENFORCEMENT OFFICERS**
3 **IN EACH AFRICAN ELEPHANT RANGE COUN-**
4 **TRY.**

5 Part I (16 U.S.C. 4211 et seq.) is amended by adding
6 at the end the following:

7 **“SEC. 2105. PLACEMENT OF UNITED STATES FISH AND**
8 **WILDLIFE SERVICE LAW ENFORCEMENT OF-**
9 **FICERS IN EACH AFRICAN ELEPHANT RANGE**
10 **COUNTRY.**

11 “The Secretary, in coordination with the Secretary
12 of State, may station United States Fish and Wildlife
13 Service law enforcement officers in the primary United
14 States diplomatic or consular post in each African country
15 that has a significant population of African elephants, who
16 shall assist local wildlife rangers in the protection of Afri-
17 can elephants and facilitate the apprehension of individ-
18 uals who illegally kill, or assist the illegal killing of, Afri-
19 can elephants.”.

20 **SEC. 2104. TREATMENT OF ELEPHANT IVORY.**

21 Section 2203 (16 U.S.C. 4223) is further amended
22 by adding at the end the following:

23 “(c) TREATMENT OF ELEPHANT IVORY.—Nothing in
24 this Act or the Endangered Species Act of 1973 (16
25 U.S.C. 1538) shall be construed—

1 “(1) to prohibit, or to authorize prohibiting, the
2 possession, sale, delivery, receipt, shipment, or trans-
3 portation of African elephant ivory, or any product
4 containing African elephant ivory, that is in the
5 United States because it has been lawfully imported
6 or crafted in the United States; or

7 “(2) to authorize using any means of deter-
8 mining for purposes of this Act or the Endangered
9 Species Act of 1973 whether African elephant ivory
10 that is present in the United States has been law-
11 fully imported, including any presumption or burden
12 of proof applied in such determination, other than
13 such means used by the Secretary as of February
14 24, 2014.”.

15 **SEC. 2105. AFRICAN ELEPHANT CONSERVATION ACT FINAN-**
16 **CIAL ASSISTANCE PRIORITY AND REAUTHOR-**
17 **IZATION.**

18 (a) **FINANCIAL ASSISTANCE PRIORITY.**—Section
19 2101 (16 U.S.C. 4211) is amended by redesignating sub-
20 sections (e) and (f) as subsections (f) and (g), respectively,
21 and by inserting after subsection (d) the following:

22 “(e) **PRIORITY.**—In providing financial assistance
23 under this section, the Secretary shall give priority to
24 projects designed to facilitate the acquisition of equipment

1 and training of wildlife officials in ivory producing coun-
2 tries to be used in anti-poaching efforts.”.

3 (b) REAUTHORIZATION.—Section 2306(a) (16 U.S.C.
4 4245(a)) is amended by striking “2007 through 2012”
5 and inserting “2016 through 2020”.

6 **SEC. 2106. GOVERNMENT ACCOUNTABILITY OFFICE STUDY.**

7 Not later than 90 days after the date of the enact-
8 ment of this Act, the Comptroller General of the United
9 States shall conduct a study examining the effects of a
10 ban of the trade in of fossilized ivory from mammoths and
11 mastodons on the illegal importation and trade of African
12 and Asian elephant ivory within the United States, with
13 the exception of importation or trade thereof related to
14 museum exhibitions or scientific research, and report to
15 Congress the findings of such study.

16 **Subtitle K—Respect for Treaties**
17 **and Rights**

18 **SEC. 2111. RESPECT FOR TREATIES AND RIGHTS.**

19 Nothing in this Act or the amendments made by this
20 Act shall be construed to affect or modify any treaty or
21 other right of any federally recognized Indian tribe.

1 **Subtitle L—State Approval of**
2 **Fishing Restriction**

3 **SEC. 2131. STATE OR TERRITORIAL APPROVAL OF RESTRIC-**
4 **TION OF RECREATIONAL OR COMMERCIAL**
5 **FISHING ACCESS TO CERTAIN STATE OR TER-**
6 **RITORIAL WATERS.**

7 (a) APPROVAL REQUIRED.—The Secretary of the In-
8 terior and the Secretary of Commerce shall not restrict
9 recreational or commercial fishing access to any State or
10 territorial marine waters or Great Lakes waters within the
11 jurisdiction of the National Park Service or the Office of
12 National Marine Sanctuaries, respectively, unless those re-
13 strictions are developed in coordination with, and ap-
14 proved by, the fish and wildlife management agency of the
15 State or territory that has fisheries management authority
16 over those waters.

17 (b) DEFINITION.—In this section, the term “marine
18 waters” includes coastal waters and estuaries.

19 **Subtitle M—Hunting and Rec-**
20 **reational Fishing Within Cer-**
21 **tain National Forests**

22 **SEC. 2141. DEFINITIONS.**

23 In this subtitle:

24 (1) HUNTING.—The term “hunting” means use
25 of a firearm, bow, or other authorized means in the

1 lawful pursuit, shooting, capture, collection, trap-
2 ping, or killing of wildlife; attempt to pursue, shoot,
3 capture, collect, trap, or kill wildlife; or the training
4 and use of hunting dogs, including field trials.

5 (2) RECREATIONAL FISHING.—The term “rec-
6 reational fishing” means the lawful pursuit, capture,
7 collection, or killing of fish; or attempt to capture,
8 collect, or kill fish.

9 (3) FOREST PLAN.—The term “forest plan”
10 means a land and resource management plan pre-
11 pared by the Forest Service for a unit of the Na-
12 tional Forest System pursuant to section 6 of the
13 Forest and Rangeland Renewable Resources Plan-
14 ning Act of 1974 (16 U.S.C. 1604).

15 (4) NATIONAL FOREST SYSTEM.—The term
16 “National Forest System” has the meaning given
17 that term in section 11(a) of the Forest and Range-
18 land Renewable Resources Planning Act of 1974 (16
19 U.S.C. 1609(a))

20 **SEC. 2142. HUNTING AND RECREATIONAL FISHING WITHIN**
21 **THE NATIONAL FOREST SYSTEM.**

22 (a) PROHIBITION OF RESTRICTIONS.—The Secretary
23 of Agriculture or Chief of the Forest Service may not es-
24 tablish policies, directives, or regulations that restrict the
25 type, season, or method of hunting or recreational fishing

1 on lands within the National Forest System that are oth-
2 erwise open to those activities and are consistent with the
3 applicable forest plan.

4 (b) PRIOR RESTRICTIONS VOID.—Any restrictions
5 imposed by the Secretary of Agriculture or Chief of the
6 Forest Service regarding the type, season, or method of
7 hunting or recreational fishing on lands within the Na-
8 tional Forest System that are otherwise open to those ac-
9 tivities in force on the date of the enactment of this Act
10 shall be void and have no force or effect.

11 (c) APPLICABILITY.—This section shall apply only to
12 the Kisatchie National Forest in the State of Louisiana,
13 the De Soto National Forest in the State of Mississippi,
14 the Mark Twain National Forest in the State of Missouri,
15 and the Ozark National Forest, the St. Francis National
16 Forest and the Ouachita National Forest in the States
17 of Arkansas and Oklahoma.

18 (d) STATE AUTHORITY.—Nothing in this section, sec-
19 tion 1 of the Act of June 4, 1897 (16 U.S.C. 551), or
20 section 32 of the Act of July 22, 1937 (7 U.S.C. 1011)
21 shall affect the authority of States to manage hunting or
22 recreational fishing on lands within the National Forest
23 System.

1 **SEC. 2143. PUBLICATION OF CLOSURE OF ROADS IN FOR-**
2 **ESTS.**

3 The Chief of the Forest Service shall publish a notice
4 in the Federal Register for the closure of any public road
5 on Forest System lands, along with a justification for the
6 closure.

7 **Subtitle N—Grand Canyon Bison**
8 **Management Act**

9 **SEC. 2151. SHORT TITLE.**

10 This subtitle may be cited as the “Grand Canyon
11 Bison Management Act”.

12 **SEC. 2152. DEFINITIONS.**

13 In this subtitle:

14 (1) **MANAGEMENT PLAN.**—The term “manage-
15 ment plan” means the management plan published
16 under section 2153(a).

17 (2) **PARK.**—The term “Park” means the Grand
18 Canyon National Park.

19 (3) **SECRETARY.**—The term “Secretary” means
20 the Secretary of the Interior.

21 (4) **SKILLED PUBLIC VOLUNTEER.**—The term
22 “skilled public volunteer” means an individual who
23 possesses—

24 (A) a valid hunting license issued by the
25 State of Arizona; and

1 (B) such other qualifications as the Sec-
2 retary may require, after consultation with the
3 Arizona Game and Fish Commission.

4 **SEC. 2153. BISON MANAGEMENT PLAN FOR GRAND CANYON**
5 **NATIONAL PARK.**

6 (a) PUBLICATION OF PLAN.—Not later than 180
7 days after the date of enactment of this Act, the Secretary
8 shall publish a management plan to reduce, through hu-
9 mane lethal culling by skilled public volunteers and by
10 other nonlethal means, the population of bison in the Park
11 that the Secretary determines are detrimental to the use
12 of the Park.

13 (b) REMOVAL OF ANIMAL.—Notwithstanding any
14 other provision of law, a skilled public volunteer may re-
15 move a full bison harvested from the Park.

16 (c) COORDINATION.—The Secretary shall coordinate
17 with the Arizona Game and Fish Commission regarding
18 the development and implementation of the management
19 plan.

20 (d) NEPA COMPLIANCE.—In developing the manage-
21 ment plan, the Secretary shall comply with all applicable
22 Federal environmental laws (including regulations), in-
23 cluding the National Environmental Policy Act of 1969
24 (42 U.S.C. 4321 et seq.).

1 (e) LIMITATION.—Nothing in this subtitle applies to
2 the taking of wildlife in the Park for any purpose other
3 than the implementation of the management plan.

4 **Subtitle O—Open Book on Equal**
5 **Access to Justice**

6 **SEC. 2161. SHORT TITLE.**

7 This subtitle may be cited as the “Open Book on
8 Equal Access to Justice Act”.

9 **SEC. 2162. MODIFICATION OF EQUAL ACCESS TO JUSTICE**
10 **PROVISIONS.**

11 (a) AGENCY PROCEEDINGS.—Section 504 of title 5,
12 United States Code, is amended—

13 (1) in subsection (c)(1), by striking “, United
14 States Code”;

15 (2) by redesignating subsection (f) as sub-
16 section (i); and

17 (3) by striking subsection (e) and inserting the
18 following:

19 “(e)(1) The Chairman of the Administrative Con-
20 ference of the United States, after consultation with the
21 Chief Counsel for Advocacy of the Small Business Admin-
22 istration, shall report to the Congress, not later than
23 March 31 of each year through the 6th calendar year be-
24 ginning after the initial report under this subsection is
25 submitted, on the amount of fees and other expenses

1 awarded during the preceding fiscal year pursuant to this
2 section. The report shall describe the number, nature, and
3 amount of the awards, the claims involved in the con-
4 troversy, and any other relevant information that may aid
5 the Congress in evaluating the scope and impact of such
6 awards. The report shall be made available to the public
7 online.

8 “(2)(A) The report required by paragraph (1) shall
9 account for all payments of fees and other expenses
10 awarded under this section that are made pursuant to a
11 settlement agreement, regardless of whether the settle-
12 ment agreement is sealed or otherwise subject to non-
13 disclosure provisions.

14 “(B) The disclosure of fees and other expenses re-
15 quired under subparagraph (A) does not affect any other
16 information that is subject to nondisclosure provisions in
17 the settlement agreement.

18 “(f) The Chairman of the Administrative Conference
19 shall create and maintain, during the period beginning on
20 the date the initial report under subsection (e) is sub-
21 mitted and ending one year after the date on which the
22 final report under that subsection is submitted, online a
23 searchable database containing the following information
24 with respect to each award of fees and other expenses
25 under this section:

1 “(1) The case name and number of the adver-
2 sary adjudication, if available.

3 “(2) The name of the agency involved in the
4 adversary adjudication.

5 “(3) A description of the claims in the adver-
6 sary adjudication.

7 “(4) The name of each party to whom the
8 award was made, as such party is identified in the
9 order or other agency document making the award.

10 “(5) The amount of the award.

11 “(6) The basis for the finding that the position
12 of the agency concerned was not substantially justi-
13 fied.

14 “(g) The online searchable database described in sub-
15 section (f) may not reveal any information the disclosure
16 of which is prohibited by law or court order.

17 “(h) The head of each agency shall provide to the
18 Chairman of the Administrative Conference in a timely
19 manner all information requested by the Chairman to
20 comply with the requirements of subsections (e), (f), and
21 (g).”.

22 (b) COURT CASES.—Section 2412(d) of title 28,
23 United States Code, is amended by adding at the end the
24 following:

1 “(5)(A) The Chairman of the Administrative Con-
2 ference of the United States shall submit to the Congress,
3 not later than March 31 of each year through the 6th cal-
4 endar year beginning after the initial report under this
5 paragraph is submitted, a report on the amount of fees
6 and other expenses awarded during the preceding fiscal
7 year pursuant to this subsection. The report shall describe
8 the number, nature, and amount of the awards, the claims
9 involved in each controversy, and any other relevant infor-
10 mation that may aid the Congress in evaluating the scope
11 and impact of such awards. The report shall be made
12 available to the public online.

13 “(B)(i) The report required by subparagraph (A)
14 shall account for all payments of fees and other expenses
15 awarded under this subsection that are made pursuant to
16 a settlement agreement, regardless of whether the settle-
17 ment agreement is sealed or otherwise subject to non-
18 disclosure provisions.

19 “(ii) The disclosure of fees and other expenses re-
20 quired under clause (i) does not affect any other informa-
21 tion that is subject to nondisclosure provisions in the set-
22 tlement agreement.

23 “(C) The Chairman of the Administrative Conference
24 shall include and clearly identify in the annual report

1 under subparagraph (A), for each case in which an award
2 of fees and other expenses is included in the report—

3 “(i) any amounts paid from section 1304 of
4 title 31 for a judgment in the case;

5 “(ii) the amount of the award of fees and other
6 expenses; and

7 “(iii) the statute under which the plaintiff filed
8 suit.

9 “(6) The Chairman of the Administrative Conference
10 shall create and maintain, during the period beginning on
11 the date the initial report under paragraph (5) is sub-
12 mitted and ending one year after the date on which the
13 final report under that paragraph is submitted, online a
14 searchable database containing the following information
15 with respect to each award of fees and other expenses
16 under this subsection:

17 “(A) The case name and number.

18 “(B) The name of the agency involved in the
19 case.

20 “(C) The name of each party to whom the
21 award was made, as such party is identified in the
22 order or other court document making the award.

23 “(D) A description of the claims in the case.

24 “(E) The amount of the award.

1 “(F) The basis for the finding that the position
2 of the agency concerned was not substantially justi-
3 fied.

4 “(7) The online searchable database described in
5 paragraph (6) may not reveal any information the disclo-
6 sure of which is prohibited by law or court order.

7 “(8) The head of each agency (including the Attorney
8 General of the United States) shall provide to the Chair-
9 man of the Administrative Conference of the United
10 States in a timely manner all information requested by
11 the Chairman to comply with the requirements of para-
12 graphs (5), (6), and (7).”.

13 (c) CLERICAL AMENDMENTS.—Section 2412 of title
14 28, United States Code, is amended—

15 (1) in subsection (d)(3), by striking “United
16 States Code,”; and

17 (2) in subsection (e)—

18 (A) by striking “of section 2412 of title
19 28, United States Code,” and inserting “of this
20 section”; and

21 (B) by striking “of such title” and insert-
22 ing “of this title”.

23 (d) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendments made by
25 subsections (a) and (b) shall first apply with respect

1 to awards of fees and other expenses that are made
2 on or after the date of the enactment of this Act.

3 (2) INITIAL REPORTS.—The first reports re-
4 quired by section 504(e) of title 5, United States
5 Code, and section 2412(d)(5) of title 28, United
6 States Code, shall be submitted not later than
7 March 31 of the calendar year following the first
8 calendar year in which a fiscal year begins after the
9 date of the enactment of this Act.

10 (3) ONLINE DATABASES.—The online databases
11 required by section 504(f) of title 5, United States
12 Code, and section 2412(d)(6) of title 28, United
13 States Code, shall be established as soon as prac-
14 ticable after the date of the enactment of this Act,
15 but in no case later than the date on which the first
16 reports under section 504(e) of title 5, United States
17 Code, and section 2412(d)(5) of title 28, United
18 States Code, are required to be submitted under
19 paragraph (2) of this subsection.

20 **Subtitle P—Utility Terrain Vehicles**

21 **SEC. 2171. UTILITY TERRAIN VEHICLES IN KISATCHIE NA-** 22 **TIONAL FOREST.**

23 (a) IN GENERAL.—The Forest Administrator shall
24 amend the applicable travel plan to allow utility terrain
25 vehicles access on all roads nominated by the Secretary

1 of Louisiana Wildlife and Fisheries in the Kisatchie Na-
2 tional Forest, except when such designation would pose
3 an unacceptable safety risk, in which case the Forest Ad-
4 ministrator shall publish a notice in the Federal Register
5 with a justification for the closure.

6 (b) UTILITY TERRAIN VEHICLES DEFINED.—For
7 purposes of this section, the term “utility terrain vehi-
8 cle”—

9 (1) means any recreational motor vehicle de-
10 signed for and capable of travel over designated
11 roads, traveling on four or more tires with a max-
12 imum tire width of 27 inches, a maximum wheel
13 cleat or lug of $\frac{3}{4}$ of an inch, a minimum width of
14 50 inches but not exceeding 74 inches, a minimum
15 weight of at least 700 pounds but not exceeding
16 2,000 pounds, and a minimum wheelbase of 61
17 inches but not exceeding 110 inches;

18 (2) includes vehicles not equipped with a certifi-
19 cation label as required by part 567.4 of title 49,
20 Code of Federal Regulations; and

21 (3) does not include golf carts, vehicles specially
22 designed to carry a disabled person, or vehicles oth-
23 erwise registered under section 32.299 of the Lou-
24 isiana State statutes.

1 **Subtitle Q—Good Samaritan**
2 **Search and Recovery**

3 **SEC. 2181. SHORT TITLE.**

4 This subtitle may be cited as the “Good Samaritan
5 Search and Recovery Act”.

6 **SEC. 2182. EXPEDITED ACCESS TO CERTAIN FEDERAL**
7 **LAND.**

8 (a) DEFINITIONS.—In this section:

9 (1) ELIGIBLE.—The term “eligible”, with re-
10 spect to an organization or individual, means that
11 the organization or individual, respectively, is—

12 (A) acting in a not-for-profit capacity; and

13 (B) composed entirely of members who, at
14 the time of the good Samaritan search-and-re-
15 covery mission, have attained the age of major-
16 ity under the law of the State where the mis-
17 sion takes place.

18 (2) GOOD SAMARITAN SEARCH-AND-RECOVERY
19 MISSION.—The term “good Samaritan search-and-
20 recovery mission” means a search conducted by an
21 eligible organization or individual for 1 or more
22 missing individuals believed to be deceased at the
23 time that the search is initiated.

1 (3) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior or the Secretary of Ag-
3 riculture, as applicable.

4 (b) PROCESS.—

5 (1) IN GENERAL.—Each Secretary shall develop
6 and implement a process to expedite access to Fed-
7 eral land under the administrative jurisdiction of the
8 Secretary for eligible organizations and individuals
9 to request access to Federal land to conduct good
10 Samaritan search-and-recovery missions.

11 (2) INCLUSIONS.—The process developed and
12 implemented under this subsection shall include pro-
13 visions to clarify that—

14 (A) an eligible organization or individual
15 granted access under this section—

16 (i) shall be acting for private pur-
17 poses; and

18 (ii) shall not be considered to be a
19 Federal volunteer;

20 (B) an eligible organization or individual
21 conducting a good Samaritan search-and-recov-
22 ery mission under this section shall not be con-
23 sidered to be a volunteer under section
24 102301(c) of title 54, United States Code;

1 (C) chapter 171 of title 28, United States
2 Code (commonly known as the “Federal Tort
3 Claims Act”), shall not apply to an eligible or-
4 ganization or individual carrying out a privately
5 requested good Samaritan search-and-recovery
6 mission under this section; and

7 (D) an eligible organization or entity who
8 conducts a good Samaritan search-and-recovery
9 mission under this section shall serve without
10 pay from the Federal Government for such
11 service.

12 (c) RELEASE OF FEDERAL GOVERNMENT FROM LI-
13 ABILITY.—The Secretary shall not require an eligible or-
14 ganization or individual to have liability insurance as a
15 condition of accessing Federal land under this section, if
16 the eligible organization or individual—

17 (1) acknowledges and consents, in writing, to
18 the provisions described in subparagraphs (A)
19 through (D) of subsection (b)(2); and

20 (2) signs a waiver releasing the Federal Gov-
21 ernment from all liability relating to the access
22 granted under this section and agrees to indemnify
23 and hold harmless the United States from any
24 claims or lawsuits arising from any conduct by the
25 eligible organization or individual on Federal land.

1 (d) APPROVAL AND DENIAL OF REQUESTS.—

2 (1) IN GENERAL.—The Secretary shall notify
3 an eligible organization or individual of the approval
4 or denial of a request by the eligible organization or
5 individual to carry out a good Samaritan search-
6 and-recovery mission under this section by not later
7 than 48 hours after the request is made.

8 (2) DENIALS.—If the Secretary denies a re-
9 quest from an eligible organization or individual to
10 carry out a good Samaritan search-and-recovery mis-
11 sion under this section, the Secretary shall notify the
12 eligible organization or individual of—

13 (A) the reason for the denial of the re-
14 quest; and

15 (B) any actions that the eligible organiza-
16 tion or individual can take to meet the require-
17 ments for the request to be approved.

18 (e) PARTNERSHIPS.—Each Secretary shall develop
19 search-and-recovery-focused partnerships with search-and-
20 recovery organizations—

21 (1) to coordinate good Samaritan search-and-
22 recovery missions on Federal land under the admin-
23 istrative jurisdiction of the Secretary; and

24 (2) to expedite and accelerate good Samaritan
25 search-and-recovery mission efforts for missing indi-

1 individuals on Federal land under the administrative ju-
2 risdiction of the Secretary.

3 (f) REPORT.—Not later than 180 days after the date
4 of enactment of this Act, the Secretaries shall submit to
5 Congress a joint report describing—

6 (1) plans to develop partnerships described in
7 subsection (e)(1); and

8 (2) efforts carried out to expedite and accel-
9 erate good Samaritan search-and-recovery mission
10 efforts for missing individuals on Federal land under
11 the administrative jurisdiction of each Secretary
12 pursuant to subsection (e)(2).

13 **Subtitle R—Interstate Transpor-**
14 **tation of Firearms or Ammuni-**
15 **tion**

16 **SEC. 2191. INTERSTATE TRANSPORTATION OF FIREARMS**
17 **OR AMMUNITION.**

18 (a) IN GENERAL.—Section 926A of title 18, United
19 States Code, is amended to read as follows:

20 **“§ 926A. Interstate transportation of firearms or am-**
21 **munication**

22 “(a) Notwithstanding any provision of any law, rule,
23 or regulation of a State or any political subdivision there-
24 of:

1 “(1) A person who is not prohibited by this
2 chapter from possessing, transporting, shipping, or
3 receiving a firearm or ammunition shall be entitled
4 to transport a firearm for any lawful purpose from
5 any place where the person may lawfully possess,
6 carry, or transport the firearm to any other such
7 place if, during the transportation, the firearm is
8 unloaded, and—

9 “(A) if the transportation is by motor vehi-
10 cle, the firearm is not directly accessible from
11 the passenger compartment of the vehicle, and,
12 if the vehicle is without a compartment separate
13 from the passenger compartment, the firearm is
14 in a locked container other than the glove com-
15 partment or console, or is secured by a secure
16 gun storage or safety device; or

17 “(B) if the transportation is by other
18 means, the firearm is in a locked container or
19 secured by a secure gun storage or safety de-
20 vice.

21 “(2) A person who is not prohibited by this
22 chapter from possessing, transporting, shipping, or
23 receiving a firearm or ammunition shall be entitled
24 to transport ammunition for any lawful purpose
25 from any place where the person may lawfully pos-

1 sess, carry, or transport the ammunition, to any
2 other such place if, during the transportation, the
3 ammunition is not loaded into a firearm, and—

4 “(A) if the transportation is by motor vehi-
5 cle, the ammunition is not directly accessible
6 from the passenger compartment of the vehicle,
7 and, if the vehicle is without a compartment
8 separate from the passenger compartment, the
9 ammunition is in a locked container other than
10 the glove compartment or console; or

11 “(B) if the transportation is by other
12 means, the ammunition is in a locked container.

13 “(b) In subsection (a), the term ‘transport’ includes
14 staying in temporary lodging overnight, stopping for food,
15 fuel, vehicle maintenance, an emergency, medical treat-
16 ment, and any other activity incidental to the transport,
17 but does not include transportation—

18 “(1) with the intent to commit a crime punish-
19 able by imprisonment for a term exceeding one year
20 that involves the use or threatened use of force
21 against another; or

22 “(2) with knowledge, or reasonable cause to be-
23 lieve, that such a crime is to be committed in the
24 course of, or arising from, the transportation.

1 “(c)(1) A person who is transporting a firearm or
2 ammunition may not be arrested or otherwise detained for
3 violation of any law or any rule or regulation of a State
4 or any political subdivision thereof related to the posses-
5 sion, transportation, or carrying of firearms, unless there
6 is probable cause to believe that the person is doing so
7 in a manner not provided for in subsection (a).

8 “(2) When a person asserts this section as a defense
9 in a criminal proceeding, the prosecution shall bear the
10 burden of proving, beyond a reasonable doubt, that the
11 conduct of the person did not satisfy the conditions set
12 forth in subsection (a).

13 “(3) When a person successfully asserts this section
14 as a defense in a criminal proceeding, the court shall
15 award the prevailing defendant a reasonable attorney’s
16 fee.

17 “(d)(1) A person who is deprived of any right, privi-
18 lege, or immunity secured by this section, section 926B
19 or 926C, under color of any statute, ordinance, regulation,
20 custom, or usage of any State or any political subdivision
21 thereof, may bring an action in any appropriate court
22 against any other person, including a State or political
23 subdivision thereof, who causes the person to be subject
24 to the deprivation, for damages and other appropriate re-
25 lief.

1 “(2) The court shall award a plaintiff prevailing in
2 an action brought under paragraph (1) damages and such
3 other relief as the court deems appropriate, including a
4 reasonable attorney’s fee.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for such chapter is amended in the item relating to section
7 926A by striking “firearms” and inserting “firearms or
8 ammunition”.

9 **Subtitle S—Gray Wolves**

10 **SEC. 2201. REISSUANCE OF FINAL RULE REGARDING GRAY**

11 **WOLVES IN THE WESTERN GREAT LAKES.**

12 Before the end of the 60-day period beginning on the
13 date of enactment of this Act, the Secretary of the Interior
14 shall reissue the final rule published on December 28,
15 2011 (76 Fed. Reg. 81666), without regard to any other
16 provision of statute or regulation that applies to issuance
17 of such rule. Such reissuance shall not be subject to judi-
18 cial review.

19 **SEC. 2202. REISSUANCE OF FINAL RULE REGARDING GRAY**

20 **WOLVES IN WYOMING.**

21 Before the end of the 60-day period beginning on the
22 date of enactment of this Act, the Secretary of the Interior
23 shall reissue the final rule published on September 10,
24 2012 (77 Fed. Reg. 55530), without regard to any other
25 provision of statute or regulation that applies to issuance

1 of such rule. Such reissuance shall not be subject to judi-
2 cial review.

3 **Subtitle T—Miscellaneous**
4 **Provisions**

5 **SEC. 2211. PROHIBITION ON ISSUANCE OF FINAL RULE.**

6 The Director of the United States Fish and Wildlife
7 Service shall not issue a final rule that—

8 (1) succeeds the proposed rule entitled “Non-
9 Subsistence Take of Wildlife, and Public Participa-
10 tion and Closure Procedures, on National Wildlife
11 Refuges in Alaska” (81 Fed. Reg. 887 (January 8,
12 2016)); or

13 (2) is substantially similar to that proposed
14 rule.

15 **SEC. 2212. WITHDRAWAL OF EXISTING RULE REGARDING**
16 **HUNTING AND TRAPPING IN ALASKA.**

17 The Director of the National Park Service shall with-
18 draw the final rule entitled “Alaska; Hunting and Trap-
19 ping in National Preserves” (80 Fed. Reg. 64325 (Octo-
20 ber 23, 2015)) by not later than 30 days after the date
21 of the enactment of this Act, and shall not issue a rule
22 that is substantially similar to that rule.

1 **TITLE III—NATIONAL STRA-**
2 **TEGIC AND CRITICAL MIN-**
3 **ERALS PRODUCTION ACT**

4 **SEC. 3001. SHORT TITLE.**

5 This title may be cited as the “National Strategic and
6 Critical Minerals Production Act of 2015”.

7 **SEC. 3002. FINDINGS.**

8 Congress finds the following:

9 (1) The industrialization of developing nations
10 has driven demand for nonfuel minerals necessary
11 for telecommunications, military technologies,
12 healthcare technologies, and conventional and renew-
13 able energy technologies.

14 (2) The availability of minerals and mineral
15 materials are essential for economic growth, national
16 security, technological innovation, and the manufac-
17 turing and agricultural supply chain.

18 (3) The exploration, production, processing,
19 use, and recycling of minerals contribute signifi-
20 cantly to the economic well-being, security, and gen-
21 eral welfare of the Nation.

22 (4) The United States has vast mineral re-
23 sources, but is becoming increasingly dependent
24 upon foreign sources of these mineral materials, as
25 demonstrated by the following:

1 (A) Twenty-five years ago the United
2 States was dependent on foreign sources for 45
3 nonfuel mineral materials, 8 of which the
4 United States imported 100 percent of the Na-
5 tion's requirements, and for another 19 com-
6 modities the United States imported more than
7 50 percent of the Nation's needs.

8 (B) By 2014 the United States import de-
9 pendence for nonfuel mineral materials in-
10 creased from 45 to 65 commodities, 19 of which
11 the United States imported for 100 percent of
12 the Nation's requirements, and an additional 24
13 of which the United States imported for more
14 than 50 percent of the Nation's needs.

15 (C) The United States share of worldwide
16 mineral exploration dollars was 7 percent in
17 2014, down from 19 percent in the early 1990s.

18 (D) In the 2014 Ranking of Countries for
19 Mining Investment (out of 25 major mining
20 countries), found that 7- to 10-year permitting
21 delays are the most significant risk to mining
22 projects in the United States.

23 **SEC. 3003. DEFINITIONS.**

24 In this title:

1 (1) STRATEGIC AND CRITICAL MINERALS.—The
2 term “strategic and critical minerals” means min-
3 erals that are necessary—

4 (A) for national defense and national secu-
5 rity requirements;

6 (B) for the Nation’s energy infrastructure,
7 including pipelines, refining capacity, electrical
8 power generation and transmission, and renew-
9 able energy production;

10 (C) to support domestic manufacturing,
11 agriculture, housing, telecommunications,
12 healthcare, and transportation infrastructure;
13 or

14 (D) for the Nation’s economic security and
15 balance of trade.

16 (2) AGENCY.—The term “agency” means any
17 agency, department, or other unit of Federal, State,
18 local, or tribal government, or Alaska Native Cor-
19 poration.

20 (3) MINERAL EXPLORATION OR MINE PER-
21 MIT.—The term “mineral exploration or mine per-
22 mit” includes—

23 (A) Bureau of Land Management and For-
24 est Service authorizations for pre-mining activi-
25 ties that require environmental analyses pursu-

1 ant to the National Environmental Policy Act
2 of 1969 (42 U.S.C. 4321 et seq.); and

3 (B) plans of operation issued by the Bu-
4 reau of Land Management and the Forest Serv-
5 ice pursuant to 43 CFR 3809 and 36 CFR
6 228A or the authorities listed in 43 CFR
7 3503.13, respectively, as amended from time to
8 time.

9 **Subtitle A—Development of Domes-**
10 **tic Sources of Strategic and**
11 **Critical Minerals**

12 **SEC. 3011. IMPROVING DEVELOPMENT OF STRATEGIC AND**
13 **CRITICAL MINERALS.**

14 Domestic mines that will provide strategic and crit-
15 ical minerals shall be considered an “infrastructure
16 project” as described in Presidential order “Improving
17 Performance of Federal Permitting and Review of Infra-
18 structure Projects” dated March 22, 2012.

19 **SEC. 3012. RESPONSIBILITIES OF THE LEAD AGENCY.**

20 (a) IN GENERAL.—The lead agency with responsi-
21 bility for issuing a mineral exploration or mine permit
22 shall appoint a project lead within the lead agency who
23 shall coordinate and consult with cooperating agencies and
24 any other agency involved in the permitting process,
25 project proponents and contractors to ensure that agencies

1 minimize delays, set and adhere to timelines and schedules
2 for completion of the permitting process, set clear permit-
3 ting goals and track progress against those goals.

4 (b) DETERMINATION UNDER NEPA.—

5 (1) IN GENERAL.—To the extent that the Na-
6 tional Environmental Policy Act of 1969 (42 U.S.C.
7 4321 et seq.) applies to the issuance of any mineral
8 exploration or mine permit, the requirements of such
9 Act shall be deemed to have been procedurally and
10 substantively satisfied if the lead agency determines
11 that any State and/or Federal agency acting pursu-
12 ant to State or Federal (or both) statutory or proce-
13 dural authorities, has addressed or will address the
14 following factors:

15 (A) The environmental impact of the ac-
16 tion to be conducted under the permit.

17 (B) Possible adverse environmental effects
18 of actions under the permit.

19 (C) Possible alternatives to issuance of the
20 permit.

21 (D) The relationship between local long-
22 and short-term uses of man's environment and
23 the maintenance and enhancement of long-term
24 productivity.

1 (E) Any irreversible and irretrievable com-
2 mitment of resources that would be involved in
3 the proposed action.

4 (F) That public participation will occur
5 during the decisionmaking process for author-
6 izing actions under the permit.

7 (2) WRITTEN REQUIREMENT.—In reaching a
8 determination under paragraph (1), the lead agency
9 shall, by no later than 90 days after receipt of an
10 application for the permit, in a written record of de-
11 cision—

12 (A) explain the rationale used in reaching
13 its determination;

14 (B) state the facts in the record that are
15 the basis for the determination; and

16 (C) show that the facts in the record could
17 allow a reasonable person to reach the same de-
18 termination as the lead agency did.

19 (c) COORDINATION ON PERMITTING PROCESS.—The
20 lead agency with responsibility for issuing a mineral explo-
21 ration or mine permit shall enhance government coordina-
22 tion for the permitting process by avoiding duplicative re-
23 views, minimizing paperwork, and engaging other agencies
24 and stakeholders early in the process. For purposes of this

1 subsection, the lead agency shall consider the following
2 practices:

3 (1) Deferring to and relying upon baseline data,
4 analyses and reviews performed by State agencies
5 with jurisdiction over the proposed project.

6 (2) Conducting any consultations or reviews
7 concurrently rather than sequentially to the extent
8 practicable and when such concurrent review will ex-
9 pedite rather than delay a decision.

10 (d) MEMORANDUM OF AGENCY AGREEMENT.—If re-
11 quested at any time by a State or local planning agency,
12 the lead agency with responsibility for issuing a mineral
13 exploration or mine permit, in consultation with other
14 Federal agencies with relevant jurisdiction in the environ-
15 mental review process, may establish memoranda of agree-
16 ment with the project sponsor, State and local govern-
17 ments, and other appropriate entities to accomplish the
18 early coordination activities described in subsection (c).

19 (e) SCHEDULE FOR PERMITTING PROCESS.—For any
20 project for which the lead agency cannot make the deter-
21 mination described in 102(b), at the request of a project
22 proponent the lead agency, cooperating agencies, and any
23 other agencies involved with the mineral exploration or
24 mine permitting process shall enter into an agreement

1 with the project proponent that sets time limits for each
2 part of the permitting process, including for the following:

3 (1) The decision on whether to prepare a docu-
4 ment required under the National Environmental
5 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

6 (2) A determination of the scope of any docu-
7 ment required under the National Environmental
8 Policy Act of 1969.

9 (3) The scope of and schedule for the baseline
10 studies required to prepare a document required
11 under the National Environmental Policy Act of
12 1969.

13 (4) Preparation of any draft document required
14 under the National Environmental Policy Act of
15 1969.

16 (5) Preparation of a final document required
17 under the National Environmental Policy Act of
18 1969.

19 (6) Consultations required under applicable
20 laws.

21 (7) Submission and review of any comments re-
22 quired under applicable law.

23 (8) Publication of any public notices required
24 under applicable law.

25 (9) A final or any interim decisions.

1 (f) TIME LIMIT FOR PERMITTING PROCESS.—In no
2 case should the total review process described in sub-
3 section (d) exceed 30 months unless extended by the sig-
4 natories of the agreement.

5 (g) LIMITATION ON ADDRESSING PUBLIC COM-
6 MENTS.—The lead agency is not required to address agen-
7 cy or public comments that were not submitted during any
8 public comment periods or consultation periods provided
9 during the permitting process or as otherwise required by
10 law.

11 (h) FINANCIAL ASSURANCE.—The lead agency will
12 determine the amount of financial assurance for reclama-
13 tion of a mineral exploration or mining site, which must
14 cover the estimated cost if the lead agency were to con-
15 tract with a third party to reclaim the operations accord-
16 ing to the reclamation plan, including construction and
17 maintenance costs for any treatment facilities necessary
18 to meet Federal, State or tribal environmental standards.

19 (i) APPLICATION TO EXISTING PERMIT APPLICA-
20 TIONS.—This section shall apply with respect to a mineral
21 exploration or mine permit for which an application was
22 submitted before the date of the enactment of this Act
23 if the applicant for the permit submits a written request
24 to the lead agency for the permit. The lead agency shall

1 begin implementing this section with respect to such appli-
2 cation within 30 days after receiving such written request.

3 (j) STRATEGIC AND CRITICAL MINERALS WITHIN
4 NATIONAL FORESTS.—With respect to strategic and crit-
5 ical minerals within a federally administered unit of the
6 National Forest System, the lead agency shall—

7 (1) exempt all areas of identified mineral re-
8 sources in Land Use Designations, other than Non-
9 Development Land Use Designations, in existence as
10 of the date of the enactment of this Act from the
11 procedures detailed at and all rules promulgated
12 under part 294 of title 36, Code of Federal Regula-
13 tions;

14 (2) apply such exemption to all additional
15 routes and areas that the lead agency finds nec-
16 essary to facilitate the construction, operation, main-
17 tenance, and restoration of the areas of identified
18 mineral resources described in paragraph (1); and

19 (3) continue to apply such exemptions after ap-
20 proval of the Minerals Plan of Operations for the
21 unit of the National Forest System.

22 **SEC. 3013. CONSERVATION OF THE RESOURCE.**

23 In evaluating and issuing any mineral exploration or
24 mine permit, the priority of the lead agency shall be to
25 maximize the development of the mineral resource, while

1 mitigating environmental impacts, so that more of the
2 mineral resource can be brought to the marketplace.

3 **SEC. 3014. FEDERAL REGISTER PROCESS FOR MINERAL EX-**
4 **PLORATION AND MINING PROJECTS.**

5 (a) PREPARATION OF FEDERAL NOTICES FOR MIN-
6 ERAL EXPLORATION AND MINE DEVELOPMENT
7 PROJECTS.—The preparation of Federal Register notices
8 required by law associated with the issuance of a mineral
9 exploration or mine permit shall be delegated to the orga-
10 nization level within the agency responsible for issuing the
11 mineral exploration or mine permit. All Federal Register
12 notices regarding official document availability, announce-
13 ments of meetings, or notices of intent to undertake an
14 action shall be originated and transmitted to the Federal
15 Register from the office where documents are held, meet-
16 ings are held, or the activity is initiated.

17 (b) DEPARTMENTAL REVIEW OF FEDERAL REG-
18 ISTER NOTICES FOR MINERAL EXPLORATION AND MIN-
19 ING PROJECTS.—Absent any extraordinary circumstance
20 or except as otherwise required by any Act of Congress,
21 each Federal Register notice described in subsection (a)
22 shall undergo any required reviews within the Department
23 of the Interior or the Department of Agriculture and be
24 published in its final form in the Federal Register no later
25 than 30 days after its initial preparation.

1 **Subtitle B—Judicial Review of**
2 **Agency Actions Relating to Ex-**
3 **ploration and Mine Permits**

4 **SEC. 3021. DEFINITIONS FOR TITLE.**

5 In this subtitle the term “covered civil action” means
6 a civil action against the Federal Government containing
7 a claim under section 702 of title 5, United States Code,
8 regarding agency action affecting a mineral exploration or
9 mine permit.

10 **SEC. 3022. TIMELY FILINGS.**

11 A covered civil action is barred unless filed no later
12 than the end of the 60-day period beginning on the date
13 of the final Federal agency action to which it relates.

14 **SEC. 3023. RIGHT TO INTERVENE.**

15 The holder of any mineral exploration or mine permit
16 may intervene as of right in any covered civil action by
17 a person affecting rights or obligations of the permit hold-
18 er under the permit.

19 **SEC. 3024. EXPEDITION IN HEARING AND DETERMINING**
20 **THE ACTION.**

21 The court shall endeavor to hear and determine any
22 covered civil action as expeditiously as possible.

23 **SEC. 3025. LIMITATION ON PROSPECTIVE RELIEF.**

24 In a covered civil action, the court shall not grant
25 or approve any prospective relief unless the court finds

1 that such relief is narrowly drawn, extends no further than
2 necessary to correct the violation of a legal requirement,
3 and is the least intrusive means necessary to correct that
4 violation.

5 **SEC. 3026. LIMITATION ON ATTORNEYS' FEES.**

6 Section 504 of title 5, United States Code, and sec-
7 tion 2412 of title 28, United States Code (together com-
8 monly called the Equal Access to Justice Act) do not apply
9 to a covered civil action, nor shall any party in such a
10 covered civil action receive payment from the Federal Gov-
11 ernment for their attorneys' fees, expenses, and other
12 court costs.

13 **Subtitle C—Miscellaneous**
14 **Provisions**

15 **SEC. 3031. SECRETARIAL ORDER NOT AFFECTED.**

16 This title shall not apply to any mineral described
17 in Secretarial Order No. 3324, issued by the Secretary
18 of the Interior on December 3, 2012, in any area to which
19 the order applies.

20 **TITLE IV—NATIVE AMERICAN**
21 **ENERGY ACT**

22 **SEC. 4001. SHORT TITLE.**

23 This title may be cited as the “Native American En-
24 ergy Act”.

1 **SEC. 4002. APPRAISALS.**

2 (a) AMENDMENT.—Title XXVI of the Energy Policy
3 Act of 1992 (25 U.S.C. 3501 et seq.) is amended by add-
4 ing at the end the following:

5 **“SEC. 2607. APPRAISAL REFORMS.**

6 “(a) OPTIONS TO INDIAN TRIBES.—With respect to
7 a transaction involving Indian land or the trust assets of
8 an Indian tribe that requires the approval of the Sec-
9 retary, any appraisal relating to fair market value required
10 to be conducted under applicable law, regulation, or policy
11 may be completed by—

12 “(1) the Secretary;

13 “(2) the affected Indian tribe; or

14 “(3) a certified, third-party appraiser pursuant
15 to a contract with the Indian tribe.

16 “(b) TIME LIMIT ON SECRETARIAL REVIEW AND AC-
17 TION.—Not later than 30 days after the date on which
18 the Secretary receives an appraisal conducted by or for
19 an Indian tribe pursuant to paragraphs (2) or (3) of sub-
20 section (a), the Secretary shall—

21 “(1) review the appraisal; and

22 “(2) provide to the Indian tribe a written notice
23 of approval or disapproval of the appraisal.

24 “(c) FAILURE OF SECRETARY TO APPROVE OR DIS-
25 APPROVE.—If, after 60 days, the Secretary has failed to

1 approve or disapprove any appraisal received, the ap-
2 praisal shall be deemed approved.

3 “(d) OPTION TO INDIAN TRIBES TO WAIVE AP-
4 PRAISAL.—

5 “(1) An Indian tribe wishing to waive the re-
6 quirements of subsection (a), may do so after it has
7 satisfied the requirements of paragraphs (2) and
8 (3).

9 “(2) An Indian tribe wishing to forego the ne-
10 cessity of a waiver pursuant to this section must
11 provide to the Secretary a written resolution, state-
12 ment, or other unambiguous indication of tribal in-
13 tent, duly approved by the governing body of the In-
14 dian tribe.

15 “(3) The unambiguous indication of intent pro-
16 vided by the Indian tribe to the Secretary under
17 paragraph (2) must include an express waiver by the
18 Indian tribe of any claims for damages it might have
19 against the United States as a result of the lack of
20 an appraisal undertaken.

21 “(e) DEFINITION.—For purposes of this subsection,
22 the term ‘appraisal’ includes appraisals and other esti-
23 mates of value.

24 “(f) REGULATIONS.—The Secretary shall develop
25 regulations for implementing this section, including stand-

1 ards the Secretary shall use for approving or disapproving
2 an appraisal.”.

3 (b) CONFORMING AMENDMENT.—The table of con-
4 tents of the Energy Policy Act of 1992 (42 U.S.C. 13201
5 note) is amended by adding at the end of the items relat-
6 ing to title XXVI the following:

“Sec. 2607. Appraisal reforms.”.

7 **SEC. 4003. STANDARDIZATION.**

8 As soon as practicable after the date of the enactment
9 of this Act, the Secretary of the Interior shall implement
10 procedures to ensure that each agency within the Depart-
11 ment of the Interior that is involved in the review, ap-
12 proval, and oversight of oil and gas activities on Indian
13 lands shall use a uniform system of reference numbers and
14 tracking systems for oil and gas wells.

15 **SEC. 4004. ENVIRONMENTAL REVIEWS OF MAJOR FEDERAL**
16 **ACTIONS ON INDIAN LANDS.**

17 Section 102 of the National Environmental Policy
18 Act of 1969 (42 U.S.C. 4332) is amended by inserting
19 “(a) IN GENERAL.—” before the first sentence, and by
20 adding at the end the following:

21 “(b) REVIEW OF MAJOR FEDERAL ACTIONS ON IN-
22 DIAN LANDS.—

23 “(1) REVIEW AND COMMENT.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), the statement required

1 under subsection (a)(2)(C) for a major Federal
2 action regarding an activity on Indian lands of
3 an Indian tribe shall only be available for re-
4 view and comment by the members of the In-
5 dian tribe, other individuals residing within the
6 affected area, and State, federally recognized
7 tribal, and local governments within the af-
8 fected area.

9 “(B) EXCEPTION.—Subparagraph (A)
10 shall not apply to a statement for a major Fed-
11 eral action regarding an activity on Indian
12 lands of an Indian tribe related to gaming
13 under the Indian Gaming Regulatory Act.

14 “(2) REGULATIONS.—The Chairman of the
15 Council on Environmental Quality shall develop reg-
16 ulations to implement this section, including descrip-
17 tions of affected areas for specific major Federal ac-
18 tions, in consultation with Indian tribes.

19 “(3) DEFINITIONS.—In this subsection, each of
20 the terms ‘Indian land’ and ‘Indian tribe’ has the
21 meaning given that term in section 2601 of the En-
22 ergy Policy Act of 1992 (25 U.S.C. 3501).

23 “(4) CLARIFICATION OF AUTHORITY.—Nothing
24 in the Native American Energy Act, except section
25 6 of that Act, shall give the Secretary any additional

1 authority over energy projects on Alaska Native
2 Claims Settlement Act lands.”.

3 **SEC. 4005. JUDICIAL REVIEW.**

4 (a) TIME FOR FILING COMPLAINT.—Any energy re-
5 lated action must be filed not later than the end of the
6 60-day period beginning on the date of the final agency
7 action. Any energy related action not filed within this time
8 period shall be barred.

9 (b) DISTRICT COURT VENUE AND DEADLINE.—All
10 energy related actions—

11 (1) shall be brought in the United States Dis-
12 trict Court for the District of Columbia; and

13 (2) shall be resolved as expeditiously as pos-
14 sible, and in any event not more than 180 days after
15 such cause of action is filed.

16 (c) APPELLATE REVIEW.—An interlocutory order or
17 final judgment, decree or order of the district court in an
18 energy related action may be reviewed by the United
19 States Court of Appeals for the District of Columbia Cir-
20 cuit. The District of Columbia Circuit Court of Appeals
21 shall resolve such appeal as expeditiously as possible, and
22 in any event not more than 180 days after such interlocu-
23 tory order or final judgment, decree or order of the district
24 court was issued.

1 (d) LIMITATION ON CERTAIN PAYMENTS.—Notwith-
2 standing section 1304 of title 31, United States Code, no
3 award may be made under section 504 of title 5, United
4 States Code, or under section 2412 of title 28, United
5 States Code, and no amounts may be obligated or ex-
6 pended from the Claims and Judgment Fund of the
7 United States Treasury to pay any fees or other expenses
8 under such sections, to any person or party in an energy
9 related action.

10 (e) LEGAL FEES.—In any energy related action in
11 which the plaintiff does not ultimately prevail, the court
12 shall award to the defendant (including any intervenor-
13 defendants), other than the United States, fees and other
14 expenses incurred by that party in connection with the en-
15 ergy related action, unless the court finds that the position
16 of the plaintiff was substantially justified or that special
17 circumstances make an award unjust. Whether or not the
18 position of the plaintiff was substantially justified shall be
19 determined on the basis of the administrative record, as
20 a whole, which is made in the energy related action for
21 which fees and other expenses are sought.

22 (f) DEFINITIONS.—For the purposes of this section,
23 the following definitions apply:

1 (1) AGENCY ACTION.—The term “agency ac-
2 tion” has the same meaning given such term in sec-
3 tion 551 of title 5, United States Code.

4 (2) INDIAN LAND.—The term “Indian Land”
5 has the same meaning given such term in section
6 203(c)(3) of the Energy Policy Act of 2005 (Public
7 Law 109–58; 25 U.S.C. 3501), including lands
8 owned by Native Corporations under the Alaska Na-
9 tive Claims Settlement Act (Public Law 92–203; 43
10 U.S.C. 1601).

11 (3) ENERGY RELATED ACTION.—The term “en-
12 ergy related action” means a cause of action that—

13 (A) is filed on or after the effective date of
14 this Act; and

15 (B) seeks judicial review of a final agency
16 action to issue a permit, license, or other form
17 of agency permission allowing:

18 (i) any person or entity to conduct ac-
19 tivities on Indian Land, which activities in-
20 volve the exploration, development, produc-
21 tion or transportation of oil, gas, coal,
22 shale gas, oil shale, geothermal resources,
23 wind or solar resources, underground coal
24 gasification, biomass, or the generation of
25 electricity; or

1 (ii) any Indian Tribe, or any organiza-
2 tion of two or more entities, at least one
3 of which is an Indian tribe, to conduct ac-
4 tivities involving the exploration, develop-
5 ment, production or transportation of oil,
6 gas, coal, shale gas, oil shale, geothermal
7 resources, wind or solar resources, under-
8 ground coal gasification, biomass, or the
9 generation of electricity, regardless of
10 where such activities are undertaken.

11 (4) **ULTIMATELY PREVAIL.**—The phrase “ulti-
12 mately prevail” means, in a final enforceable judg-
13 ment, the court rules in the party’s favor on at least
14 one cause of action which is an underlying rationale
15 for the preliminary injunction, administrative stay,
16 or other relief requested by the party, and does not
17 include circumstances where the final agency action
18 is modified or amended by the issuing agency unless
19 such modification or amendment is required pursu-
20 ant to a final enforceable judgment of the court or
21 a court-ordered consent decree.

22 **SEC. 4006. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

23 The Tribal Forest Protection Act of 2004 is amended
24 by inserting after section 2 (25 U.S.C. 3115a) the fol-
25 lowing:

1 **“SEC. 3. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

2 “(a) IN GENERAL.—For each of fiscal years 2016
3 through 2020, the Secretary shall enter into stewardship
4 contracts or other agreements, other than agreements that
5 are exclusively direct service contracts, with Indian tribes
6 to carry out demonstration projects to promote biomass
7 energy production (including biofuel, heat, and electricity
8 generation) on Indian forest land and in nearby commu-
9 nities by providing reliable supplies of woody biomass from
10 Federal land.

11 “(b) DEFINITIONS.—The definitions in section 2
12 shall apply to this section.

13 “(c) DEMONSTRATION PROJECTS.—In each fiscal
14 year for which projects are authorized, the Secretary shall
15 enter into contracts or other agreements described in sub-
16 section (a) to carry out at least 4 new demonstration
17 projects that meet the eligibility criteria described in sub-
18 section (d).

19 “(d) ELIGIBILITY CRITERIA.—To be eligible to enter
20 into a contract or other agreement under this subsection,
21 an Indian tribe shall submit to the Secretary an applica-
22 tion—

23 “(1) containing such information as the Sec-
24 retary may require; and

25 “(2) that includes a description of—

1 “(A) the Indian forest land or rangeland
2 under the jurisdiction of the Indian tribe; and

3 “(B) the demonstration project proposed
4 to be carried out by the Indian tribe.

5 “(e) SELECTION.—In evaluating the applications
6 submitted under subsection (e), the Secretary—

7 “(1) shall take into consideration the factors set
8 forth in paragraphs (1) and (2) of section 2(e) of
9 Public Law 108–278; and whether a proposed dem-
10 onstration project would—

11 “(A) increase the availability or reliability
12 of local or regional energy;

13 “(B) enhance the economic development of
14 the Indian tribe;

15 “(C) improve the connection of electric
16 power transmission facilities serving the Indian
17 tribe with other electric transmission facilities;

18 “(D) improve the forest health or water-
19 sheds of Federal land or Indian forest land or
20 rangeland; or

21 “(E) otherwise promote the use of woody
22 biomass; and

23 “(2) shall exclude from consideration any mer-
24 chantable logs that have been identified by the Sec-
25 retary for commercial sale.

1 “(f) IMPLEMENTATION.—The Secretary shall—

2 “(1) ensure that the criteria described in sub-
3 section (c) are publicly available by not later than
4 120 days after the date of enactment of this section;
5 and

6 “(2) to the maximum extent practicable, consult
7 with Indian tribes and appropriate intertribal orga-
8 nizations likely to be affected in developing the ap-
9 plication and otherwise carrying out this section.

10 “(g) REPORT.—Not later than one year subsequent
11 to the date of enactment of this section, the Secretary
12 shall submit to Congress a report that describes, with re-
13 spect to the reporting period—

14 “(1) each individual tribal application received
15 under this section; and

16 “(2) each contract and agreement entered into
17 pursuant to this section.

18 “(h) INCORPORATION OF MANAGEMENT PLANS.—In
19 carrying out a contract or agreement under this section,
20 on receipt of a request from an Indian tribe, the Secretary
21 shall incorporate into the contract or agreement, to the
22 extent practicable, management plans (including forest
23 management and integrated resource management plans)
24 in effect on the Indian forest land or rangeland of the re-
25 spective Indian tribe.

1 “(i) TERM.—A stewardship contract or other agree-
2 ment entered into under this section—

3 “(1) shall be for a term of not more than 20
4 years; and

5 “(2) may be renewed in accordance with this
6 section for not more than an additional 10 years.

7 **“SEC. 4. TRIBAL FOREST MANAGEMENT DEMONSTRATION**
8 **PROJECT.**

9 “The Secretary of the Interior and the Secretary of
10 Agriculture may carry out demonstration projects by
11 which federally recognized Indian tribes or tribal organiza-
12 tions may contract to perform administrative, manage-
13 ment, and other functions of programs of the Tribal For-
14 est Protection Act of 2004 (25 U.S.C. 3115a et seq.)
15 through contracts entered into under the Indian Self-De-
16 termination and Education Assistance Act (25 U.S.C. 450
17 et seq.).”.

18 **SEC. 4007. TRIBAL RESOURCE MANAGEMENT PLANS.**

19 Unless otherwise explicitly exempted by Federal law
20 enacted after the date of the enactment of this Act, any
21 activity conducted or resources harvested or produced pur-
22 suant to a tribal resource management plan or an inte-
23 grated resource management plan approved by the Sec-
24 retary of the Interior under the National Indian Forest
25 Resources Management Act (25 U.S.C. 3101 et seq.) or

1 the American Indian Agricultural Resource Management
2 Act (25 U.S.C. 3701 et seq.), shall be considered a sus-
3 tainable management practice for purposes of any Federal
4 standard, benefit, or requirement that requires a dem-
5 onstration of such sustainability.

6 **SEC. 4008. LEASES OF RESTRICTED LANDS FOR THE NAV-**
7 **AJO NATION.**

8 Subsection (e)(1) of the first section of the Act of
9 August 9, 1955 (25 U.S.C. 415(e)(1); commonly referred
10 to as the “Long-Term Leasing Act”), is amended—

11 (1) by striking “, except a lease for” and insert-
12 ing “, including leases for”;

13 (2) in subparagraph (A), by striking “25” the
14 first place it appears and all that follows and insert-
15 ing “99 years;”;

16 (3) in subparagraph (B), by striking the period
17 and inserting “; and”; and

18 (4) by adding at the end the following:

19 “(C) in the case of a lease for the exploration,
20 development, or extraction of mineral resources, in-
21 cluding geothermal resources, 25 years, except that
22 any such lease may include an option to renew for
23 one additional term not to exceed 25 years.”.

1 **SEC. 4009. NONAPPLICABILITY OF CERTAIN RULES.**

2 No rule promulgated by the Department of the Inte-
3 rior regarding hydraulic fracturing used in the develop-
4 ment or production of oil or gas resources shall have any
5 effect on any land held in trust or restricted status for
6 the benefit of Indians except with the express consent of
7 the beneficiary on whose behalf such land is held in trust
8 or restricted status.

9 **TITLE V—NORTHPORT**
10 **IRRIGATION EARLY REPAYMENT**

11 **SEC. 5001. EARLY REPAYMENT OF CONSTRUCTION COSTS.**

12 (a) IN GENERAL.—Notwithstanding section 213 of
13 the Reclamation Reform Act of 1982 (43 U.S.C. 390mm),
14 any landowner within the Northport Irrigation District in
15 the State of Nebraska (referred to in this section as the
16 “District”) may repay, at any time, the construction costs
17 of project facilities allocated to the landowner’s land with-
18 in the District.

19 (b) APPLICABILITY OF FULL-COST PRICING LIMITA-
20 TIONS.—On discharge, in full, of the obligation for repay-
21 ment of all construction costs described in subsection (a)
22 that are allocated to all land the landowner owns in the
23 District in question, the parcels of land shall not be sub-
24 ject to the ownership and full-cost pricing limitations
25 under Federal reclamation law (the Act of June 17, 1902,
26 32 Stat. 388, chapter 1093), and Acts supplemental to

1 and amendatory of that Act (43 U.S.C. 371 et seq.), in-
2 cluding the Reclamation Reform Act of 1982 (13 U.S.C.
3 390aa et seq.).

4 (c) CERTIFICATION.—On request of a landowner that
5 has repaid, in full, the construction costs described in sub-
6 section (a), the Secretary of the Interior shall provide to
7 the landowner a certificate described in section 213(b)(1)
8 of the Reclamation Reform Act of 1982 (43 U.S.C.
9 390mm(b)(1)).

10 (d) EFFECT.—Nothing in this section—

11 (1) modifies any contractual rights under, or
12 amends or reopens, the reclamation contract between
13 the District and the United States; or

14 (2) modifies any rights, obligations, or relation-
15 ships between the District and landowners in the
16 District under Nebraska State law.

17 **TITLE VI—OCMULGEE MOUNDS**
18 **NATIONAL HISTORICAL PARK**
19 **BOUNDARY REVISION ACT**

20 **SEC. 6001. SHORT TITLE.**

21 This title may be cited as the “Ocmulgee Mounds Na-
22 tional Historical Park Boundary Revision Act of 2016”.

23 **SEC. 6002. DEFINITIONS.**

24 In this Act:

1 (1) MAP.—The term “map” means the map en-
2 titled “Ocmulgee National Monument Proposed
3 Boundary Adjustment, numbered 363/125996”, and
4 dated January 2016.

5 (2) HISTORICAL PARK.—The term “Historical
6 Park” means the Ocmulgee Mounds National His-
7 torical Park in the State of Georgia, as redesignated
8 in section 6003.

9 (3) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 **SEC. 6003. OCMULGEE MOUNDS NATIONAL HISTORICAL**
12 **PARK.**

13 (a) REDESIGNATION.—Ocmulgee National Monu-
14 ment, established pursuant to the Act of June 14, 1934
15 (48 Stat. 958), shall be known and designated as
16 “Ocmulgee Mounds National Historical Park”.

17 (b) REFERENCES.—Any reference in a law, map, reg-
18 ulation, document, paper, or other record of the United
19 States to “Ocmulgee National Monument”, other than in
20 this Act, shall be deemed to be a reference to “Ocmulgee
21 Mounds National Historical Park”.

22 **SEC. 6004. BOUNDARY ADJUSTMENT.**

23 (a) IN GENERAL.—The boundary of the Historical
24 Park is revised to include approximately 2,100 acres, as
25 generally depicted on the map.

1 (b) AVAILABILITY OF MAP.—The map shall be on file
2 and available for public inspection in the appropriate of-
3 fices of the National Park Service, the Department of the
4 Interior.

5 **SEC. 6005. LAND ACQUISITION; NO BUFFER ZONES.**

6 (a) LAND ACQUISITION.—The Secretary is author-
7 ized to acquire land and interests in land within the
8 boundaries of the Historical Park by donation or exchange
9 only (and in the case of an exchange, no payment may
10 be made by the Secretary to any landowner). The Sec-
11 retary may not acquire by condemnation any land or inter-
12 est in land within the boundaries of the Historical Park.
13 No private property or non-Federal public property shall
14 be included within the boundaries of the Historical Park
15 without the written consent of the owner of such property.

16 (b) NO BUFFER ZONES.—Nothing in this Act, the
17 establishment of the Historical Park, or the management
18 of the Historical Park shall be construed to create buffer
19 zones outside of the Historical Park. That an activity or
20 use can be seen or heard from within the Historical Park
21 shall not preclude the conduct of that activity or use out-
22 side the Historical Park.

1 **SEC. 6006. ADMINISTRATION.**

2 The Secretary shall administer any land acquired
3 under section 6005 as part of the Historical Park in ac-
4 cordance with applicable laws and regulations.

5 **SEC. 6007. OCMULGEE RIVER CORRIDOR SPECIAL RE-**
6 **SOURCE STUDY.**

7 (a) IN GENERAL.—The Secretary shall conduct a
8 special resource study of the Ocmulgee River corridor be-
9 tween the cities of Macon, Georgia, and Hawkinsville,
10 Georgia, to determine—

11 (1) the national significance of the study area;

12 (2) the suitability and feasibility of adding
13 lands in the study area to the National Park Sys-
14 tem; and

15 (3) the methods and means for the protection
16 and interpretation of the study area by the National
17 Park Service, other Federal, State, local government
18 entities, affiliated federally recognized Indian tribes,
19 or private or nonprofit organizations.

20 (b) CRITERIA.—The Secretary shall conduct the
21 study authorized by this Act in accordance with section
22 100507 of title 54, United States Code.

23 (c) RESULTS OF STUDY.—Not later than 3 years
24 after the date on which funds are made available to carry
25 out this section, the Secretary shall submit to the Com-
26 mittee on Natural Resources of the House of Representa-

1 tives and the Committee on Energy and Natural Re-
2 sources of the Senate—

3 (1) the results of the study; and

4 (2) any findings, conclusions, and recommenda-
5 tions of the Secretary.

6 **TITLE VII—MEDGAR EVERS**
7 **HOUSE STUDY ACT**

8 **SEC. 7001. SHORT TITLE.**

9 This title may be cited as the “Medgar Evers House
10 Study Act”.

11 **SEC. 7002. SPECIAL RESOURCE STUDY.**

12 (a) **STUDY.**—The Secretary of the Interior shall con-
13 duct a special resource study of the home of the late civil
14 rights activist Medgar Evers, located at 2332 Margaret
15 Walker Alexander Drive in Jackson, Mississippi.

16 (b) **CONTENTS.**—In conducting the study under sub-
17 section (a), the Secretary shall—

18 (1) evaluate the national significance of the
19 site;

20 (2) determine the suitability and feasibility of
21 designating the site as a unit of the National Park
22 System;

23 (3) consider other alternatives for preservation,
24 protection, and interpretation of the site by Federal,

1 State, or local governmental entities, or private and
2 nonprofit organizations;

3 (4) consult with interested Federal, State, or
4 local governmental entities, private and nonprofit or-
5 ganizations or any other interested individuals;

6 (5) determine the effect of the designation of
7 the site as a unit of the National Park System on
8 existing commercial and recreational uses, and the
9 effect on State and local governments to manage
10 those activities;

11 (6) identify any authorities, including con-
12 demnation, that will compel or permit the Secretary
13 to influence or participate in local land use decisions
14 (such as zoning) or place restrictions on non-Federal
15 land if the site is designated a unit of the National
16 Park System; and

17 (7) identify cost estimates for any Federal ac-
18 quisition, development, interpretation, operation, and
19 maintenance associated with the alternatives.

20 (c) APPLICABLE LAW.—The study required under
21 subsection (a) shall be conducted in accordance with sec-
22 tion 100507 of title 54, United States Code.

23 (d) STUDY RESULTS.—Not later than 3 years after
24 the date on which funds are first made available for the
25 study under subsection (a), the Secretary shall submit to

1 the Committee on Natural Resources of the House of Rep-
2 resentatives and the Committee on Energy and Natural
3 Resources of the Senate the results of the study and any
4 conclusions and recommendations of the Secretary.

5 **TITLE VIII—SKY POINT**
6 **MOUNTAIN DESIGNATION**

7 **SEC. 8001. FINDINGS.**

8 Congress finds the following:

9 (1) Staff Sergeant Sky Mote, USMC, grew up
10 in El Dorado, California.

11 (2) Staff Sergeant Mote graduated from Union
12 Mine High School.

13 (3) Upon graduation, Staff Sergeant Mote
14 promptly enlisted in the Marine Corps.

15 (4) Staff Sergeant Mote spent 9 years serving
16 his country in the United States Marine Corps, in-
17 cluding a deployment to Iraq and two deployments
18 to Afghanistan.

19 (5) By his decisive actions, heroic initiative, and
20 resolute dedication to duty, Staff Sergeant Mote
21 gave his life to protect fellow Marines on August 10,
22 2012, by gallantly rushing into action during an at-
23 tack by a rogue Afghan policeman inside the base
24 perimeter in Helmand province.

1 (6) Staff Sergeant Mote was awarded the Navy
2 Cross, a Purple Heart, the Navy-Marine Corps Com-
3 mendation Medal, a Navy-Marine Corps Achieve-
4 ment Medal, two Combat Action Ribbons, and three
5 Good Conduct Medals.

6 (7) The Congress of the United States, in ac-
7 knowledgment of this debt that cannot be repaid,
8 honors Staff Sergeant Mote for his ultimate sacrifice
9 and recognizes his service to his country, faithfully
10 executed to his last, full measure of devotion.

11 (8) A presently unnamed peak in the center of
12 Humphrey Basin holds special meaning to the
13 friends and family of Sky Mote, as their annual
14 hunting trips set up camp beneath this point; under
15 the stars, the memories made beneath this rounded
16 peak will be cherished forever.

17 **SEC. 8002. SKY POINT.**

18 (a) DESIGNATION.—The mountain in the John Muir
19 Wilderness of the Sierra National Forest in California, lo-
20 cated at 37°15′16.10091″N 118°43′39.54102″W, shall be
21 known and designated as “Sky Point”.

22 (b) REFERENCES.—Any reference in a law, map, reg-
23 ulation, document, record, or other paper of the United
24 States to the mountain described in subsection (a) shall
25 be considered to be a reference to “Sky Point”.

1 **TITLE IX—CHIEF STANDING**
2 **BEAR TRAIL STUDY**

3 **SEC. 9001. CHIEF STANDING BEAR NATIONAL HISTORIC**
4 **TRAIL FEASIBILITY STUDY.**

5 Section 5(c) of the National Trails System Act (16
6 U.S.C. 1244(c)) is amended by adding at the end the fol-
7 lowing:

8 “(46) CHIEF STANDING BEAR NATIONAL HIS-
9 TORIC TRAIL.—

10 “(A) IN GENERAL.—The Chief Standing
11 Bear Trail, extending approximately 550 miles
12 from Niobrara, Nebraska, to Ponca City, Okla-
13 homa, which follows the route taken by Chief
14 Standing Bear and the Ponca people during
15 Federal Indian removal, and approximately 550
16 miles from Ponca City, Oklahoma, through
17 Omaha, Nebraska, to Niobrara, Nebraska,
18 which follows the return route taken by Chief
19 Standing Bear and the Ponca people, as gen-
20 erally depicted on the map entitled ‘Chief
21 Standing Bear National Historic Trail Feasi-
22 bility Study’, numbered 903/125,630, and dated
23 November 2014.

24 “(B) AVAILABILITY OF MAP.—The map
25 described in subparagraph (A) shall be on file

1 and available for public inspection in the appro-
2 priate offices of the Department of the Interior.

3 “(C) COMPONENTS.—The feasibility study
4 conducted under subparagraph (A) shall include
5 a determination on whether the Chief Standing
6 Bear Trail meets the criteria described in sub-
7 section (b) for designation as a national historic
8 trail.

9 “(D) CONSIDERATIONS.—In conducting
10 the feasibility study under subparagraph (A),
11 the Secretary of the Interior shall consider
12 input from owners of private land within or ad-
13 jacent to the study area.”.

14 **TITLE X—JOHN MUIR NATIONAL**
15 **HISTORIC SITE EXPANSION ACT**

16 **SEC. 10001. SHORT TITLE.**

17 This title may be cited as the “John Muir National
18 Historic Site Expansion Act”.

19 **SEC. 10002. JOHN MUIR NATIONAL HISTORIC SITE LAND**
20 **ACQUISITION.**

21 (a) ACQUISITION.—The Secretary of the Interior may
22 acquire by donation the approximately 44 acres of land,
23 and interests in such land, that are identified on the map
24 entitled “John Muir National Historic Site Proposed

1 Boundary Expansion”, numbered 426/127150, and dated
2 November, 2014.

3 (b) BOUNDARY.—Upon the acquisition of the land
4 authorized by subsection (a), the Secretary of the Interior
5 shall adjust the boundaries of the John Muir Historic Site
6 in Martinez, California, to include the land identified on
7 the map referred to in subsection (a).

8 (c) ADMINISTRATION.—The land and interests in
9 land acquired under subsection (a) shall be administered
10 as part of the John Muir National Historic Site estab-
11 lished by the Act of August 31, 1964 (Public Law 88–
12 547; 78 Stat. 753; 16 U.S.C. 461 note).

13 **TITLE XI—ARAPAHO NATIONAL**
14 **FOREST BOUNDARY ADJUST-**
15 **MENT ACT**

16 **SEC. 11001. SHORT TITLE.**

17 This title may be cited as the “Arapaho National
18 Forest Boundary Adjustment Act of 2015”.

19 **SEC. 11002. ARAPAHO NATIONAL FOREST BOUNDARY AD-**
20 **JUSTMENT.**

21 (a) IN GENERAL.—The boundary of the Arapaho Na-
22 tional Forest in the State of Colorado is adjusted to incor-
23 porate the approximately 92.95 acres of land generally de-
24 picted as “The Wedge” on the map entitled “Arapaho Na-
25 tional Forest Boundary Adjustment” and dated November

1 6, 2013, and described as lots three, four, eight, and nine
2 of section 13, Township 4 North, Range 76 West, Sixth
3 Principal Meridian, Colorado. A lot described in this sub-
4 section may be included in the boundary adjustment only
5 after the Secretary of Agriculture obtains written permis-
6 sion for such action from the lot owner or owners.

7 (b) BOWEN GULCH PROTECTION AREA.—The Sec-
8 retary of Agriculture shall include all Federal land within
9 the boundary described in subsection (a) in the Bowen
10 Gulch Protection Area established under section 6 of the
11 Colorado Wilderness Act of 1993 (16 U.S.C. 539j).

12 (c) LAND AND WATER CONSERVATION FUND.—For
13 purposes of section 200306(a)(2)(B)(i) of title 54, United
14 States Code, the boundaries of the Arapaho National For-
15 est, as modified under subsection (a), shall be considered
16 to be the boundaries of the Arapaho National Forest as
17 in existence on January 1, 1965.

18 (d) PUBLIC MOTORIZED USE.—Nothing in this Act
19 opens privately owned lands within the boundary described
20 in subsection (a) to public motorized use.

21 (e) ACCESS TO NON-FEDERAL LANDS.—Notwith-
22 standing the provisions of section 6(f) of the Colorado Wil-
23 derness Act of 1993 (16 U.S.C. 539j(f)) regarding motor-
24 ized travel, the owners of any non-Federal lands within
25 the boundary described in subsection (a) who historically

1 have accessed their lands through lands now or hereafter
2 owned by the United States within the boundary described
3 in subsection (a) shall have the continued right of motor-
4 ized access to their lands across the existing roadway.

5 **TITLE XII—PRESERVATION RE-**
6 **SEARCH AT INSTITUTIONS**
7 **SERVING MINORITIES ACT**

8 **SEC. 12001. SHORT TITLE.**

9 This title may be cited as the “Preservation Research
10 at Institutions Serving Minorities Act” or the “PRISM
11 Act”.

12 **SEC. 12002. ELIGIBILITY OF HISPANIC-SERVING INSTITU-**
13 **TIONS AND ASIAN AMERICAN AND NATIVE**
14 **AMERICAN PACIFIC ISLANDER-SERVING IN-**
15 **STITUTIONS FOR ASSISTANCE FOR PRESER-**
16 **VATION EDUCATION AND TRAINING PRO-**
17 **GRAMS.**

18 Section 303903(3) of title 54, United States Code,
19 is amended by inserting “to Hispanic-serving institutions
20 (as defined in section 502(a) of the Higher Education Act
21 of 1965 (20 U.S.C. 1101a(a))) and Asian American and
22 Native American Pacific Islander-serving institutions (as
23 defined in section 320(b) of the Higher Education Act of
24 1965 (20 U.S.C. 1059g(b))),” after “universities,”.

1 **TITLE XIII—ELKHORN RANCH**
2 **AND WHITE RIVER NATIONAL**
3 **FOREST CONVEYANCE ACT**

4 **SEC. 13001. SHORT TITLE.**

5 This title may be cited as the “Elkhorn Ranch and
6 White River National Forest Conveyance Act of 2015”.

7 **SEC. 13002. LAND CONVEYANCE, ELKHORN RANCH AND**
8 **WHITE RIVER NATIONAL FOREST, COLO-**
9 **RADO.**

10 (a) **LAND CONVEYANCE REQUIRED.**—Consistent with
11 the purpose of the Act of March 3, 1909 (43 U.S.C. 772),
12 all right, title, and interest of the United States (subject
13 to subsection (b)) in and to a parcel of land consisting
14 of approximately 148 acres as generally depicted on the
15 map entitled “Elkhorn Ranch Land Parcel—White River
16 National Forest” and dated March 2015 shall be conveyed
17 by patent to the Gordman-Leverich Partnership, a Colo-
18 rado Limited Liability Partnership (in this section re-
19 ferred to as “GLP”).

20 (b) **EXISTING RIGHTS.**—The conveyance under sub-
21 section (a)—

22 (1) is subject to the valid existing rights of the
23 lessee of Federal oil and gas lease COC-75070 and
24 any other valid existing rights; and

1 (2) shall reserve to the United States the right
2 to collect rent and royalty payments on the lease re-
3 ferred to in paragraph (1) for the duration of the
4 lease.

5 (c) EXISTING BOUNDARIES.—The conveyance under
6 subsection (a) does not modify the exterior boundary of
7 the White River National Forest or the boundaries of Sec-
8 tions 18 and 19 of Township 7 South, Range 93 West,
9 Sixth Principal Meridian, Colorado, as such boundaries
10 are in effect on the date of the enactment of this Act.

11 (d) TIME FOR CONVEYANCE; PAYMENT OF COSTS.—
12 The conveyance directed under subsection (a) shall be
13 completed not later than 180 days after the date of the
14 enactment of this Act. The conveyance shall be without
15 consideration, except that all costs incurred by the Sec-
16 retary of the Interior relating to any survey, platting, legal
17 description, or other activities carried out to prepare and
18 issue the patent shall be paid by GLP to the Secretary
19 prior to the land conveyance.

20 **TITLE XIV—NATIONAL LIBERTY**
21 **MEMORIAL CLARIFICATION ACT**

22 **SEC. 14001. SHORT TITLE.**

23 This title may be cited as the “National Liberty Me-
24 morial Clarification Act of 2015”.

1 **SEC. 14002. COMPLIANCE WITH CERTAIN STANDARDS FOR**
2 **COMMEMORATIVE WORKS IN ESTABLISH-**
3 **MENT OF NATIONAL LIBERTY MEMORIAL.**

4 Section 2860(c) of the Military Construction Author-
5 ization Act for Fiscal Year 2013 (division B of Public Law
6 112–239; 40 U.S.C. 8903 note) is amended by striking
7 the period at the end and inserting the following: “, except
8 that, under subsections (a)(2) and (b) of section 8905, the
9 Secretary of Agriculture, rather than the Secretary of the
10 Interior or the Administrator of General Services, shall be
11 responsible for the consideration of site and design pro-
12 posals and the submission of such proposals on behalf of
13 the sponsor to the Commission of Fine Arts and National
14 Capital Planning Commission.”.

15 **TITLE XV—CRAGS, COLORADO**
16 **LAND EXCHANGE ACT**

17 **SEC. 15001. SHORT TITLE.**

18 This title may be cited as the “Craggs, Colorado Land
19 Exchange Act of 2015”.

20 **SEC. 15002. PURPOSES.**

21 The purposes of this title are—

22 (1) to authorize, direct, expedite, and facilitate
23 the land exchange set forth herein; and

24 (2) to promote enhanced public outdoor rec-
25 reational and natural resource conservation opportu-
26 nities in the Pike National Forest near Pikes Peak,

1 Colorado, via acquisition of the non-Federal land
2 and trail easement.

3 **SEC. 15003. DEFINITIONS.**

4 In this Act:

5 (1) BHI.—The term “BHI” means Broadmoor
6 Hotel, Inc., a Colorado corporation.

7 (2) FEDERAL LAND.—The term “Federal land”
8 means all right, title, and interest of the United
9 States in and to approximately 83 acres of land
10 within the Pike National Forest, El Paso County,
11 Colorado, together with a non-exclusive perpetual ac-
12 cess easement to BHI to and from such land on
13 Forest Service Road 371, as generally depicted on
14 the map entitled “Proposed Craggs Land Exchange–
15 Federal Parcel–Emerald Valley Ranch”, dated
16 March 2015.

17 (3) NON-FEDERAL LAND.—The term “non-Fed-
18 eral land” means the land and trail easement to be
19 conveyed to the Secretary by BHI in the exchange
20 and is—

21 (A) approximately 320 acres of land within
22 the Pike National Forest, Teller County, Colo-
23 rado, as generally depicted on the map entitled
24 “Proposed Craggs Land Exchange–Non-Federal

1 Parcel–Craggs Property”, dated March 2015;
2 and

3 (B) a permanent trail easement for the
4 Barr Trail in El Paso County, Colorado, as
5 generally depicted on the map entitled “Pro-
6 posed Craggs Land Exchange–Barr Trail Ease-
7 ment to United States”, dated March 2015,
8 and which shall be considered as a voluntary
9 donation to the United States by BHI for all
10 purposes of law.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of Agriculture, unless otherwise speci-
13 fied.

14 **SEC. 15004. LAND EXCHANGE.**

15 (a) IN GENERAL.—If BHI offers to convey to the
16 Secretary all right, title, and interest of BHI in and to
17 the non-Federal land, the Secretary shall accept the offer
18 and simultaneously convey to BHI the Federal land.

19 (b) LAND TITLE.—Title to the non-Federal land con-
20 veyed and donated to the Secretary under this Act shall
21 be acceptable to the Secretary and shall conform to the
22 title approval standards of the Attorney General of the
23 United States applicable to land acquisitions by the Fed-
24 eral Government.

1 (c) PERPETUAL ACCESS EASEMENT TO BHI.—The
2 nonexclusive perpetual access easement to be granted to
3 BHI as shown on the map referred to in section 15003(2)
4 shall allow—

5 (1) BHI to fully maintain, at BHI's expense,
6 and use Forest Service Road 371 from its junction
7 with Forest Service Road 368 in accordance with
8 historic use and maintenance patterns by BHI; and

9 (2) full and continued public and administrative
10 access and use of FSR 371 in accordance with the
11 existing Forest Service travel management plan, or
12 as such plan may be revised by the Secretary.

13 (d) ROUTE AND CONDITION OF ROAD.—BHI and the
14 Secretary may mutually agree to improve, relocate, recon-
15 struct, or otherwise alter the route and condition of all
16 or portions of such road as the Secretary, in close con-
17 sultation with BHI, may determine advisable.

18 (e) EXCHANGE COSTS.—BHI shall pay for all land
19 survey, appraisal, and other costs to the Secretary as may
20 be necessary to process and consummate the exchange di-
21 rected by this Act, including reimbursement to the Sec-
22 retary, if the Secretary so requests, for staff time spent
23 in such processing and consummation.

1 **SEC. 15005. EQUAL VALUE EXCHANGE AND APPRAISALS.**

2 (a) APPRAISALS.—The values of the lands to be ex-
3 changed under this Act shall be determined by the Sec-
4 retary through appraisals performed in accordance with—

5 (1) the Uniform Appraisal Standards for Fed-
6 eral Land Acquisitions;

7 (2) the Uniform Standards of Professional Ap-
8 praisal Practice;

9 (3) appraisal instructions issued by the Sec-
10 retary; and

11 (4) shall be performed by an appraiser mutually
12 agreed to by the Secretary and BHI.

13 (b) EQUAL VALUE EXCHANGE.—The values of the
14 Federal and non-Federal land parcels exchanged shall be
15 equal, or if they are not equal, shall be equalized as fol-
16 lows:

17 (1) SURPLUS OF FEDERAL LAND VALUE.—If
18 the final appraised value of the Federal land exceeds
19 the final appraised value of the non-Federal land
20 parcel identified in section 15003(3)(A), BHI shall
21 make a cash equalization payment to the United
22 States as necessary to achieve equal value, including,
23 if necessary, an amount in excess of that authorized
24 pursuant to section 206(b) of the Federal Land Pol-
25 icy and Management Act of 1976 (43 U.S.C.
26 1716(b)).

1 (2) USE OF FUNDS.—Any cash equalization
2 moneys received by the Secretary under paragraph
3 (1) shall be—

4 (A) deposited in the fund established under
5 Public Law 90–171 (commonly known as the
6 “Sisk Act”; 16 U.S.C. 484a); and

7 (B) made available to the Secretary for the
8 acquisition of land or interests in land in Re-
9 gion 2 of the Forest Service.

10 (3) SURPLUS OF NON-FEDERAL LAND VALUE.—

11 If the final appraised value of the non-Federal land
12 parcel identified in section 15003(3)(A) exceeds the
13 final appraised value of the Federal land, the United
14 States shall not make a cash equalization payment
15 to BHI, and surplus value of the non-Federal land
16 shall be considered a donation by BHI to the United
17 States for all purposes of law.

18 (c) APPRAISAL EXCLUSIONS.—

19 (1) SPECIAL USE PERMIT.—The appraised
20 value of the Federal land parcel shall not reflect any
21 increase or diminution in value due to the special
22 use permit existing on the date of the enactment of
23 this Act to BHI on the parcel and improvements
24 thereunder.

1 (2) BARR TRAIL EASEMENT.—The Barr Trail
2 easement donation identified in section 15003(3)(B)
3 shall not be appraised for purposes of this Act.

4 **SEC. 15006. MISCELLANEOUS PROVISIONS.**

5 (a) WITHDRAWAL PROVISIONS.—

6 (1) WITHDRAWAL.—Lands acquired by the Sec-
7 retary under this Act shall, without further action by
8 the Secretary, be permanently withdrawn from all
9 forms of appropriation and disposal under the public
10 land laws (including the mining and mineral leasing
11 laws) and the Geothermal Steam Act of 1930 (30
12 U.S.C. 1001 et seq.).

13 (2) WITHDRAWAL REVOCATION.—Any public
14 land order that withdraws the Federal land from ap-
15 propriation or disposal under a public land law shall
16 be revoked to the extent necessary to permit disposal
17 of the Federal land parcel to BHI.

18 (3) WITHDRAWAL OF FEDERAL LAND.—All
19 Federal land authorized to be exchanged under this
20 Act, if not already withdrawn or segregated from ap-
21 propriation or disposal under the public lands laws
22 upon enactment of this Act, is hereby so withdrawn,
23 subject to valid existing rights, until the date of con-
24 veyance of the Federal land to BHI.

1 (b) POSTEXCHANGE LAND MANAGEMENT.—Land ac-
2 quired by the Secretary under this Act shall become part
3 of the Pike-San Isabel National Forest and be managed
4 in accordance with the laws, rules, and regulations appli-
5 cable to the National Forest System.

6 (c) EXCHANGE TIMETABLE.—It is the intent of Con-
7 gress that the land exchange directed by this Act be con-
8 summated no later than 1 year after the date of the enact-
9 ment of this Act.

10 (d) MAPS, ESTIMATES, AND DESCRIPTIONS.—

11 (1) MINOR ERRORS.—The Secretary and BHI
12 may by mutual agreement make minor boundary ad-
13 justments to the Federal and non-Federal lands in-
14 volved in the exchange, and may correct any minor
15 errors in any map, acreage estimate, or description
16 of any land to be exchanged.

17 (2) CONFLICT.—If there is a conflict between a
18 map, an acreage estimate, or a description of land
19 under this Act, the map shall control unless the Sec-
20 retary and BHI mutually agree otherwise.

21 (3) AVAILABILITY.—Upon enactment of this
22 Act, the Secretary shall file and make available for
23 public inspection in the headquarters of the Pike-
24 San Isabel National Forest a copy of all maps re-
25 ferred to in this Act.

1 **TITLE XVI—REMOVE REVER-**
2 **SIONARY INTEREST IN ROCK-**
3 **INGHAM COUNTY LAND**

4 **SEC. 16001. REMOVAL OF USE RESTRICTION.**

5 Public Law 101–479 (104 Stat. 1158) is amended—

6 (1) by striking section 2(d); and

7 (2) by adding at the end the following:

8 **“SEC. 4. REMOVAL OF USE RESTRICTION.**

9 “(a) The approximately 1-acre portion of the land re-
10 ferred to in section 3 that is used for purposes of a child
11 care center, as authorized by this Act, shall not be subject
12 to the use restriction imposed in the deed referred to in
13 section 3.

14 “(b) Upon enactment of this section, the Secretary
15 of the Interior shall execute an instrument to carry out
16 subsection (a).”.

17 **TITLE XVII—COLTSVILLE**
18 **NATIONAL HISTORICAL PARK**

19 **SEC. 17001. AMENDMENT TO COLTSVILLE NATIONAL HIS-**
20 **TORICAL PARK DONATION SITE.**

21 Section 3032(b) of Public Law 113–291 (16 U.S.C.
22 410qqq) is amended—

23 (1) in paragraph (2)(B), by striking “East Ar-
24 mory” and inserting “Colt Armory Complex”; and

25 (2) by adding at the end the following:

1 “(4) ADDITIONAL ADMINISTRATIVE CONDI-
2 TIONS.—No non-Federal property may be included
3 in the park without the written consent of the
4 owner. The establishment of the park or the man-
5 agement of the park shall not be construed to create
6 buffer zones outside of the park. That activities or
7 uses can be seen, heard or detected from areas with-
8 in the park shall not preclude, limit, control, regu-
9 late, or determine the conduct or management of ac-
10 tivities or uses outside of the park.”.

11 **TITLE XVIII—MARTIN LUTHER**
12 **KING, JR. NATIONAL HISTOR-**
13 **ICAL PARK ACT**

14 **SEC. 18001. SHORT TITLE.**

15 This title may be cited as the “Martin Luther King,
16 Jr. National Historical Park Act of 2016”.

17 **SEC. 18002. MARTIN LUTHER KING, JR. NATIONAL HISTOR-**
18 **ICAL PARK.**

19 The Act entitled “An Act to establish the Martin Lu-
20 ther King, Junior, National Historic Site in the State of
21 Georgia, and for other purposes” (Public Law 96–428)
22 is amended—

23 (1) in subsection (a) of the first section, by
24 striking “the map entitled ‘Martin Luther King,
25 Junior, National Historic Site Boundary Map’, num-

1 ber 489/80,013B, and dated September 1992” and
2 inserting “the map entitled ‘Martin Luther King, Jr.
3 National Historical Park Proposed Boundary Revi-
4 sion’, numbered 489/128,786 and dated June
5 2015”;

6 (2) by striking “Martin Luther King, Junior,
7 National Historic Site” each place it appears and in-
8 serting “Martin Luther King, Jr. National Histor-
9 ical Park”;

10 (3) by striking “national historic site” each
11 place it appears and inserting “national historical
12 park”;

13 (4) by striking “historic site” each place it ap-
14 pears and inserting “historical park”; and

15 (5) by striking “historic sites” in section 2(a)
16 and inserting “historical parks”.

17 **SEC. 18003. REFERENCES.**

18 Any reference in a law (other than this Act), map,
19 regulation, document, paper, or other record of the United
20 States to “Martin Luther King, Junior, National Historic
21 Site” shall be deemed to be a reference to “Martin Luther
22 King, Jr. National Historical Park”.

1 **TITLE XIX—EXTENSION OF THE**
2 **AUTHORIZATION FOR THE**
3 **GULLAH/GEECHEE CULTURAL**
4 **HERITAGE CORRIDOR COM-**
5 **MISSION**

6 **SEC. 19001. EXTENSION OF THE AUTHORIZATION FOR THE**
7 **GULLAH/GEECHEE CULTURAL HERITAGE**
8 **CORRIDOR COMMISSION.**

9 Section 295D(d) of the Gullah/Geechee Cultural Her-
10 itage Act (Public Law 109–338; 120 Stat. 1833; 16
11 U.S.C. 461 note) is amended by striking “10 years” and
12 inserting “15 years”.

13 **TITLE XX—9/11 MEMORIAL ACT**

14 **SEC. 20001. SHORT TITLE.**

15 This title may be cited as the “9/11 Memorial Act”.

16 **SEC. 20002. DEFINITIONS.**

17 For purposes of this Act:

18 (1) **ELIGIBLE ENTITY.**—The term “eligible enti-
19 ty” means a nonprofit organization as defined in
20 section 501(c)(3) of the Internal Revenue Code of
21 1986 (26 U.S.C. 501(c)(3)) in existence on the date
22 of enactment of this Act.

23 (2) **MAP.**—The term “map” means the map ti-
24 tled “National September 11 Memorial Proposed

1 Boundary”, numbered 903/128928, and dated June
2 2015.

3 (3) NATIONAL SEPTEMBER 11 MEMORIAL.—The
4 term “National September 11 Memorial” means the
5 area approximately bounded by Fulton, Greenwich,
6 Liberty and West Streets as generally depicted on
7 the map.

8 (4) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 **SEC. 20003. DESIGNATION OF MEMORIAL.**

11 (a) DESIGNATION.—The National September 11 Me-
12 morial is hereby designated as a national memorial.

13 (b) MAP.—The map shall be available for public in-
14 spection and kept on file at the appropriate office of the
15 Secretary.

16 (c) EFFECT OF DESIGNATION.—The national memo-
17 rial designated under this section shall not be a unit of
18 the National Park System and the designation of the na-
19 tional memorial shall not be construed to require or au-
20 thorize Federal funds to be expended for any purpose re-
21 lated to the national memorial except as provided under
22 section 20004.

1 **SEC. 20004. COMPETITIVE GRANTS FOR CERTAIN MEMO-**
2 **RIALS.**

3 (a) **COMPETITIVE GRANTS.**—Subject to the avail-
4 ability of appropriations, the Secretary may award a single
5 grant per year through a competitive process to an eligible
6 entity for the operation and maintenance of any memorial
7 located within the United States established to commemo-
8 rate the events of and honor—

9 (1) the victims of the terrorist attacks on the
10 World Trade Center, the Pentagon, and United Air-
11 lines Flight 93 on September 11, 2001; and

12 (2) the victims of the terrorist attack on the
13 World Trade Center on February 26, 1993.

14 (b) **AVAILABILITY.**—Funds made available under this
15 section shall remain available until expended.

16 (c) **CRITERIA.**—In awarding grants under this sec-
17 tion, the Secretary shall give greatest weight in the selec-
18 tion of eligible entities using the following criteria:

19 (1) Experience in managing a public memorial
20 that will benefit the largest number of visitors each
21 calendar year.

22 (2) Experience in managing a memorial of sig-
23 nificant size (4 acres or more).

24 (3) Successful coordination and cooperation
25 with Federal, State, and local governments in oper-
26 ating and managing the memorial.

1 (4) Ability and commitment to use grant funds
2 to enhance security at the memorial.

3 (5) Ability to use grant funds to increase the
4 numbers of economically disadvantaged visitors to
5 the memorial and surrounding areas.

6 (d) SUMMARIES.—Not later than 30 days after the
7 end of each fiscal year in which an eligible entity obligates
8 or expends any part of a grant under this section, the eli-
9 gible entity shall prepare and submit to the Secretary and
10 Congress a summary that—

11 (1) specifies the amount of grant funds obli-
12 gated or expended in the preceding fiscal year;

13 (2) specifies the purpose for which the funds
14 were obligated or expended; and

15 (3) includes any other information the Sec-
16 retary may require to more effectively administer the
17 grant program.

18 (e) SUNSET.—The authority to award grants under
19 this section shall expire on the date that is 7 years after
20 the date of the enactment of this Act.

1 **TITLE XXI—KENNESAW MOUN-**
2 **TAIN NATIONAL BATTLE-**
3 **FIELD PARK BOUNDARY AD-**
4 **JUSTMENT ACT**

5 **SEC. 21001. SHORT TITLE.**

6 This title may be cited as the “Kennesaw Mountain
7 National Battlefield Park Boundary Adjustment Act of
8 2015”.

9 **SEC. 21002. FINDINGS.**

10 The Congress finds the following:

11 (1) Kennesaw Mountain National Battlefield
12 Park was authorized as a unit of the National Park
13 System on June 26, 1935. Prior to 1935, parts of
14 the park had been acquired and protected by Civil
15 War veterans and the War Department.

16 (2) Kennesaw Mountain National Battlefield
17 Park protects Kennesaw Mountain and Kolb’s
18 Farm, which are battle sites along the route of Gen-
19 eral Sherman’s 1864 campaign to take Atlanta.

20 (3) Most of the park protects Confederate posi-
21 tions and strategy. The Wallis House is one of the
22 few original structures remaining from the Battle of
23 Kennesaw Mountain associated with Union positions
24 and strategy.

1 (4) The Wallis House is strategically located
2 next to a Union signal station at Harriston Hill.

3 **SEC. 21003. BOUNDARY ADJUSTMENT; LAND ACQUISITION;**
4 **ADMINISTRATION.**

5 (a) BOUNDARY ADJUSTMENT.—The boundary of the
6 Kennesaw Mountain National Battlefield Park is modified
7 to include the approximately 8 acres identified as “Wallis
8 House and Harriston Hill”, and generally depicted on the
9 map titled “Kennesaw Mountain National Battlefield
10 Park, Proposed Boundary Adjustment”, numbered 325/
11 80,020, and dated February 2010.

12 (b) MAP.—The map referred to in subsection (a)
13 shall be on file and available for inspection in the appro-
14 priate offices of the National Park Service.

15 (c) LAND ACQUISITION.—The Secretary of the Inte-
16 rior is authorized to acquire, from willing owners only,
17 land or interests in land described in subsection (a) by
18 donation or exchange.

19 (d) ADMINISTRATION OF ACQUIRED LANDS.—The
20 Secretary of the Interior shall administer land and inter-
21 ests in land acquired under this section as part of the Ken-
22 nesaw Mountain National Battlefield Park in accordance
23 with applicable laws and regulations.

24 (e) WRITTEN CONSENT OF OWNER.—No non-Fed-
25 eral property may be included in the Kennesaw Mountain

1 National Battlefield Park without the written consent of
2 the owner. This provision shall apply only to those por-
3 tions of the Park added under subsection (a).

4 (f) NO USE OF CONDEMNATION.—The Secretary of
5 the Interior may not acquire by condemnation any land
6 or interests in land under this Act or for the purposes
7 of this Act.

8 (g) NO BUFFER ZONE CREATED.—Nothing in this
9 Act, the establishment of the Kennesaw Mountain Na-
10 tional Battlefield Park, or the management plan for the
11 Kennesaw Mountain National Battlefield Park shall be
12 construed to create buffer zones outside of the Park. That
13 activities or uses can be seen, heard, or detected from
14 areas within the Kennesaw Mountain National Battlefield
15 Park shall not preclude, limit, control, regulate or deter-
16 mine the conduct or management of activities or uses out-
17 side the Park.

18 **TITLE XXII—VEHICLE ACCESS**
19 **AT DELAWARE WATER GAP**
20 **NATIONAL RECREATION**
21 **AREA**

22 **SEC. 22001. VEHICULAR ACCESS AND FEES.**

23 Section 4 of the Delaware Water Gap National Recre-
24 ation Area Improvement Act (Public Law 109–156) is
25 amended to read as follows:

1 **“SEC. 4. USE OF CERTAIN ROADS WITHIN THE RECREATION**
2 **AREA.**

3 “(a) IN GENERAL.—Except as otherwise provided in
4 this section, Highway 209, a federally owned road within
5 the boundaries of the Recreation Area, shall be closed to
6 all commercial vehicles.

7 “(b) EXCEPTION FOR LOCAL BUSINESS USE.—Until
8 September 30, 2020, subsection (a) shall not apply with
9 respect to the use of commercial vehicles that have four
10 or fewer axles and are—

11 “(1) owned and operated by a business phys-
12 ically located in—

13 “(A) the Recreation Area; or

14 “(B) one or more adjacent municipalities;

15 or

16 “(2) necessary to provide services to businesses
17 or persons located in—

18 “(A) the Recreation Area; or

19 “(B) one of more adjacent municipalities.

20 “(c) FEE.—The Secretary shall establish a fee and
21 permit program for the use by commercial vehicles of
22 Highway 209 under subsection (b). The program shall in-
23 clude an annual fee not to exceed \$200 per vehicle. All
24 fees received under the program shall be set aside in a
25 special account and be available, without further appro-
26 priation, to the Secretary for the administration and en-

1 enforcement of the program, including registering vehicles,
2 issuing permits and vehicle identification stickers, and
3 personnel costs.

4 “(d) EXCEPTIONS.—The following vehicles may use
5 Highway 209 and shall not be subject to a fee or permit
6 requirement under subsection (c):

7 “(1) Local school buses.

8 “(2) Fire, ambulance, and other safety and
9 emergency vehicles.

10 “(3) Commercial vehicles using Federal Road
11 Route 209, from—

12 “(A) Milford to the Delaware River Bridge
13 leading to U.S. Route 206 in New Jersey; and

14 “(B) mile 0 of Federal Road Route 209 to
15 Pennsylvania State Route 2001.”.

16 **SEC. 22002. DEFINITIONS.**

17 Section 2 of the Delaware Water Gap National Recre-
18 ation Area Improvement Act (Public Law 109–156) is
19 amended—

20 (1) by redesignating paragraphs (1) through
21 (5) as paragraphs (2) through (6), respectively; and

22 (2) by inserting before paragraph (2) (as so re-
23 designated by paragraph (1) of this section) the fol-
24 lowing:

1 “(1) ADJACENT MUNICIPALITIES.—The term
2 ‘adjacent municipalities’ means Delaware Township,
3 Dingman Township, Lehman Township, Matamoras
4 Borough, Middle Smithfield Township, Milford Bor-
5 ough, Milford Township, Smithfield Township and
6 Westfall Township, in Pennsylvania.”.

7 **SEC. 22003. CONFORMING AMENDMENT.**

8 Section 702 of the Omnibus Parks and Public Lands
9 Management Act of 1996 (Public Law 104–333) is re-
10 pealed.

11 **TITLE XXIII—GULF ISLANDS NA-**
12 **TIONAL SEASHORE LAND EX-**
13 **CHANGE ACT**

14 **SEC. 23001. SHORT TITLE.**

15 This title may be cited as the “Gulf Islands National
16 Seashore Land Exchange Act of 2016”.

17 **SEC. 23002. LAND EXCHANGE, GULF ISLANDS NATIONAL**
18 **SEASHORE, JACKSON COUNTY, MISSISSIPPI.**

19 (a) LAND EXCHANGE AUTHORIZED.—The Secretary
20 of the Interior, acting through the Director of the Na-
21 tional Park Service (in this section referred to as the “Sec-
22 retary”) may convey to the Veterans of Foreign Wars Post
23 5699 (in this section referred to as the “Post”) all right,
24 title, and interest of the United States in and to a parcel
25 of real property, consisting of approximately 1.542 acres

1 and located within the Gulf Islands National Seashore in
2 Jackson County, Mississippi, section 34, township 7 north,
3 range 8 east.

4 (b) LAND TO BE ACQUIRED.—In exchange for the
5 property described in subsection (a), the Post shall convey
6 to the Secretary all right, title, and interest of the Post
7 in and to a parcel of real property, consisting of approxi-
8 mately 2.161 acres and located in Jackson County, Mis-
9 sissippi, section 34, township 7 north, range 8 east.

10 (c) EQUAL VALUE EXCHANGE.—The values of the
11 parcels of real property to be exchanged under this section
12 are deemed to be equal.

13 (d) PAYMENT OF COSTS OF CONVEYANCE.—

14 (1) PAYMENT REQUIRED.—The Secretary shall
15 require the Post to cover costs to be incurred by the
16 Secretary, or to reimburse the Secretary for such
17 costs incurred by the Secretary, to carry out the
18 land exchange under this section, including survey
19 costs, costs related to environmental documentation,
20 and any other administrative costs related to the
21 land exchange. If amounts are collected from the
22 Secretary in advance of the Secretary incurring the
23 actual costs and the amount collected exceeds the
24 costs actually incurred by the Secretary to carry out

1 the land exchange, the Secretary shall refund the ex-
2 cess amount to the Post.

3 (2) TREATMENT OF AMOUNTS RECEIVED.—

4 Amounts received as reimbursement under para-
5 graph (1) shall be credited to the fund or account
6 that was used to cover those costs incurred by the
7 Secretary in carrying out the land exchange.
8 Amounts so credited shall be merged with amounts
9 in such fund or account and shall be available for
10 the same purposes, and subject to the same condi-
11 tions and limitations, as amounts in such fund or
12 account.

13 (e) DESCRIPTION OF PROPERTY.—The exact acreage
14 and legal description of property to be exchanged under
15 this section shall be determined by surveys satisfactory to
16 the Secretary and the Post.

17 (f) CONVEYANCE AGREEMENT.—The exchange of
18 real property under this section shall be accomplished
19 using a quit claim deed or other legal instrument and upon
20 terms and conditions mutually satisfactory to the Sec-
21 retary and the Post, including such additional terms and
22 conditions as the Secretary considers appropriate to pro-
23 tect the interests of the United States.

24 (g) TREATMENT OF ACQUIRED LAND.—Land and in-
25 terests in land acquired by the United States under sub-

1 section (b) shall be administered by the Secretary as part
2 of the Gulf Islands National Seashore.

3 (h) MODIFICATION OF BOUNDARY.—Upon comple-
4 tion of the land exchange under this section, the Secretary
5 shall modify the boundary of the Gulf Islands National
6 Seashore to reflect such land exchange.

7 **TITLE XXIV—KOREAN WAR VET-**
8 **ERANS MEMORIAL WALL OF**
9 **REMEMBRANCE ACT**

10 **SEC. 24001. SHORT TITLE.**

11 This title may be cited as the “Korean War Veterans
12 Memorial Wall of Remembrance Act of 2016”.

13 **SEC. 24002. WALL OF REMEMBRANCE.**

14 Section 1 of the Act titled “An Act to authorize the
15 erection of a memorial on Federal Land in the District
16 of Columbia and its environs to honor members of the
17 Armed Forces of the United States who served in the Ko-
18 rean War”, approved October 25, 1986 (Public Law 99–
19 572), is amended by adding at the end the following:

20 “Such memorial shall include a Wall of Remembrance,
21 which shall be constructed without the use of Federal
22 funds. The American Battle Monuments Commission shall
23 request and consider design recommendations from the
24 Korean War Veterans Memorial Foundation, Inc. for the

1 establishment of the Wall of Remembrance. The Wall of
2 Remembrance shall include—

3 “(1) a list by name of members of the Armed
4 Forces of the United States who died in theatre in
5 the Korean War;

6 “(2) the number of members of the Armed
7 Forces of the United States who, in regards to the
8 Korean War—

9 “(A) were wounded in action;

10 “(B) are listed as missing in action; or

11 “(C) were prisoners of war; and

12 “(3) the number of members of the Korean
13 Augmentation to the United States Army, the Re-
14 public of Korea Armed Forces, and the other na-
15 tions of the United Nations Command who, in re-
16 gards to the Korean War—

17 “(A) were killed in action;

18 “(B) were wounded in action;

19 “(C) are listed as missing in action; or

20 “(D) were prisoners of war.”.

1 **TITLE XXV—NATIONAL FOREST**
2 **SMALL TRACTS ACT AMEND-**
3 **MENTS ACT**

4 **SEC. 25001. SHORT TITLE.**

5 This title may be cited as the “National Forest Small
6 Tracts Act Amendments Act of 2015”.

7 **SEC. 25002. ADDITIONAL AUTHORITY FOR SALE OR EX-**
8 **CHANGE OF SMALL PARCELS OF NATIONAL**
9 **FOREST SYSTEM LAND.**

10 (a) INCREASE IN MAXIMUM VALUE OF SMALL PAR-
11 CELS.—Section 3 of Public Law 97–465 (commonly
12 known as the Small Tracts Act; 16 U.S.C. 521e) is
13 amended in the matter preceding paragraph (1) by strik-
14 ing “\$150,000” and inserting “\$500,000”.

15 (b) ADDITIONAL CONVEYANCE PURPOSES.—Section
16 3 of Public Law 97–465 (16 U.S.C. 521e) is further
17 amended—

18 (1) in the matter preceding paragraph (1), by
19 striking “which are—” and inserting “which involve
20 any one of the following:”;

21 (2) in paragraph (1)—

22 (A) by striking “parcels” and inserting
23 “Parcels”; and

24 (B) by striking the semicolon at the end
25 and inserting a period;

1 (3) in paragraph (2)—

2 (A) by striking “parcels” the first place it
3 appears and inserting “Parcels”; and

4 (B) by striking “; or” at the end and in-
5 serting a period;

6 (4) in paragraph (3), by striking “road” and in-
7 serting “Road”; and

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

10 “(4) Parcels of 40 acres or less which are deter-
11 mined by the Secretary to be physically isolated, to
12 be inaccessible, or to have lost their National Forest
13 character.

14 “(5) Parcels of 10 acres or less which are not
15 eligible for conveyance under paragraph (2), but
16 which are encroached upon by permanent habitable
17 improvements for which there is no evidence that the
18 encroachment was intentional or negligent.

19 “(6) Parcels used as a cemetery, a landfill, or
20 a sewage treatment plant under a special use au-
21 thorization issued by the Secretary. In the case of a
22 cemetery expected to reach capacity within 10 years,
23 the sale, exchange, or interchange may include, in
24 the sole discretion of the Secretary, up to 1 addi-

1 tional acre abutting the permit area to facilitate ex-
2 pansion of the cemetery.”.

3 (c) DISPOSITION OF PROCEEDS.—Section 2 of Public
4 Law 97–465 (16 U.S.C. 521d) is amended—

5 (1) by striking “The Secretary is authorized”
6 and inserting the following:

7 “(a) CONVEYANCE AUTHORITY; CONSIDERATION.—
8 The Secretary is authorized”;

9 (2) by striking “The Secretary shall insert” and
10 inserting the following:

11 “(b) INCLUSION OF TERMS, COVENANTS, CONDI-
12 TIONS, AND RESERVATIONS.—The Secretary shall insert”;

13 (3) by striking “covenants” and inserting
14 “covenants”; and

15 (4) by adding at the end the following new sub-
16 section:

17 “(c) DISPOSITION OF PROCEEDS.—

18 “(1) DEPOSIT IN SISK FUND.—The net pro-
19 ceeds derived from any sale or exchange conducted
20 under the authority of paragraph (4), (5), or (6) of
21 section 3 shall be deposited in the fund established
22 by Public Law 90–171 (commonly known as the
23 Sisk Act; 16 U.S.C. 484a).

1 “(2) USE.—Amounts deposited under para-
2 graph (1) shall be available to the Secretary until
3 expended for—

4 “(A) the acquisition of land or interests in
5 land for administrative sites for the National
6 Forest System in the State from which the
7 amounts were derived;

8 “(B) the acquisition of land or interests in
9 land for inclusion in the National Forest Sys-
10 tem in that State, including land or interests in
11 land which enhance opportunities for rec-
12 reational access;

13 “(C) the performance of deferred mainte-
14 nance on administrative sites for the National
15 Forest System in that State or other deferred
16 maintenance activities in that State which en-
17 hance opportunities for recreational access; or

18 “(D) the reimbursement of the Secretary
19 for costs incurred in preparing a sale conducted
20 under the authority of section 3 if the sale is
21 a competitive sale.”.

1 **TITLE XXVI—WESTERN OREGON**
2 **TRIBAL FAIRNESS ACT**

3 **SEC. 26001. SHORT TITLE.**

4 This title may be cited as the “Western Oregon Trib-
5 al Fairness Act”.

6 **Subtitle A—Cow Creek Umpqua**
7 **Land Conveyance**

8 **SEC. 26011. SHORT TITLE.**

9 This subtitle may be cited as the “Cow Creek Ump-
10 qua Land Conveyance Act”.

11 **SEC. 26012. DEFINITIONS.**

12 In this subtitle:

13 (1) COUNCIL CREEK LAND.—The term “Council
14 Creek land” means the approximately 17,519 acres
15 of land, as generally depicted on the map entitled
16 “Canyon Mountain Land Conveyance” and dated
17 June 27, 2013.

18 (2) TRIBE.—The term “Tribe” means the Cow
19 Creek Band of Umpqua Tribe of Indians.

20 (3) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

22 **SEC. 26013. CONVEYANCE.**

23 (a) IN GENERAL.—Subject to valid existing rights,
24 including rights-of-way, all right, title, and interest of the
25 United States in and to the Council Creek land, including

1 any improvements located on the land, appurtenances to
2 the land, and minerals on or in the land, including oil and
3 gas, shall be—

4 (1) held in trust by the United States for the
5 benefit of the Tribe; and

6 (2) part of the reservation of the Tribe.

7 (b) SURVEY.—Not later than 1 year after the date
8 of enactment of this Act, the Secretary shall complete a
9 survey of the boundary lines to establish the boundaries
10 of the land taken into trust under subsection (a).

11 **SEC. 26014. MAP AND LEGAL DESCRIPTION.**

12 (a) IN GENERAL.—As soon as practicable after the
13 date of enactment of this Act, the Secretary shall file a
14 map and legal description of the Council Creek land
15 with—

16 (1) the Committee on Energy and Natural Re-
17 sources of the Senate; and

18 (2) the Committee on Natural Resources of the
19 House of Representatives.

20 (b) FORCE AND EFFECT.—The map and legal de-
21 scription filed under subsection (a) shall have the same
22 force and effect as if included in this subtitle, except that
23 the Secretary may correct any clerical or typographical er-
24 rors in the map or legal description.

1 (c) PUBLIC AVAILABILITY.—The map and legal de-
2 scription filed under subsection (a) shall be on file and
3 available for public inspection in the Office of the Sec-
4 retary.

5 **SEC. 26015. ADMINISTRATION.**

6 (a) IN GENERAL.—Unless expressly provided in this
7 subtitle, nothing in this subtitle affects any right or claim
8 of the Tribe existing on the date of enactment of this Act
9 to any land or interest in land.

10 (b) PROHIBITIONS.—

11 (1) EXPORTS OF UNPROCESSED LOGS.—Fed-
12 eral law (including regulations) relating to the ex-
13 port of unprocessed logs harvested from Federal
14 land shall apply to any unprocessed logs that are
15 harvested from the Council Creek land.

16 (2) NON-PERMISSIBLE USE OF LAND.—Any real
17 property taken into trust under section 26013 shall
18 not be eligible, or used, for any gaming activity car-
19 ried out under Public Law 100–497 (25 U.S.C.
20 2701 et seq.).

21 (c) FOREST MANAGEMENT.—Any forest management
22 activity that is carried out on the Council Creek land shall
23 be managed in accordance with all applicable Federal
24 laws.

1 **SEC. 26016. LAND RECLASSIFICATION.**

2 (a) IDENTIFICATION OF OREGON AND CALIFORNIA
3 RAILROAD GRANT LAND.—Not later than 180 days after
4 the date of enactment of this Act, the Secretary of Agri-
5 culture and the Secretary shall identify any Oregon and
6 California Railroad grant land that is held in trust by the
7 United States for the benefit of the Tribe under section
8 26013.

9 (b) IDENTIFICATION OF PUBLIC DOMAIN LAND.—
10 Not later than 18 months after the date of enactment of
11 this Act, the Secretary shall identify public domain land
12 in the State of Oregon that—

13 (1) is approximately equal in acreage and con-
14 dition as the Oregon and California Railroad grant
15 land identified under subsection (a); and

16 (2) is located in the vicinity of the Oregon and
17 California Railroad grant land.

18 (c) MAPS.—Not later than 2 years after the date of
19 enactment of this Act, the Secretary shall submit to Con-
20 gress and publish in the Federal Register one or more
21 maps depicting the land identified in subsections (a) and
22 (b).

23 (d) RECLASSIFICATION.—

24 (1) IN GENERAL.—After providing an oppor-
25 tunity for public comment, the Secretary shall re-

1 classify the land identified in subsection (b) as Or-
2 egon and California Railroad grant land.

3 (2) **APPLICABILITY.**—The Act of August 28,
4 1937 (43 U.S.C. 1181a et seq.), shall apply to land
5 reclassified as Oregon and California Railroad grant
6 land under paragraph (1).

7 **Subtitle B—Coquille Forest** 8 **Fairness**

9 **SEC. 26021. SHORT TITLE.**

10 This subtitle may be cited as the “Coquille Forest
11 Fairness Act”.

12 **SEC. 26022. AMENDMENTS TO COQUILLE RESTORATION**
13 **ACT.**

14 Section 5(d) of the Coquille Restoration Act (25
15 U.S.C. 715e(d)) is amended—

16 (1) by striking paragraph (5) and inserting the
17 following:

18 “(5) **MANAGEMENT.**—

19 “(A) **IN GENERAL.**—Subject to subpara-
20 graph (B), the Secretary, acting through the
21 Assistant Secretary for Indian Affairs, shall
22 manage the Coquille Forest in accordance with
23 the laws pertaining to the management of In-
24 dian trust land.

25 “(B) **ADMINISTRATION.**—

1 “(i) UNPROCESSED LOGS.—Unproc-
2 essed logs harvested from the Coquille For-
3 est shall be subject to the same Federal
4 statutory restrictions on export to foreign
5 nations that apply to unprocessed logs har-
6 vested from Federal land.

7 “(ii) SALES OF TIMBER.—Notwith-
8 standing any other provision of law, all
9 sales of timber from land subject to this
10 subsection shall be advertised, offered, and
11 awarded according to competitive bidding
12 practices, with sales being awarded to the
13 highest responsible bidder.”;

14 (2) by striking paragraph (9); and

15 (3) by redesignating paragraphs (10) through
16 (12) as paragraphs (9) through (11), respectively.

17 **Subtitle C—Oregon Coastal Lands**

18 **SEC. 26031. SHORT TITLE.**

19 This subtitle may be cited as the “Oregon Coastal
20 Lands Act”.

21 **SEC. 26032. DEFINITIONS.**

22 In this subtitle:

23 (1) CONFEDERATED TRIBES.—The term “Con-
24 federated Tribes” means the Confederated Tribes of
25 Coos, Lower Umpqua, and Siuslaw Indians.

1 (2) OREGON COASTAL LAND.—The term “Or-
2 regon Coastal land” means the approximately 14,408
3 acres of land, as generally depicted on the map enti-
4 tled “Oregon Coastal Land Conveyance” and dated
5 March 27, 2013.

6 (3) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

8 **SEC. 26033. CONVEYANCE.**

9 (a) IN GENERAL.—Subject to valid existing rights,
10 including rights-of-way, all right, title, and interest of the
11 United States in and to the Oregon Coastal land, includ-
12 ing any improvements located on the land, appurtenances
13 to the land, and minerals on or in the land, including oil
14 and gas, shall be—

15 (1) held in trust by the United States for the
16 benefit of the Confederated Tribes; and

17 (2) part of the reservation of the Confederated
18 Tribes.

19 (b) SURVEY.—Not later than 1 year after the date
20 of enactment of this Act, the Secretary shall complete a
21 survey of the boundary lines to establish the boundaries
22 of the land taken into trust under subsection (a).

23 **SEC. 26034. MAP AND LEGAL DESCRIPTION.**

24 (a) IN GENERAL.—As soon as practicable after the
25 date of enactment of this Act, the Secretary shall file a

1 map and legal description of the Oregon Coastal land
2 with—

3 (1) the Committee on Energy and Natural Re-
4 sources of the Senate; and

5 (2) the Committee on Natural Resources of the
6 House of Representatives.

7 (b) **FORCE AND EFFECT.**—The map and legal de-
8 scription filed under subsection (a) shall have the same
9 force and effect as if included in this subtitle, except that
10 the Secretary may correct any clerical or typographical er-
11 rors in the map or legal description.

12 (c) **PUBLIC AVAILABILITY.**—The map and legal de-
13 scription filed under subsection (a) shall be on file and
14 available for public inspection in the Office of the Sec-
15 retary.

16 **SEC. 26035. ADMINISTRATION.**

17 (a) **IN GENERAL.**—Unless expressly provided in this
18 subtitle, nothing in this subtitle affects any right or claim
19 of the Confederated Tribes existing on the date of enact-
20 ment of this Act to any land or interest in land.

21 (b) **PROHIBITIONS.**—

22 (1) **EXPORTS OF UNPROCESSED LOGS.**—Fed-
23 eral law (including regulations) relating to the ex-
24 port of unprocessed logs harvested from Federal
25 land shall apply to any unprocessed logs that are

1 harvested from the Oregon Coastal land taken into
2 trust under section 26033.

3 (2) NON-PERMISSIBLE USE OF LAND.—Any real
4 property taken into trust under section 26033 shall
5 not be eligible, or used, for any gaming activity car-
6 ried out under Public Law 100–497 (25 U.S.C.
7 2701 et seq.).

8 (c) LAWS APPLICABLE TO COMMERCIAL FORESTRY
9 ACTIVITY.—Any commercial forestry activity that is car-
10 ried out on the Oregon Coastal land taken into trust under
11 section 26033 shall be managed in accordance with all ap-
12 plicable Federal laws.

13 (d) AGREEMENTS.—The Confederated Tribes shall
14 consult with the Secretary and other parties as necessary
15 to develop agreements to provide for access to the Oregon
16 Coastal land taken into trust under section 26033 that
17 provide for—

18 (1) honoring existing reciprocal right-of-way
19 agreements;

20 (2) administrative access by the Bureau of
21 Land Management; and

22 (3) management of the Oregon Coastal lands
23 that are acquired or developed under chapter 2003
24 of title 54, United States Code (commonly known as
25 the “Land and Water Conservation Fund Act of

1 1965’), consistent with section 200305(f)(3) of that
2 title.

3 (e) LAND USE PLANNING REQUIREMENTS.—Except
4 as provided in subsection (c), once the Oregon Coastal
5 land is taken into trust under section 26033, the land
6 shall not be subject to the land use planning requirements
7 of the Federal Land Policy and Management Act of 1976
8 (43 U.S.C. 1701 et seq.) or the Act of August 28, 1937
9 (43 U.S.C. 1181a et seq.).

10 **SEC. 26036. LAND RECLASSIFICATION.**

11 (a) IDENTIFICATION OF OREGON AND CALIFORNIA
12 RAILROAD GRANT LAND.—Not later than 180 days after
13 the date of enactment of this Act, the Secretary of Agri-
14 culture and the Secretary shall identify any Oregon and
15 California Railroad grant land that is held in trust by the
16 United States for the benefit of the Confederated Tribes
17 under section 26033.

18 (b) IDENTIFICATION OF PUBLIC DOMAIN LAND.—
19 Not later than 18 months after the date of enactment of
20 this Act, the Secretary shall identify public domain land
21 in the State of Oregon that—

22 (1) is approximately equal in acreage and con-
23 dition as the Oregon and California Railroad grant
24 land identified under subsection (a); and

1 (2) is located in the vicinity of the Oregon and
2 California Railroad grant land.

3 (c) MAPS.—Not later than 2 years after the date of
4 enactment of this Act, the Secretary shall submit to Con-
5 gress and publish in the Federal Register one or more
6 maps depicting the land identified in subsections (a) and
7 (b).

8 (d) RECLASSIFICATION.—

9 (1) IN GENERAL.—After providing an oppor-
10 tunity for public comment, the Secretary shall re-
11 classify the land identified in subsection (b) as Or-
12 egon and California Railroad grant land.

13 (2) APPLICABILITY.—The Act of August 28,
14 1937 (43 U.S.C. 1181a et seq.), shall apply to land
15 reclassified as Oregon and California Railroad grant
16 land under paragraph (1).

17 **DIVISION D—SCIENCE**
18 **TITLE V—DEPARTMENT OF**
19 **ENERGY SCIENCE**

20 **SEC. 501. MISSION.**

21 Section 209 of the Department of Energy Organiza-
22 tion Act (42 U.S.C. 7139) is amended by adding at the
23 end the following:

24 “(c) MISSION.—The mission of the Office of Science
25 shall be the delivery of scientific discoveries, capabilities,

1 and major scientific tools to transform the understanding
2 of nature and to advance the energy, economic, and na-
3 tional security of the United States. In support of this
4 mission, the Director shall carry out programs on basic
5 energy sciences, advanced scientific computing research,
6 high energy physics, biological and environmental re-
7 search, fusion energy sciences, and nuclear physics, includ-
8 ing as provided under subtitle A of title V of the America
9 COMPETES Reauthorization Act of 2015, through activi-
10 ties focused on—

11 “(1) fundamental scientific discoveries through
12 the study of matter and energy;

13 “(2) science in the national interest, includ-
14 ing—

15 “(A) advancing an agenda for American
16 energy security through research on energy pro-
17 duction, storage, transmission, efficiency, and
18 use; and

19 “(B) advancing our understanding of the
20 Earth’s climate through research in atmos-
21 pheric and environmental sciences; and

22 “(3) National Scientific User Facilities to de-
23 liver the 21st century tools of science, engineering,
24 and technology and provide the Nation’s researchers
25 with the most advanced tools of modern science in-

1 including accelerators, colliders, supercomputers, light
2 sources and neutron sources, and facilities for study-
3 ing materials science.

4 “(d) COORDINATION WITH OTHER DEPARTMENT OF
5 ENERGY PROGRAMS.—The Under Secretary for Science
6 and Energy shall ensure the coordination of Office of
7 Science activities and programs with other activities of the
8 Department.”.

9 **SEC. 502. BASIC ENERGY SCIENCES.**

10 (a) PROGRAM.—The Director shall carry out a pro-
11 gram in basic energy sciences, including materials sciences
12 and engineering, chemical sciences, physical biosciences,
13 and geosciences, for the purpose of providing the scientific
14 foundations for new energy technologies.

15 (b) MISSION.—The mission of the program described
16 in subsection (a) shall be to support fundamental research
17 to understand, predict, and ultimately control matter and
18 energy at the electronic, atomic, and molecular levels in
19 order to provide the foundations for new energy tech-
20 nologies and to support Department missions in energy,
21 environment, and national security.

22 (c) BASIC ENERGY SCIENCES USER FACILITIES.—
23 The Director shall carry out a subprogram for the develop-
24 ment, construction, operation, and maintenance of na-
25 tional user facilities to support the program under this

1 section. As practicable, these facilities shall serve the
2 needs of the Department, industry, the academic commu-
3 nity, and other relevant entities to create and examine new
4 materials and chemical processes for the purposes of ad-
5 vancing new energy technologies and improving the com-
6 petitiveness of the United States. These facilities shall in-
7 clude—

- 8 (1) x-ray light sources;
- 9 (2) neutron sources;
- 10 (3) nanoscale science research centers; and
- 11 (4) other facilities the Director considers appro-
12 priate, consistent with section 209 of the Depart-
13 ment of Energy Organization Act (42 U.S.C. 7139).

14 (d) LIGHT SOURCE LEADERSHIP INITIATIVE.—

15 (1) ESTABLISHMENT.—In support of the sub-
16 program authorized in subsection (c), the Director
17 shall establish an initiative to sustain and advance
18 global leadership of light source user facilities.

19 (2) LEADERSHIP STRATEGY.—Not later than 9
20 months after the date of enactment of this Act, and
21 biennially thereafter, the Director shall prepare, in
22 consultation with relevant stakeholders, and submit
23 to the Committee on Science, Space, and Technology
24 of the House of Representatives and the Committee

1 on Energy and Natural Resources of the Senate a
2 light source leadership strategy that—

3 (A) identifies, prioritizes, and describes
4 plans for the development, construction, and op-
5 eration of light sources over the next decade;

6 (B) describes plans for optimizing manage-
7 ment and use of existing light source facilities;
8 and

9 (C) assesses the international outlook for
10 light source user facilities and describes plans
11 for United States cooperation in such projects.

12 (3) ADVISORY COMMITTEE FEEDBACK AND
13 RECOMMENDATIONS.—Not later than 45 days after
14 submission of the strategy described in paragraph
15 (2), the Basic Energy Sciences Advisory Committee
16 shall provide the Director, the Committee on
17 Science, Space, and Technology of the House of
18 Representatives, and the Committee on Energy and
19 Natural Resources of the Senate a report of the Ad-
20 visory Committee's analyses, findings, and rec-
21 ommendations for improving the strategy, including
22 a review of the most recent budget request for the
23 initiative.

24 (4) PROPOSED BUDGET.—The Director shall
25 transmit annually to Congress a proposed budget

1 corresponding to the activities identified in the strat-
2 egy.

3 (e) ACCELERATOR RESEARCH AND DEVELOP-
4 MENT.—The Director shall carry out research and devel-
5 opment on advanced accelerator and storage ring tech-
6 nologies relevant to the development of Basic Energy
7 Sciences user facilities, in consultation with the Office of
8 Science’s High Energy Physics and Nuclear Physics pro-
9 grams.

10 (f) ENERGY FRONTIER RESEARCH CENTERS.—

11 (1) IN GENERAL.—The Director shall carry out
12 a program to provide awards, on a competitive,
13 merit-reviewed basis, to multi-institutional collabora-
14 tions or other appropriate entities to conduct funda-
15 mental and use-inspired energy research to accel-
16 erate scientific breakthroughs.

17 (2) COLLABORATIONS.—A collaboration receiv-
18 ing an award under this subsection may include mul-
19 tiple types of institutions and private sector entities.

20 (3) SELECTION AND DURATION.—

21 (A) IN GENERAL.—A collaboration under
22 this subsection shall be selected for a period of
23 5 years. An Energy Frontier Research Center
24 already in existence and supported by the Di-
25 rector on the date of enactment of this Act may

1 continue to receive support for a period of 5
2 years beginning on the date of establishment of
3 that center.

4 (B) REAPPLICATION.—After the end of the
5 period described in subparagraph (A), an
6 awardee may reapply for selection for a second
7 period of 5 years on a competitive, merit-re-
8 viewed basis.

9 (C) TERMINATION.—Consistent with the
10 existing authorities of the Department, the Di-
11 rector may terminate an underperforming cen-
12 ter for cause during the performance period.

13 (4) NO FUNDING FOR CONSTRUCTION.—No
14 funding provided pursuant to this subsection may be
15 used for the construction of new buildings or facili-
16 ties.

17 **SEC. 503. ADVANCED SCIENTIFIC COMPUTING RESEARCH.**

18 (a) PROGRAM.—The Director shall carry out a re-
19 search, development, and demonstration program to ad-
20 vance computational and networking capabilities to ana-
21 lyze, model, simulate, and predict complex phenomena rel-
22 evant to the development of new energy technologies and
23 the competitiveness of the United States.

24 (b) FACILITIES.—The Director, as part of the pro-
25 gram described in subsection (a), shall develop and main-

1 tain world-class computing and network facilities for
2 science and deliver critical research in applied mathe-
3 matics, computer science, and advanced networking to
4 support the Department's missions.

5 (c) DEFINITIONS.—Section 2 of the Department of
6 Energy High-End Computing Revitalization Act of 2004
7 (15 U.S.C. 5541) is amended by striking paragraphs (1)
8 through (5) and inserting the following:

9 “(1) CO-DESIGN.—The term ‘co-design’ means
10 the joint development of application algorithms,
11 models, and codes with computer technology archi-
12 tectures and operating systems to maximize effective
13 use of high-end computing systems.

14 “(2) DEPARTMENT.—The term ‘Department’
15 means the Department of Energy.

16 “(3) EXASCALE.—The term ‘exascale’ means
17 computing system performance at or near 10 to the
18 18th power floating point operations per second.

19 “(4) HIGH-END COMPUTING SYSTEM.—The
20 term ‘high-end computing system’ means a com-
21 puting system with performance that substantially
22 exceeds that of systems that are commonly available
23 for advanced scientific and engineering applications.

24 “(5) INSTITUTION OF HIGHER EDUCATION.—
25 The term ‘institution of higher education’ has the

1 meaning given the term in section 2 of the Energy
2 Policy Act of 2005 (42 U.S.C. 15801).

3 “(6) LEADERSHIP SYSTEM.—The term ‘leader-
4 ship system’ means a high-end computing system
5 that is among the most advanced in the world in
6 terms of performance in solving scientific and engi-
7 neering problems.

8 “(7) NATIONAL LABORATORY.—The term ‘Na-
9 tional Laboratory’ means any one of the seventeen
10 laboratories owned by the Department.

11 “(8) SECRETARY.—The term ‘Secretary’ means
12 the Secretary of Energy.

13 “(9) SOFTWARE TECHNOLOGY.—The term
14 ‘software technology’ includes optimal algorithms,
15 programming environments, tools, languages, and
16 operating systems for high-end computing systems.”.

17 (d) DEPARTMENT OF ENERGY HIGH-END COM-
18 PUTING RESEARCH AND DEVELOPMENT PROGRAM.—Sec-
19 tion 3 of the Department of Energy High-End Computing
20 Revitalization Act of 2004 (15 U.S.C. 5542) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (1), by striking “pro-
23 gram” and inserting “coordinated program
24 across the Department”;

1 (B) by striking “and” at the end of para-
2 graph (1);

3 (C) by striking the period at the end of
4 paragraph (2) and inserting “; and”; and

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

7 “(3) partner with universities, National Labora-
8 tories, and industry to ensure the broadest possible
9 application of the technology developed in this pro-
10 gram to other challenges in science, engineering,
11 medicine, and industry.”;

12 (2) in subsection (b)(2), by striking “vector”
13 and all that follows through “architectures” and in-
14 serting “computer technologies that show promise of
15 substantial reductions in power requirements and
16 substantial gains in parallelism of multicore proc-
17 essors, concurrency, memory and storage, band-
18 width, and reliability”; and

19 (3) by striking subsection (d) and inserting the
20 following:

21 “(d) EXASCALE COMPUTING PROGRAM.—

22 “(1) IN GENERAL.—The Secretary shall con-
23 duct a coordinated research program to develop
24 exascale computing systems to advance the missions
25 of the Department.

1 “(2) EXECUTION.—The Secretary shall,
2 through competitive merit review, establish two or
3 more National Laboratory-industry-university part-
4 nerships to conduct integrated research, develop-
5 ment, and engineering of multiple exascale architec-
6 tures, and—

7 “(A) conduct mission-related co-design ac-
8 tivities in developing such exascale platforms;

9 “(B) develop those advancements in hard-
10 ware and software technology required to fully
11 realize the potential of an exascale production
12 system in addressing Department target appli-
13 cations and solving scientific problems involving
14 predictive modeling and simulation and large-
15 scale data analytics and management; and

16 “(C) explore the use of exascale computing
17 technologies to advance a broad range of
18 science and engineering.

19 “(3) ADMINISTRATION.—In carrying out this
20 program, the Secretary shall—

21 “(A) provide, on a competitive, merit-re-
22 viewed basis, access for researchers in United
23 States industry, institutions of higher edu-
24 cation, National Laboratories, and other Fed-

1 eral agencies to these exascale systems, as ap-
2 propriate; and

3 “(B) conduct outreach programs to in-
4 crease the readiness for the use of such plat-
5 forms by domestic industries, including manu-
6 facturers.

7 “(4) REPORTS.—

8 “(A) INTEGRATED STRATEGY AND PRO-
9 GRAM MANAGEMENT PLAN.—The Secretary
10 shall submit to Congress, not later than 90
11 days after the date of enactment of the America
12 COMPETES Reauthorization Act of 2015, a
13 report outlining an integrated strategy and pro-
14 gram management plan, including target dates
15 for prototypical and production exascale plat-
16 forms, interim milestones to reaching these tar-
17 gets, functional requirements, roles and respon-
18 sibilities of National Laboratories and industry,
19 acquisition strategy, and estimated resources
20 required, to achieve this exascale system capa-
21 bility. The report shall include the Secretary’s
22 plan for Departmental organization to manage
23 and execute the Exascale Computing Program,
24 including definition of the roles and responsibil-
25 ities within the Department to ensure an inte-

1 grated program across the Department. The re-
2 port shall also include a plan for ensuring bal-
3 ance and prioritizing across ASCR subprograms
4 in a flat or slow-growth budget environment.

5 “(B) STATUS REPORTS.—At the time of
6 the budget submission of the Department for
7 each fiscal year, the Secretary shall submit a
8 report to Congress that describes the status of
9 milestones and costs in achieving the objectives
10 of the exascale computing program.

11 “(C) EXASCALE MERIT REPORT.—At least
12 18 months prior to the initiation of construction
13 or installation of any exascale-class computing
14 facility, the Secretary shall transmit a plan to
15 the Congress detailing—

16 “(i) the proposed facility’s cost projec-
17 tions and capabilities to significantly accel-
18 erate the development of new energy tech-
19 nologies;

20 “(ii) technical risks and challenges
21 that must be overcome to achieve success-
22 ful completion and operation of the facility;
23 and

24 “(iii) an independent assessment of
25 the scientific and technological advances

1 expected from such a facility relative to
2 those expected from a comparable invest-
3 ment in expanded research and applica-
4 tions at terascale-class and petascale-class
5 computing facilities, including an evalua-
6 tion of where investments should be made
7 in the system software and algorithms to
8 enable these advances.”.

9 **SEC. 504. HIGH ENERGY PHYSICS.**

10 (a) PROGRAM.—The Director shall carry out a re-
11 search program on the fundamental constituents of matter
12 and energy and the nature of space and time.

13 (b) SENSE OF CONGRESS.—It is the sense of the
14 Congress that—

15 (1) the Director should incorporate the findings
16 and recommendations of the Particle Physics Project
17 Prioritization Panel’s report entitled “Building for
18 Discovery: Strategic Plan for U.S. Particle Physics
19 in the Global Context”, into the Department’s plan-
20 ning process as part of the program described in
21 subsection (a);

22 (2) the Director should prioritize domestically
23 hosted research projects that will maintain the
24 United States position as a global leader in particle
25 physics and attract the world’s most talented physi-

1 cists and foreign investment for international col-
2 laboration; and

3 (3) the nations that lead in particle physics by
4 hosting international teams dedicated to a common
5 scientific goal attract the world's best talent and in-
6 spire future generations of physicists and tech-
7 nologists.

8 (c) NEUTRINO RESEARCH.—As part of the program
9 described in subsection (a), the Director shall carry out
10 research activities on rare decay processes and the nature
11 of the neutrino, which may include collaborations with the
12 National Science Foundation or international collabora-
13 tions.

14 (d) DARK ENERGY AND DARK MATTER RE-
15 SEARCH.—As part of the program described in subsection
16 (a), the Director shall carry out research activities on the
17 nature of dark energy and dark matter, which may include
18 collaborations with the National Aeronautics and Space
19 Administration or the National Science Foundation, or
20 international collaborations.

21 (e) ACCELERATOR RESEARCH AND DEVELOP-
22 MENT.—The Director shall carry out research and devel-
23 opment in advanced accelerator concepts and technologies,
24 including laser technologies, to reduce the necessary scope
25 and cost for the next generation of particle accelerators.

1 The Director shall ensure access to national laboratory ac-
2 celerator facilities, infrastructure, and technology for
3 users and developers of accelerators that advance applica-
4 tions in energy and the environment, medicine, industry,
5 national security, and discovery science.

6 (f) **INTERNATIONAL COLLABORATION.**—The Direc-
7 tor, as practicable and in coordination with other appro-
8 priate Federal agencies as necessary, shall ensure the ac-
9 cess of United States researchers to the most advanced
10 accelerator facilities and research capabilities in the world,
11 including the Large Hadron Collider.

12 **SEC. 505. BIOLOGICAL AND ENVIRONMENTAL RESEARCH.**

13 (a) **PROGRAM.**—The Director shall carry out a pro-
14 gram of research, development, and demonstration in the
15 areas of biological systems science and climate and envi-
16 ronmental science to support the energy and environ-
17 mental missions of the Department.

18 (b) **PRIORITY RESEARCH.**—In carrying out this sec-
19 tion, the Director shall prioritize fundamental research on
20 biological systems and genomics science with the greatest
21 potential to enable scientific discovery.

22 (c) **ASSESSMENT.**—Not later than 12 months after
23 the date of enactment of this Act, the Comptroller General
24 shall submit a report to Congress identifying climate
25 science-related initiatives under this section that overlap

1 or duplicate initiatives of other Federal agencies and the
2 extent of such overlap or duplication.

3 (d) LIMITATION.—The Director shall not approve
4 new climate science-related initiatives to be carried out
5 through the Office of Science without making a determina-
6 tion that such work is unique and not duplicative of work
7 by other Federal agencies. Not later than 3 months after
8 receiving the assessment required under subsection (c),
9 the Director shall cease those climate science-related ini-
10 tiatives identified in the assessment as overlapping or du-
11 plicative, unless the Director justifies that such work is
12 critical to achieving American energy security.

13 (e) LOW DOSE RADIATION RESEARCH PROGRAM.—

14 (1) IN GENERAL.—The Director of the Depart-
15 ment of Energy Office of Science shall carry out a
16 research program on low dose radiation. The pur-
17 pose of the program is to enhance the scientific un-
18 derstanding of and reduce uncertainties associated
19 with the effects of exposure to low dose radiation in
20 order to inform improved risk management methods.

21 (2) STUDY.—Not later than 60 days after the
22 date of enactment of this Act, the Director shall
23 enter into an agreement with the National Acad-
24 emies to conduct a study assessing the current sta-
25 tus and development of a long-term strategy for low

1 dose radiation research. Such study shall be com-
2 pleted not later than 18 months after the date of en-
3 actment of this Act. The study shall be conducted in
4 coordination with Federal agencies that perform ion-
5 izing radiation effects research and shall leverage
6 the most current studies in this field. Such study
7 shall—

8 (A) identify current scientific challenges
9 for understanding the long-term effects of ion-
10 izing radiation;

11 (B) assess the status of current low dose
12 radiation research in the United States and
13 internationally;

14 (C) formulate overall scientific goals for
15 the future of low-dose radiation research in the
16 United States;

17 (D) recommend a long-term strategic and
18 prioritized research agenda to address scientific
19 research goals for overcoming the identified sci-
20 entific challenges in coordination with other re-
21 search efforts;

22 (E) define the essential components of a
23 research program that would address this re-
24 search agenda within the universities and the
25 National Laboratories; and

1 (F) assess the cost-benefit effectiveness of
2 such a program.

3 (3) RESEARCH PLAN.—Not later than 90 days
4 after the completion of the study performed under
5 paragraph (2) the Secretary of Energy shall deliver
6 to the Committee on Science, Space, and Technology
7 of the House of Representatives and the Committee
8 on Energy and Natural Resources of the Senate a
9 5-year research plan that responds to the study’s
10 findings and recommendations and identifies and
11 prioritizes research needs.

12 (4) DEFINITION.—In this subsection, the term
13 “low dose radiation” means a radiation dose of less
14 than 100 millisieverts.

15 (5) RULE OF CONSTRUCTION.—Nothing in this
16 subsection shall be construed to subject any research
17 carried out by the Director under the research pro-
18 gram under this subsection to any limitations de-
19 scribed in section 977(e) of the Energy Policy Act
20 of 2005 (42 U.S.C. 16317(e)).

21 **SEC. 506. FUSION ENERGY.**

22 (a) PROGRAM.—The Director shall carry out a fusion
23 energy sciences research program to expand the funda-
24 mental understanding of plasmas and matter at very high

1 temperatures and densities and to build the scientific
2 foundation necessary to enable fusion power.

3 (b) FUSION MATERIALS RESEARCH AND DEVELOP-
4 MENT.—As part of the activities authorized in section 978
5 of the Energy Policy Act of 2005 (42 U.S.C. 16318)—

6 (1) the Director, in coordination with the As-
7 sistant Secretary for Nuclear Energy of the Depart-
8 ment, shall carry out research and development ac-
9 tivities to identify, characterize, and demonstrate
10 materials that can endure the neutron, plasma, and
11 heat fluxes expected in a fusion power system; and

12 (2) the Secretary shall—

13 (A) provide an assessment of the need for
14 a facility or facilities that can examine and test
15 potential fusion and next generation fission ma-
16 terials and other enabling technologies relevant
17 to the development of fusion power; and

18 (B) provide an assessment of whether a
19 single new facility that substantially addresses
20 magnetic fusion and next generation fission ma-
21 terials research needs is feasible, in conjunction
22 with the expected capabilities of facilities oper-
23 ational as of the date of enactment of this Act.

24 (c) TOKAMAK RESEARCH AND DEVELOPMENT.—

1 (1) IN GENERAL.—As part of the program de-
2 scribed in subsection (a), the Director shall support
3 research and development activities and facility oper-
4 ations to optimize the tokamak approach to fusion
5 energy.

6 (2) ITER.—

7 (A) REPORT.—Not later than 1 year after
8 the date of enactment of this Act, the Secretary
9 shall submit to Congress a report providing an
10 assessment of—

11 (i) the most recent schedule for ITER
12 that has been approved by the ITER
13 Council; and

14 (ii) progress of the ITER Council and
15 the ITER Director General toward imple-
16 mentation of the recommendations of the
17 Third Biennial International Organization
18 Management Assessment Report.

19 (B) FAIRNESS IN COMPETITION FOR SO-
20 LICITATIONS FOR INTERNATIONAL PROJECT AC-
21 TIVITIES.—Section 33 of the Atomic Energy
22 Act of 1954 (42 U.S.C. 2053) is amended by
23 adding at the end the following: “For purposes
24 of this section, with respect to international re-
25 search projects, the term ‘private facilities or

1 laboratories' shall refer to facilities or labora-
2 tories located in the United States.'".

3 (C) SENSE OF CONGRESS.—It is the sense
4 of Congress that the United States should sup-
5 port a robust, diverse fusion program. It is fur-
6 ther the sense of Congress that developing the
7 scientific basis for fusion, providing research re-
8 sults key to the success of ITER, and training
9 the next generation of fusion scientists are of
10 critical importance to the United States and
11 should in no way be diminished by participation
12 of the United States in the ITER project.

13 (d) INERTIAL FUSION ENERGY RESEARCH AND DE-
14 VELOPMENT PROGRAM.—The Secretary shall carry out a
15 program of research and technology development in iner-
16 tial fusion for energy applications, including ion beam,
17 laser, and pulsed power fusion systems.

18 (e) ALTERNATIVE AND ENABLING CONCEPTS.—

19 (1) IN GENERAL.—As part of the program de-
20 scribed in subsection (a), the Director shall support
21 research and development activities and facility oper-
22 ations at United States universities, national labora-
23 tories, and private facilities for a portfolio of alter-
24 native and enabling fusion energy concepts that may
25 provide solutions to significant challenges to the es-

1 establishment of a commercial magnetic fusion power
2 plant, prioritized based on the ability of the United
3 States to play a leadership role in the international
4 fusion research community. Fusion energy concepts
5 and activities explored under this paragraph may in-
6 clude—

7 (A) high magnetic field approaches facili-
8 tated by high temperature superconductors;

9 (B) advanced stellarator concepts;

10 (C) non-tokamak confinement configura-
11 tions operating at low magnetic fields;

12 (D) magnetized target fusion energy con-
13 cepts;

14 (E) liquid metals to address issues associ-
15 ated with fusion plasma interactions with the
16 inner wall of the encasing device;

17 (F) immersion blankets for heat manage-
18 ment and fuel breeding;

19 (G) advanced scientific computing activi-
20 ties; and

21 (H) other promising fusion energy con-
22 cepts identified by the Director.

23 (2) COORDINATION WITH ARPA-E.—The Under
24 Secretary and the Director shall coordinate with the
25 Director of the Advanced Research Projects Agency—

1 Energy (in this paragraph referred to as “ARPA-
2 E”) to—

3 (A) assess the potential for any fusion en-
4 ergy project supported by ARPA-E to rep-
5 resent a promising approach to a commercially
6 viable fusion power plant;

7 (B) determine whether the results of any
8 fusion energy project supported by ARPA-E
9 merit the support of follow-on research activi-
10 ties carried out by the Office of Science; and

11 (C) avoid unintentional duplication of ac-
12 tivities.

13 (f) GENERAL PLASMA SCIENCE AND APPLICA-
14 TIONS.—Not later than 2 years after the date of enact-
15 ment of this Act, the Secretary shall provide to Congress
16 an assessment of opportunities in which the United States
17 can provide world-leading contributions to advancing plas-
18 ma science and non-fusion energy applications, and iden-
19 tify opportunities for partnering with other Federal agen-
20 cies both within and outside of the Department of Energy.

21 (g) IDENTIFICATION OF PRIORITIES.—

22 (1) REPORT.—Not later than 2 years after the
23 date of enactment of this Act, the Secretary shall
24 transmit to Congress a report on the Department’s
25 proposed fusion energy research and development

1 activities over the following 10 years under at least
2 3 realistic budget scenarios, including a scenario
3 based on 3 percent annual growth in the non-ITER
4 portion of the budget for fusion energy research and
5 development activities. The report shall—

6 (A) identify specific areas of fusion energy
7 research and enabling technology development
8 in which the United States can and should es-
9 tablish or solidify a lead in the global fusion en-
10 ergy development effort;

11 (B) identify priorities for initiation of facil-
12 ity construction and facility decommissioning
13 under each of those scenarios; and

14 (C) assess the ability of the United States
15 fusion workforce to carry out the activities iden-
16 tified in subparagraphs (A) and (B), including
17 the adequacy of college and university programs
18 to train the leaders and workers of the next
19 generation of fusion energy researchers.

20 (2) PROCESS.—In order to develop the report
21 required under paragraph (1), the Secretary shall le-
22 verage best practices and lessons learned from the
23 process used to develop the most recent report of the
24 Particle Physics Project Prioritization Panel of the
25 High Energy Physics Advisory Panel. No member of

1 the Fusion Energy Sciences Advisory Committee
2 shall be excluded from participating in developing or
3 voting on final approval of the report required under
4 paragraph (1).

5 **SEC. 507. NUCLEAR PHYSICS.**

6 (a) PROGRAM.—The Director shall carry out a pro-
7 gram of experimental and theoretical research, and sup-
8 port associated facilities, to discover, explore, and under-
9 stand all forms of nuclear matter.

10 (b) ISOTOPE DEVELOPMENT AND PRODUCTION FOR
11 RESEARCH APPLICATIONS.—The Director shall carry out
12 a program for the production of isotopes, including the
13 development of techniques to produce isotopes, that the
14 Secretary determines are needed for research, medical, in-
15 dustrial, or other purposes. In making this determination,
16 the Secretary shall—

17 (1) ensure that, as has been the policy of the
18 United States since the publication in 1965 of Fed-
19 eral Register notice 30 Fed. Reg. 3247, isotope pro-
20 duction activities do not compete with private indus-
21 try unless critical national interests necessitate the
22 Federal Government's involvement;

23 (2) ensure that activities undertaken pursuant
24 to this section, to the extent practicable, promote the

1 growth of a robust domestic isotope production in-
2 dustry; and

3 (3) consider any relevant recommendations
4 made by Federal advisory committees, the National
5 Academies, and interagency working groups in which
6 the Department participates.

7 **SEC. 508. SCIENCE LABORATORIES INFRASTRUCTURE PRO-**
8 **GRAM.**

9 (a) PROGRAM.—The Director shall carry out a pro-
10 gram to improve the safety, efficiency, and mission readi-
11 ness of infrastructure at Office of Science laboratories.
12 The program shall include projects to—

13 (1) renovate or replace space that does not
14 meet research needs;

15 (2) replace facilities that are no longer cost ef-
16 fective to renovate or operate;

17 (3) modernize utility systems to prevent failures
18 and ensure efficiency;

19 (4) remove excess facilities to allow safe and ef-
20 ficient operations; and

21 (5) construct modern facilities to conduct ad-
22 vanced research in controlled environmental condi-
23 tions.

24 (b) APPROACH.—In carrying out this section, the Di-
25 rector shall utilize all available approaches and mecha-

1 nisms, including capital line items, minor construction
2 projects, energy savings performance contracts, utility en-
3 ergy service contracts, alternative financing, and expense
4 funding, as appropriate.

5 **SEC. 509. DOMESTIC MANUFACTURING.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Secretary shall transmit to the Committee
8 on Science, Space, and Technology of the House of Rep-
9 resentatives and the Committee on Energy and Natural
10 Resources of the Senate a report on the current ability
11 of domestic manufacturers to meet the procurement re-
12 quirements for major ongoing projects funded by the Of-
13 fice of Science of the Department, including a calculation
14 of the percentage of equipment acquired from domestic
15 manufacturers for this purpose.

16 **SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) FISCAL YEAR 2016.—There are authorized to be
18 appropriated to the Secretary for the Office of Science for
19 fiscal year 2016 \$5,339,800,000, of which—

20 (1) \$1,850,000,000 shall be for Basic Energy
21 Science;

22 (2) \$788,000,000 shall be for High Energy
23 Physics;

24 (3) \$550,000,000 shall be for Biological and
25 Environmental Research;

1 (4) \$624,700,000 shall be for Nuclear Physics;

2 (5) \$621,000,000 shall be for Advanced Sci-
3 entific Computing Research;

4 (6) \$488,000,000 shall be for Fusion Energy
5 Sciences;

6 (7) \$113,600,000 shall be for Science Labora-
7 tories Infrastructure;

8 (8) \$181,000,000 shall be for Science Program
9 Direction;

10 (9) \$103,000,000 shall be for Safeguards and
11 Security; and

12 (10) \$20,500,000 shall be for Workforce Devel-
13 opment for Teachers and Scientists.

14 (b) FISCAL YEAR 2017.—There are authorized to be
15 appropriated to the Secretary for the Office of Science for
16 fiscal year 2017 \$5,339,800,000, of which—

17 (1) \$1,850,000,000 shall be for Basic Energy
18 Science;

19 (2) \$788,000,000 shall be for High Energy
20 Physics;

21 (3) \$550,000,000 shall be for Biological and
22 Environmental Research;

23 (4) \$624,700,000 shall be for Nuclear Physics;

24 (5) \$621,000,000 shall be for Advanced Sci-
25 entific Computing Research;

1 (6) \$488,000,000 shall be for Fusion Energy
2 Sciences;

3 (7) \$113,600,000 shall be for Science Labora-
4 tories Infrastructure;

5 (8) \$181,000,000 shall be for Science Program
6 Direction;

7 (9) \$103,000,000 shall be for Safeguards and
8 Security; and

9 (10) \$20,500,000 shall be for Workforce Devel-
10 opment for Teachers and Scientists.

11 **SEC. 511. DEFINITIONS.**

12 In this title—

13 (1) the term “Department” means the Depart-
14 ment of Energy;

15 (2) the term “Director” means the Director of
16 the Office of Science of the Department; and

17 (3) the term “Secretary” means the Secretary
18 of Energy.

1 **TITLE VI—DEPARTMENT OF EN-**
2 **ERGY APPLIED RESEARCH**
3 **AND DEVELOPMENT**

4 **Subtitle A—Crosscutting Research**
5 **and Development**

6 **SEC. 601. CROSSCUTTING RESEARCH AND DEVELOPMENT.**

7 (a) CROSSCUTTING RESEARCH AND DEVELOP-
8 MENT.—The Secretary shall, through the Under Secretary
9 for Science and Energy, utilize the capabilities of the De-
10 partment to identify strategic opportunities for collabo-
11 rative research, development, demonstration, and commer-
12 cial application of innovative science and technologies
13 for—

14 (1) advancing the understanding of the energy-
15 water-land use nexus;

16 (2) modernizing the electric grid by improving
17 energy transmission and distribution systems secu-
18 rity and resiliency;

19 (3) utilizing supercritical carbon dioxide in elec-
20 tric power generation;

21 (4) subsurface technology and engineering;

22 (5) high performance computing;

23 (6) cybersecurity; and

24 (7) critical challenges identified through com-
25 prehensive energy studies, evaluations, and reviews.

1 (b) CROSSCUTTING APPROACHES.—To the maximum
2 extent practicable, the Secretary shall seek to leverage ex-
3 isting programs, and consolidate and coordinate activities,
4 throughout the Department to promote collaboration and
5 crosscutting approaches within programs.

6 (c) ADDITIONAL ACTIONS.—The Secretary shall—

7 (1) prioritize activities that promote the utiliza-
8 tion of all affordable domestic resources;

9 (2) develop a rigorous and realistic planning,
10 evaluation, and technical assessment framework for
11 setting objective, long-term strategic goals and eval-
12 uating progress that ensures the integrity and inde-
13 pendence to insulate planning from political influ-
14 ence and the flexibility to adapt to market dynamics;

15 (3) ensure that activities shall be undertaken in
16 a manner that does not duplicate other activities
17 within the Department or other Federal Government
18 activities; and

19 (4) identify programs that may be more effec-
20 tively left to the States, industry, nongovernmental
21 organizations, institutions of higher education, or
22 other stakeholders.

1 **SEC. 602. STRATEGIC RESEARCH PORTFOLIO ANALYSIS**
2 **AND COORDINATION PLAN.**

3 Section 994 of Energy Policy Act of 2005 (42 U.S.C.
4 16358) is amended to read as follows:

5 **“SEC. 994. STRATEGIC RESEARCH PORTFOLIO ANALYSIS**
6 **AND COORDINATION PLAN.**

7 “(a) IN GENERAL.—The Secretary shall periodically
8 review all of the science and technology activities of the
9 Department in a strategic framework that takes into ac-
10 count the frontiers of science to which the Department
11 can contribute, the national needs relevant to the Depart-
12 ment’s statutory missions, and global energy dynamics.

13 “(b) COORDINATION ANALYSIS AND PLAN.—As part
14 of the review under subsection (a), the Secretary shall de-
15 velop a plan to improve coordination and collaboration in
16 research, development, demonstration, and commercial ap-
17 plication activities across Department organizational
18 boundaries.

19 “(c) PLAN CONTENTS.—The plan shall describe—

20 “(1) crosscutting scientific and technical issues
21 and research questions that span more than one pro-
22 gram or major office of the Department;

23 “(2) how the applied technology programs of
24 the Department are coordinating their activities, and
25 addressing those questions;

1 “(3) ways in which the technical interchange
2 within the Department, particularly between the Of-
3 fice of Science and the applied technology programs,
4 can be enhanced, including limited ways in which the
5 research agendas of the Office of Science and the
6 applied programs can better interact and assist each
7 other;

8 “(4) a description of how the Secretary will en-
9 sure that the Department’s overall research agenda
10 include, in addition to fundamental, curiosity-driven
11 research, fundamental research related to topics of
12 concern to the applied programs, and applications in
13 Departmental technology programs of research re-
14 sults generated by fundamental, curiosity-driven re-
15 search;

16 “(5) critical assessments of any ongoing pro-
17 grams that have experienced sub-par performance or
18 cost over-runs of 10 percent or more over 1 or more
19 years;

20 “(6) activities that may be more effectively left
21 to the States, industry, nongovernmental organiza-
22 tions, institutions of higher education, or other
23 stakeholders; and

1 “(7) detailed proposals for innovation hubs, in-
2 stitutes, and research centers prior to establishment
3 or renewal by the Department, including—

4 “(A) certification that all hubs, institutes,
5 and research centers will advance the mission of
6 the Department, and prioritize research, devel-
7 opment, and demonstration;

8 “(B) certification that the establishment or
9 renewal of hubs, institutes, or research centers
10 will not diminish funds available for basic re-
11 search and development within the Office of
12 Science; and

13 “(C) certification that all hubs, institutes,
14 and research centers established or renewed
15 within the Office of Science are consistent with
16 the mission of the Office of Science as described
17 in section 209(c) of the Department of Energy
18 Organization Act (42 U.S.C. 7139(c)).

19 “(d) PLAN TRANSMITTAL.—Not later than 1 year
20 after the date of enactment of the America COMPETES
21 Reauthorization Act of 2015, and every 4 years thereafter,
22 the Secretary shall transmit to the Committee on Science,
23 Space, and Technology of the House of Representatives
24 and the Committee on Energy and Natural Resources of

1 the Senate the results of the review under subsection (a)
2 and the coordination plan under subsection (b).”.

3 **SEC. 603. STRATEGY FOR FACILITIES AND INFRASTRUC-**
4 **TURE.**

5 (a) AMENDMENTS.—Section 993 of the Energy Pol-
6 icy Act of 2005 (42 U.S.C. 16357) is amended—

7 (1) by amending the section heading to read as
8 follows: “**STRATEGY FOR FACILITIES AND IN-**
9 **FRASTRUCTURE**”; and

10 (2) in subsection (b)(1), by striking “2008”
11 and inserting “2018”.

12 (b) TABLE OF CONTENTS AMENDMENT.—The item
13 relating to section 993 in the table of contents of the En-
14 ergy Policy Act of 2005 is amended to read as follows:
“Sec. 993. Strategy for facilities and infrastructure.”.

15 **SEC. 604. ENERGY INNOVATION HUBS.**

16 (a) AUTHORIZATION OF PROGRAM.—

17 (1) IN GENERAL.—The Secretary of Energy
18 shall carry out a program to enhance the Nation’s
19 economic, environmental, and energy security by
20 making awards to consortia for establishing and op-
21 erating Energy Innovation Hubs to conduct and
22 support, whenever practicable at one centralized lo-
23 cation, multidisciplinary, collaborative research, de-
24 velopment, and demonstration of advanced energy
25 technologies.

1 (2) TECHNOLOGY DEVELOPMENT FOCUS.—The
2 Secretary shall designate for each Hub a unique ad-
3 vanced energy technology focus.

4 (3) COORDINATION.—The Secretary shall en-
5 sure the coordination of, and avoid unnecessary du-
6 plication of, the activities of Hubs with those of
7 other Department of Energy research entities, in-
8 cluding the National Laboratories, the Advanced Re-
9 search Projects Agency-Energy, Energy Frontier Re-
10 search Centers, and within industry.

11 (b) CONSORTIA.—

12 (1) ELIGIBILITY.—To be eligible to receive an
13 award under this section for the establishment and
14 operation of a Hub, a consortium shall—

15 (A) be composed of no fewer than two
16 qualifying entities; and

17 (B) operate subject to an agreement en-
18 tered into by its members that documents—

19 (i) the proposed partnership agree-
20 ment, including the governance and man-
21 agement structure of the Hub;

22 (ii) measures to enable cost-effective
23 implementation of the program under this
24 section;

1 (iii) a proposed budget, including fi-
2 nancial contributions from non-Federal
3 sources;

4 (iv) a plan for managing intellectual
5 property rights; and

6 (v) an accounting structure that en-
7 ables the Secretary to ensure that the con-
8 sortium has complied with the require-
9 ments of this section.

10 (2) APPLICATION.—A consortium seeking to es-
11 tablish and operate a Hub under this section, acting
12 through a prime applicant, shall transmit to the Sec-
13 retary an application at such time, in such form,
14 and accompanied by such information as the Sec-
15 retary shall require, including a detailed description
16 of the elements of the consortium agreement re-
17 quired under paragraph (1)(B). If the consortium
18 members will not be located at one centralized loca-
19 tion, such application shall include a communica-
20 tions plan that ensures close coordination and inte-
21 gration of the Hub's activities.

22 (c) SELECTION AND SCHEDULE.—The Secretary
23 shall select consortia for awards for the establishment and
24 operation of Hubs through competitive selection processes.
25 In selecting consortia, the Secretary shall consider the in-

1 formation a consortium must disclose according to sub-
2 section (b), as well as any existing facilities a consortium
3 will provide for Hub activities. Awards made to a Hub
4 shall be for a period not to exceed 5 years, subject to the
5 availability of appropriations, after which the award may
6 be renewed, subject to a rigorous merit review. A Hub al-
7 ready in existence on the date of enactment of this Act
8 may continue to receive support for a period of 5 years,
9 subject to the availability of appropriations, beginning on
10 the date of establishment of that Hub.

11 (d) HUB OPERATIONS.—

12 (1) IN GENERAL.—Each Hub shall conduct or
13 provide for multidisciplinary, collaborative research,
14 development, and demonstration of advanced energy
15 technologies within the technology development focus
16 designated under subsection (a)(2). Each Hub
17 shall—

18 (A) encourage collaboration and commu-
19 nication among the member qualifying entities
20 of the consortium and awardees by conducting
21 activities whenever practicable at one central-
22 ized location;

23 (B) develop and publish on the Depart-
24 ment of Energy's website proposed plans and
25 programs;

1 (C) submit an annual report to the Sec-
2 retary summarizing the Hub's activities, includ-
3 ing detailing organizational expenditures, and
4 describing each project undertaken by the Hub;
5 and

6 (D) monitor project implementation and
7 coordination.

8 (2) CONFLICTS OF INTEREST.—

9 (A) PROCEDURES.—Hubs shall maintain
10 conflict of interest procedures, consistent with
11 those of the Department of Energy, to ensure
12 that employees and consortia designees for Hub
13 activities who are in decisionmaking capacities
14 disclose all material conflicts of interest, and
15 avoid such conflicts.

16 (B) DISQUALIFICATION AND REVOCA-
17 TION.—The Secretary may disqualify an appli-
18 cation or revoke funds distributed to a Hub if
19 the Secretary discovers a failure to comply with
20 conflict of interest procedures established under
21 subparagraph (A).

22 (3) PROHIBITION ON CONSTRUCTION.—

23 (A) IN GENERAL.—No funds provided pur-
24 suant to this section may be used for construc-
25 tion of new buildings or facilities for Hubs.

1 Construction of new buildings or facilities shall
2 not be considered as part of the non-Federal
3 share of a Hub cost-sharing agreement.

4 (B) TEST BED AND RENOVATION EXCEP-
5 TION.—Nothing in this subsection shall prohibit
6 the use of funds provided pursuant to this sec-
7 tion, or non-Federal cost share funds, for re-
8 search or for the construction of a test bed or
9 renovations to existing buildings or facilities for
10 the purposes of research if the Secretary deter-
11 mines that the test bed or renovations are lim-
12 ited to a scope and scale necessary for the re-
13 search to be conducted.

14 (e) TERMINATION.—Consistent with the existing au-
15 thorities of the Department, the Secretary may terminate
16 an underperforming Hub for cause during the perform-
17 ance period.

18 (f) DEFINITIONS.—For purposes of this section:

19 (1) ADVANCED ENERGY TECHNOLOGY.—The
20 term “advanced energy technology” means—

21 (A) an innovative technology—

22 (i) that produces energy from solar,
23 wind, geothermal, biomass, tidal, wave,
24 ocean, or other renewable energy resources;

25 (ii) that produces nuclear energy;

1 (iii) for carbon capture and sequestra-
2 tion;

3 (iv) that enables advanced vehicles,
4 vehicle components, and related tech-
5 nologies that result in significant energy
6 savings;

7 (v) that generates, transmits, distrib-
8 utes, utilizes, or stores energy more effi-
9 ciently than conventional technologies, in-
10 cluding through Smart Grid technologies;
11 or

12 (vi) that enhances the energy inde-
13 pendence and security of the United States
14 by enabling improved or expanded supply
15 and production of domestic energy re-
16 sources, including coal, oil, and natural
17 gas;

18 (B) research, development, and demonstra-
19 tion activities necessary to ensure the long-
20 term, secure, and sustainable supply of energy
21 critical elements; or

22 (C) another innovative energy technology
23 area identified by the Secretary.

24 (2) HUB.—The term “Hub” means an Energy
25 Innovation Hub established or operating in accord-

1 ance with this section, including any Energy Innova-
2 tion Hub existing as of the date of enactment of this
3 Act.

4 (3) **QUALIFYING ENTITY.**—The term “quali-
5 fying entity” means—

6 (A) an institution of higher education;

7 (B) an appropriate State or Federal entity,
8 including the Department of Energy Federally
9 Funded Research and Development Centers;

10 (C) a nongovernmental organization with
11 expertise in advanced energy technology re-
12 search, development, demonstration, or com-
13 mercial application; or

14 (D) any other relevant entity the Secretary
15 considers appropriate.

16 **Subtitle B—Electricity Delivery**
17 **and Energy Reliability Research**
18 **and Development**

19 **SEC. 611. DISTRIBUTED ENERGY AND ELECTRIC ENERGY**
20 **SYSTEMS.**

21 Section 921 of the Energy Policy Act of 2005 (42
22 U.S.C. 16211) is amended to read as follows:

1 **“SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY**
2 **SYSTEMS.**

3 “(a) IN GENERAL.—The Secretary shall carry out
4 programs of research, development, demonstration, and
5 commercial application on distributed energy resources
6 and systems reliability and efficiency, to improve the reli-
7 ability and efficiency of distributed energy resources and
8 systems, integrating advanced energy technologies with
9 grid connectivity, including activities described in this sub-
10 title. The programs shall address advanced energy tech-
11 nologies and systems and advanced grid security, resil-
12 iency, and reliability technologies.

13 “(b) OBJECTIVES.—To the maximum extent prac-
14 ticable, the Secretary shall seek to—

15 “(1) leverage existing programs;

16 “(2) consolidate and coordinate activities
17 throughout the Department to promote collaboration
18 and crosscutting approaches;

19 “(3) ensure activities are undertaken in a man-
20 ner that does not duplicate other activities within
21 the Department or other Federal Government activi-
22 ties; and

23 “(4) identify programs that may be more effec-
24 tively left to the States, industry, nongovernmental
25 organizations, institutions of higher education, or
26 other stakeholders.”.

1 **SEC. 612. ELECTRIC TRANSMISSION AND DISTRIBUTION RE-**
2 **SEARCH AND DEVELOPMENT.**

3 (a) AMENDMENTS.—Section 925 of the Energy Pol-
4 icy Act of 2005 (42 U.S.C. 16215) is amended—

5 (1) by amending the section heading to read as
6 follows: “**ELECTRIC TRANSMISSION AND DIS-**
7 **TRIBUTION RESEARCH AND DEVELOPMENT**”;

8 (2) by amending subsection (a) to read as fol-
9 lows:

10 “(a) PROGRAM.—The Secretary shall establish a
11 comprehensive research, development, and demonstration
12 program to ensure the reliability, efficiency, and environ-
13 mental integrity of electrical transmission and distribution
14 systems, which shall include innovations for—

15 “(1) advanced energy delivery technologies, en-
16 ergy storage technologies, materials, and systems;

17 “(2) advanced grid reliability and efficiency
18 technology development;

19 “(3) technologies contributing to significant
20 load reductions;

21 “(4) advanced metering, load management, and
22 control technologies;

23 “(5) technologies to enhance existing grid com-
24 ponents;

25 “(6) the development and use of high-tempera-
26 ture superconductors to—

1 “(A) enhance the reliability, operational
2 flexibility, or power-carrying capability of elec-
3 tric transmission or distribution systems; or

4 “(B) increase the efficiency of electric en-
5 ergy generation, transmission, distribution, or
6 storage systems;

7 “(7) integration of power systems, including
8 systems to deliver high-quality electric power, elec-
9 tric power reliability, and combined heat and power;

10 “(8) supply of electricity to the power grid by
11 small scale, distributed, and residential-based power
12 generators;

13 “(9) the development and use of advanced grid
14 design, operation, and planning tools;

15 “(10) technologies to enhance security for elec-
16 trical transmission and distributions systems; and

17 “(11) any other infrastructure technologies, as
18 appropriate.”; and

19 (3) by amending subsection (c) to read as fol-
20 lows:

21 “(c) IMPLEMENTATION.—

22 “(1) CONSORTIUM.—The Secretary shall con-
23 sider implementing the program under this section
24 using a consortium of participants from industry, in-

1 stitutions of higher education, and National Labora-
2 tories.

3 “(2) OBJECTIVES.—To the maximum extent
4 practicable the Secretary shall seek to—

5 “(A) leverage existing programs;

6 “(B) consolidate and coordinate activities,
7 throughout the Department to promote collabo-
8 ration and crosscutting approaches;

9 “(C) ensure activities are undertaken in a
10 manner that does not duplicate other activities
11 within the Department or other Federal Gov-
12 ernment activities; and

13 “(D) identify programs that may be more
14 effectively left to the States, industry, non-
15 governmental organizations, institutions of
16 higher education, or other stakeholders.”.

17 (b) TABLE OF CONTENTS AMENDMENT.—The item
18 relating to section 925 in the table of contents of the En-
19 ergy Policy Act of 2005 is amended to read as follows:

 “Sec. 925. Electric transmission and distribution research and development.”.

20 **Subtitle C—Nuclear Energy**
21 **Research and Development**

22 **SEC. 621. OBJECTIVES.**

23 Section 951 of the Energy Policy Act of 2005 (42
24 U.S.C. 16271) is amended—

1 (1) by amending subsection (a) to read as fol-
2 lows:

3 “(a) IN GENERAL.—The Secretary shall conduct pro-
4 grams of civilian nuclear energy research, development,
5 demonstration, and commercial application, including ac-
6 tivities described in this subtitle. Such programs shall take
7 into consideration the following objectives:

8 “(1) Enhancing nuclear power’s viability as
9 part of the United States energy portfolio.

10 “(2) Reducing used nuclear fuel and nuclear
11 waste products generated by civilian nuclear energy.

12 “(3) Supporting technological advances in areas
13 that industry by itself is not likely to undertake be-
14 cause of technical and financial uncertainty.

15 “(4) Providing the technical means to reduce
16 the likelihood of nuclear proliferation.

17 “(5) Maintaining a cadre of nuclear scientists
18 and engineers.

19 “(6) Maintaining National Laboratory and uni-
20 versity nuclear programs, including their infrastruc-
21 ture.

22 “(7) Supporting both individual researchers and
23 multidisciplinary teams of researchers to pioneer
24 new approaches in nuclear energy, science, and tech-
25 nology.

1 “(8) Developing, planning, constructing, acquir-
2 ing, and operating special equipment and facilities
3 for the use of researchers.

4 “(9) Supporting technology transfer and other
5 appropriate activities to assist the nuclear energy in-
6 dustry, and other users of nuclear science and engi-
7 neering, including activities addressing reliability,
8 availability, productivity, component aging, safety,
9 and security of nuclear power plants.

10 “(10) Reducing the environmental impact of
11 nuclear energy-related activities.

12 “(11) Researching and developing technologies
13 and processes to meet Federal and State require-
14 ments and standards for nuclear power systems.”;

15 (2) by striking subsections (b) through (d); and

16 (3) by redesignating subsection (e) as sub-
17 section (b).

18 **SEC. 622. PROGRAM OBJECTIVES STUDY.**

19 Section 951 of the Energy Policy Act of 2005 (42
20 U.S.C. 16271) is further amended by adding at the end
21 the following new subsection:

22 “(c) PROGRAM OBJECTIVES STUDY.—In furtherance
23 of the program objectives listed in subsection (a) of this
24 section, the Government Accountability Office shall, within
25 1 year after the date of enactment of this subsection,

1 transmit to the Congress a report on the results of a study
2 on the scientific and technical merit of major Federal and
3 State requirements and standards, including moratoria,
4 that delay or impede the further development and com-
5 mercialization of nuclear power, and how the Department
6 can assist in overcoming such delays or impediments.”.

7 **SEC. 623. NUCLEAR ENERGY RESEARCH AND DEVELOP-**
8 **MENT PROGRAMS.**

9 Section 952 of the Energy Policy Act of 2005 (42
10 U.S.C. 16272) is amended by striking subsections (c)
11 through (e) and inserting the following:

12 “(c) REACTOR CONCEPTS.—

13 “(1) IN GENERAL.—The Secretary shall carry
14 out a program of research, development, demonstra-
15 tion, and commercial application to advance nuclear
16 power systems as well as technologies to sustain cur-
17 rently deployed systems.

18 “(2) DESIGNS AND TECHNOLOGIES.—In con-
19 ducting the program under this subsection, the Sec-
20 retary shall examine advanced reactor designs and
21 nuclear technologies, including those that—

22 “(A) have higher efficiency, lower cost, and
23 improved safety compared to reactors in oper-
24 ation as of the date of enactment of the Amer-
25 ica COMPETES Reauthorization Act of 2015;

1 “(B) utilize passive safety features;

2 “(C) minimize proliferation risks;

3 “(D) substantially reduce production of
4 high-level waste per unit of output;

5 “(E) increase the life and sustainability of
6 reactor systems currently deployed;

7 “(F) use improved instrumentation;

8 “(G) are capable of producing large-scale
9 quantities of hydrogen or process heat;

10 “(H) minimize water usage or use alter-
11 natives to water as a cooling mechanism; or

12 “(I) use nuclear energy as part of an inte-
13 grated energy system.

14 “(3) INTERNATIONAL COOPERATION.—In car-
15 rying out the program under this subsection, the
16 Secretary shall seek opportunities to enhance the
17 progress of the program through international co-
18 operation through such organizations as the Genera-
19 tion IV International Forum or any other inter-
20 national collaboration the Secretary considers appro-
21 priate.

22 “(4) EXCEPTIONS.—No funds authorized to be
23 appropriated to carry out the activities described in
24 this subsection shall be used to fund the activities
25 authorized under sections 641 through 645.”.

1 **SEC. 624. SMALL MODULAR REACTOR PROGRAM.**

2 Section 952 of the Energy Policy Act of 2005 (42
3 U.S.C. 16272) is further amended by adding at the end
4 the following new subsection:

5 “(d) SMALL MODULAR REACTOR PROGRAM.—

6 “(1) IN GENERAL.—The Secretary shall carry
7 out a small modular reactor program to promote re-
8 search, development, demonstration, and commercial
9 application of small modular reactors, including
10 through cost-shared projects for commercial applica-
11 tion of reactor systems designs.

12 “(2) CONSULTATION.—The Secretary shall con-
13 sult with and utilize the expertise of the Secretary
14 of the Navy in establishing and carrying out such
15 program.

16 “(3) ADDITIONAL ACTIVITIES.—Activities may
17 also include development of advanced computer mod-
18 eling and simulation tools, by Federal and non-Fed-
19 eral entities, which demonstrate and validate new de-
20 sign capabilities of innovative small modular reactor
21 designs.

22 “(4) DEFINITION.—For the purposes of this
23 subsection, the term ‘small modular reactor’ means
24 a nuclear reactor meeting generally accepted indus-
25 try standards—

1 “(A) with a rated capacity of less than 300
2 electrical megawatts;

3 “(B) with respect to which most parts can
4 be factory assembled and shipped as modules to
5 a reactor plant site for assembly; and

6 “(C) that can be constructed and operated
7 in combination with similar reactors at a single
8 site.”.

9 **SEC. 625. FUEL CYCLE RESEARCH AND DEVELOPMENT.**

10 (a) AMENDMENTS.—Section 953 of the Energy Pol-
11 icy Act of 2005 (42 U.S.C. 16273) is amended—

12 (1) in the section heading by striking “**AD-**
13 **VANCED FUEL CYCLE INITIATIVE**” and inserting
14 “**FUEL CYCLE RESEARCH AND DEVELOPMENT**”;

15 (2) by striking subsection (a);

16 (3) by redesignating subsections (b) through (d)
17 as subsections (d) through (f), respectively; and

18 (4) by inserting before subsection (d), as so re-
19 designated by paragraph (3) of this subsection, the
20 following new subsections:

21 “(a) IN GENERAL.—The Secretary shall conduct a
22 fuel cycle research, development, demonstration, and com-
23 mercial application program (referred to in this section as
24 the ‘program’) on fuel cycle options that improve uranium
25 resource utilization, maximize energy generation, minimize

1 nuclear waste creation, improve safety, mitigate risk of
2 proliferation, and improve waste management in support
3 of a national strategy for spent nuclear fuel and the reac-
4 tor concepts research, development, demonstration, and
5 commercial application program under section 952(c).

6 “(b) FUEL CYCLE OPTIONS.—Under this section the
7 Secretary may consider implementing the following initia-
8 tives:

9 “(1) OPEN CYCLE.—Developing fuels, including
10 the use of nonuranium materials and alternate
11 claddings, for use in reactors that increase energy
12 generation, improve safety performance and mar-
13 gins, and minimize the amount of nuclear waste pro-
14 duced in an open fuel cycle.

15 “(2) RECYCLE.—Developing advanced recycling
16 technologies, including advanced reactor concepts to
17 improve resource utilization, reduce proliferation
18 risks, and minimize radiotoxicity, decay heat, and
19 mass and volume of nuclear waste to the greatest
20 extent possible.

21 “(3) ADVANCED STORAGE METHODS.—Devel-
22 oping advanced storage technologies for both onsite
23 and long-term storage that substantially prolong the
24 effective life of current storage devices or that sub-

1 stantially improve upon existing nuclear waste stor-
2 age technologies and methods, including repositories.

3 “(4) FAST TEST REACTOR.—Investigating the
4 potential research benefits of a fast test reactor user
5 facility to conduct experiments on fuels and mate-
6 rials related to fuel forms and fuel cycles that will
7 increase fuel utilization, reduce proliferation risks,
8 and reduce nuclear waste products.

9 “(5) ADVANCED REACTOR INNOVATION.—De-
10 veloping an advanced reactor innovation testbed
11 where national laboratories, universities, and indus-
12 try can address advanced reactor design challenges
13 to enable construction and operation of privately
14 funded reactor prototypes to resolve technical uncer-
15 tainty for United States-based designs for future do-
16 mestic and international markets.

17 “(6) OTHER TECHNOLOGIES.—Developing any
18 other technology or initiative that the Secretary de-
19 termines is likely to advance the objectives of the
20 program.

21 “(c) ADDITIONAL ADVANCED RECYCLING AND
22 CROSSCUTTING ACTIVITIES.—In addition to and in sup-
23 port of the specific initiatives described in paragraphs (1)
24 through (5) of subsection (b), the Secretary may support
25 the following activities:

1 “(1) Development and testing of integrated
2 process flow sheets for advanced nuclear fuel recy-
3 cling processes.

4 “(2) Research to characterize the byproducts
5 and waste streams resulting from fuel recycling
6 processes.

7 “(3) Research and development on reactor con-
8 cepts or transmutation technologies that improve re-
9 source utilization or reduce the radiotoxicity of waste
10 streams.

11 “(4) Research and development on waste treat-
12 ment processes and separations technologies, ad-
13 vanced waste forms, and quantification of prolifera-
14 tion risks.

15 “(5) Identification and evaluation of test and
16 experimental facilities necessary to successfully im-
17 plement the advanced fuel cycle initiative.

18 “(6) Advancement of fuel cycle-related modeling
19 and simulation capabilities.

20 “(7) Research to understand the behavior of
21 high-burnup fuels.”.

22 (b) CONFORMING AMENDMENT.—The item relating
23 to section 953 in the table of contents of the Energy Policy
24 Act of 2005 is amended to read as follows:

“Sec. 953. Fuel cycle research and development.”.

1 **SEC. 626. NUCLEAR ENERGY ENABLING TECHNOLOGIES**
2 **PROGRAM.**

3 (a) AMENDMENT.—Subtitle E of title IX of the En-
4 ergy Policy Act of 2005 (42 U.S.C. 16271 et seq.) is
5 amended by adding at the end the following new section:

6 **“SEC. 958. NUCLEAR ENERGY ENABLING TECHNOLOGIES.**

7 “(a) IN GENERAL.—The Secretary shall conduct a
8 program to support the integration of activities under-
9 taken through the reactor concepts research, development,
10 demonstration, and commercial application program under
11 section 952(c) and the fuel cycle research and development
12 program under section 953, and support crosscutting nu-
13 clear energy concepts. Activities commenced under this
14 section shall be concentrated on broadly applicable re-
15 search and development focus areas.

16 “(b) ACTIVITIES.—Activities conducted under this
17 section may include research involving—

18 “(1) advanced reactor materials;

19 “(2) advanced radiation mitigation methods;

20 “(3) advanced proliferation and security risk
21 assessment methods;

22 “(4) advanced sensors and instrumentation;

23 “(5) high performance computation modeling,
24 including multiphysics, multidimensional modeling
25 simulation for nuclear energy systems, and contin-
26 ued development of advanced modeling simulation

1 capabilities through national laboratory, industry,
2 and university partnerships for operations and safety
3 performance improvements of light water reactors
4 for currently deployed and near-term reactors and
5 advanced reactors and for the development of small
6 modular reactors; and

7 “(6) any crosscutting technology or trans-
8 formative concept aimed at establishing substantial
9 and revolutionary enhancements in the performance
10 of future nuclear energy systems that the Secretary
11 considers relevant and appropriate to the purpose of
12 this section.

13 “(c) REPORT.—The Secretary shall submit, as part
14 of the annual budget submission of the Department, a re-
15 port on the activities of the program conducted under this
16 section, which shall include a brief evaluation of each ac-
17 tivity’s progress.”.

18 (b) CONFORMING AMENDMENT.—The table of con-
19 tents of the Energy Policy Act of 2005 is amended by
20 adding at the end of the items for subtitle E of title IX
21 the following new item:

“Sec. 958. Nuclear energy enabling technologies.”.

22 **SEC. 627. TECHNICAL STANDARDS COLLABORATION.**

23 (a) IN GENERAL.—The Director of the National In-
24 stitute of Standards and Technology shall establish a nu-
25 clear energy standards committee (in this section referred

1 to as the “technical standards committee”) to facilitate
2 and support, consistent with the National Technology
3 Transfer and Advancement Act of 1995, the development
4 or revision of technical standards for new and existing nu-
5 clear power plants and advanced nuclear technologies.

6 (b) MEMBERSHIP.—

7 (1) IN GENERAL.—The technical standards
8 committee shall include representatives from appro-
9 priate Federal agencies and the private sector, and
10 be open to materially affected organizations involved
11 in the development or application of nuclear energy-
12 related standards.

13 (2) CO-CHAIRS.—The technical standards com-
14 mittee shall be co-chaired by a representative from
15 the National Institute of Standards and Technology
16 and a representative from a private sector standards
17 organization.

18 (c) DUTIES.—The technical standards committee
19 shall, in cooperation with appropriate Federal agencies—

20 (1) perform a needs assessment to identify and
21 evaluate the technical standards that are needed to
22 support nuclear energy, including those needed to
23 support new and existing nuclear power plants and
24 advanced nuclear technologies, including developing

1 the technical basis for regulatory frameworks for ad-
2 vanced reactors;

3 (2) formulate, coordinate, and recommend pri-
4 orities for the development of new technical stand-
5 ards and the revision of existing technical standards
6 to address the needs identified under paragraph (1);

7 (3) facilitate and support collaboration and co-
8 operation among standards developers to address the
9 needs and priorities identified under paragraphs (1)
10 and (2);

11 (4) as appropriate, coordinate with other na-
12 tional, regional, or international efforts on nuclear
13 energy-related technical standards in order to avoid
14 conflict and duplication and to ensure global com-
15 patibility; and

16 (5) promote the establishment and maintenance
17 of a database of nuclear energy-related technical
18 standards.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—To the
20 extent provided for in advance by appropriations Acts, the
21 Secretary may transfer to the Director of the National In-
22 stitute of Standards and Technology not to exceed
23 \$1,000,000 for fiscal year 2016 for the Secretary of Com-
24 merce to carry out this section from amounts appropriated
25 for nuclear energy research and development within the

1 Nuclear Energy Enabling Technologies account for the
2 Department.

3 **SEC. 628. AVAILABLE FACILITIES DATABASE.**

4 The Secretary shall prepare a database of non-Fed-
5 eral user facilities receiving Federal funds that may be
6 used for unclassified nuclear energy research. The Sec-
7 retary shall make this database accessible on the Depart-
8 ment's website.

9 **Subtitle D—Energy Efficiency and**
10 **Renewable Energy Research**
11 **and Development**

12 **SEC. 641. ENERGY EFFICIENCY.**

13 Section 911 of the Energy Policy Act of 2005 (42
14 U.S.C. 16191) is amended to read as follows:

15 **“SEC. 911. ENERGY EFFICIENCY.**

16 “(a) OBJECTIVES.—The Secretary shall conduct pro-
17 grams of energy efficiency research, development, dem-
18 onstration, and commercial application, including activi-
19 ties described in this subtitle. Such programs shall
20 prioritize activities that industry by itself is not likely to
21 undertake because of technical challenges or regulatory
22 uncertainty, and take into consideration the following ob-
23 jectives:

24 “(1) Increasing energy efficiency.

25 “(2) Reducing the cost of energy.

1 “(3) Reducing the environmental impact of en-
2 ergy-related activities.

3 “(b) PROGRAMS.—Programs under this subtitle shall
4 include research, development, demonstration, and com-
5 mercial application of—

6 “(1) innovative, affordable technologies to im-
7 prove the energy efficiency and environmental per-
8 formance of vehicles, including weight and drag re-
9 duction technologies, technologies, modeling, and
10 simulation for increasing vehicle connectivity and au-
11 tomation, and whole-vehicle design optimization;

12 “(2) cost-effective technologies, for new con-
13 struction and retrofit, to improve the energy effi-
14 ciency and environmental performance of buildings,
15 using a whole-buildings approach;

16 “(3) advanced technologies to improve the en-
17 ergy efficiency, environmental performance, and
18 process efficiency of energy-intensive and waste-in-
19 tensive industries;

20 “(4) technologies to improve the energy effi-
21 ciency of appliances and mechanical systems for
22 buildings in extreme climates, including cogenera-
23 tion, trigeneration, and polygeneration units;

24 “(5) advanced battery technologies; and

25 “(6) fuel cell and hydrogen technologies.”.

1 **SEC. 642. NEXT GENERATION LIGHTING INITIATIVE.**

2 Section 912 of the Energy Policy Act of 2005 (42
3 U.S.C. 16192) and the item relating thereto in the table
4 of contents of that Act are repealed.

5 **SEC. 643. BUILDING STANDARDS.**

6 Section 914 of the Energy Policy Act of 2005 (42
7 U.S.C. 16194) is amended by striking subsection (c).

8 **SEC. 644. SECONDARY ELECTRIC VEHICLE BATTERY USE**
9 **PROGRAM.**

10 Section 915 of the Energy Policy Act of 2005 (42
11 U.S.C. 16195) and the item relating thereto in the table
12 of contents of that Act are repealed.

13 **SEC. 645. NETWORK FOR MANUFACTURING INNOVATION**
14 **PROGRAM.**

15 To the extent provided for in advance by appropria-
16 tions Acts, the Secretary may transfer to the National In-
17 stitute of Standards and Technology up to \$150,000,000
18 for the period encompassing fiscal years 2015 through
19 2017 from amounts appropriated for advanced manufac-
20 turing research and development under this subtitle (and
21 the amendments made by this subtitle) for the Secretary
22 of Commerce to carry out the Network for Manufacturing
23 Innovation Program authorized under section 34 of the
24 National Institute of Standards and Technology Act (15
25 U.S.C. 278s).

1 **SEC. 646. ADVANCED ENERGY TECHNOLOGY TRANSFER**
2 **CENTERS.**

3 Section 917 of the Energy Policy Act of 2005 (42
4 U.S.C. 16197) is amended—

5 (1) in subsection (a)—

6 (A) by inserting “and” at the end of para-
7 graph (2)(B);

8 (B) by striking “; and” at the end of para-
9 graph (3) and inserting a period; and

10 (C) by striking paragraph (4);

11 (2) in subsection (b)—

12 (A) by striking paragraph (1);

13 (B) by redesignating paragraphs (2)
14 through (5) as paragraphs (1) through (4), re-
15 spectively; and

16 (C) by striking paragraph (6);

17 (3) by amending subsection (g) to read as fol-
18 lows:

19 “(g) PROHIBITION.—None of the funds awarded
20 under this section may be used for the construction of fa-
21 cilities or the deployment of commercially available tech-
22 nologies.”; and

23 (4) by striking subsection (i).

24 **SEC. 647. RENEWABLE ENERGY.**

25 Section 931 of the Energy Policy Act of 2005 (42
26 U.S.C. 16231) is amended to read as follows:

1 **“SEC. 931. RENEWABLE ENERGY.**

2 “(a) IN GENERAL.—

3 “(1) OBJECTIVES.—The Secretary shall con-
4 duct programs of renewable energy research, devel-
5 opment, demonstration, and commercial application,
6 including activities described in this subtitle. Such
7 programs shall prioritize discovery research and de-
8 velopment and take into consideration the following
9 objectives:

10 “(A) Increasing the conversion efficiency of
11 all forms of renewable energy through improved
12 technologies.

13 “(B) Decreasing the cost of renewable en-
14 ergy generation and delivery.

15 “(C) Promoting the diversity of the energy
16 supply.

17 “(D) Decreasing the dependence of the
18 United States on foreign mineral resources.

19 “(E) Decreasing the environmental impact
20 of renewable energy-related activities.

21 “(F) Increasing the export of renewable
22 generation technologies from the United States.

23 “(2) PROGRAMS.—

24 “(A) SOLAR ENERGY.—The Secretary shall
25 conduct a program of research, development,

1 demonstration, and commercial application for
2 solar energy, including innovations in—

3 “(i) photovoltaics;

4 “(ii) solar heating;

5 “(iii) concentrating solar power;

6 “(iv) lighting systems that integrate
7 sunlight and electrical lighting in com-
8 plement to each other; and

9 “(v) development of technologies that
10 can be easily integrated into new and exist-
11 ing buildings.

12 “(B) WIND ENERGY.—The Secretary shall
13 conduct a program of research, development,
14 demonstration, and commercial application for
15 wind energy, including innovations in—

16 “(i) low speed wind energy;

17 “(ii) testing and verification tech-
18 nologies;

19 “(iii) distributed wind energy genera-
20 tion; and

21 “(iv) transformational technologies for
22 harnessing wind energy.

23 “(C) GEOTHERMAL.—The Secretary shall
24 conduct a program of research, development,

1 demonstration, and commercial application for
2 geothermal energy, including technologies for—

3 “(i) improving detection of geothermal
4 resources;

5 “(ii) decreasing drilling costs;

6 “(iii) decreasing maintenance costs
7 through improved materials;

8 “(iv) increasing the potential for other
9 revenue sources, such as mineral produc-
10 tion; and

11 “(v) increasing the understanding of
12 reservoir life cycle and management.

13 “(D) HYDROPOWER.—The Secretary shall
14 conduct a program of research, development,
15 demonstration, and commercial application for
16 technologies that enable the development of new
17 and incremental hydropower capacity, including:

18 “(i) Advanced technologies to enhance
19 environmental performance and yield
20 greater energy efficiencies.

21 “(ii) Ocean energy, including wave en-
22 ergy.

23 “(E) MISCELLANEOUS PROJECTS.—The
24 Secretary shall conduct research, development,

1 demonstration, and commercial application pro-
2 grams for—

3 “(i) the combined use of renewable
4 energy technologies with one another and
5 with other energy technologies, including
6 the combined use of renewable power and
7 fossil technologies;

8 “(ii) renewable energy technologies for
9 cogeneration of hydrogen and electricity;
10 and

11 “(iii) kinetic hydro turbines.

12 “(b) RURAL DEMONSTRATION PROJECTS.—In car-
13 rying out this section, the Secretary, in consultation with
14 the Secretary of Agriculture, shall give priority to dem-
15 onstrations that assist in delivering electricity to rural and
16 remote locations including—

17 “(1) advanced renewable power technology, in-
18 cluding combined use with fossil technologies;

19 “(2) biomass; and

20 “(3) geothermal energy systems.

21 “(c) ANALYSIS AND EVALUATION.—

22 “(1) IN GENERAL.—The Secretary shall con-
23 duct analysis and evaluation in support of the re-
24 newable energy programs under this subtitle. These

1 activities shall be used to guide budget and program
2 decisions, and shall include—

3 “(A) economic and technical analysis of re-
4 newable energy potential, including resource as-
5 sessment;

6 “(B) analysis of past program perform-
7 ance, both in terms of technical advances and
8 in market introduction of renewable energy;

9 “(C) assessment of domestic and inter-
10 national market drivers, including the impacts
11 of any Federal, State, or local grants, loans,
12 loan guarantees, tax incentives, statutory or
13 regulatory requirements, or other government
14 initiatives; and

15 “(D) any other analysis or evaluation that
16 the Secretary considers appropriate.

17 “(2) FUNDING.—The Secretary may designate
18 up to 1 percent of the funds appropriated for car-
19 rying out this subtitle for analysis and evaluation ac-
20 tivities under this subsection.

21 “(3) SUBMITTAL TO CONGRESS.—This analysis
22 and evaluation shall be submitted to the Committee
23 on Science, Space, and Technology of the House of
24 Representatives and the Committee on Energy and
25 Natural Resources of the Senate at least 30 days be-

1 fore each annual budget request is submitted to
2 Congress.”.

3 **SEC. 648. BIOENERGY PROGRAM.**

4 Section 932 of the Energy Policy Act of 2005 (42
5 U.S.C. 16232) is amended to read as follows:

6 **“SEC. 932. BIOENERGY PROGRAM.**

7 “(a) PROGRAM.—The Secretary shall conduct a pro-
8 gram of research, development, demonstration, and com-
9 mercial application for bioenergy, including innovations
10 in—

11 “(1) biopower energy systems;

12 “(2) biofuels;

13 “(3) bioproducts;

14 “(4) integrated biorefineries that may produce
15 biopower, biofuels, and bioproducts; and

16 “(5) crosscutting research and development in
17 feedstocks.

18 “(b) BIOFUELS AND BIOPRODUCTS.—The goals of
19 the biofuels and bioproducts programs shall be to develop,
20 in partnership with industry and institutions of higher
21 education—

22 “(1) advanced biochemical and thermochemical
23 conversion technologies capable of making fuels from
24 lignocellulosic feedstocks that are price-competitive
25 with fossil-based fuels and fully compatible with ei-

1 ther internal combustion engines or fuel cell-powered
2 vehicles;

3 “(2) advanced conversion of biomass to biofuels
4 and bioproducts as part of integrated biorefineries
5 based on either biochemical processes,
6 thermochemical processes, or hybrids of these proc-
7 esses; and

8 “(3) other advanced processes that will enable
9 the development of cost-effective bioproducts, includ-
10 ing biofuels.

11 “(c) RETROFIT TECHNOLOGIES FOR THE DEVELOP-
12 MENT OF ETHANOL FROM CELLULOSIC MATERIALS.—
13 The Secretary shall establish a program of research, devel-
14 opment, demonstration, and commercial application for
15 technologies and processes to enable biorefineries that ex-
16 clusively use corn grain or corn starch as a feedstock to
17 produce ethanol to be retrofitted to accept a range of bio-
18 mass, including lignocellulosic feedstocks.

19 “(d) LIMITATIONS.—None of the funds authorized
20 for carrying out this section may be used to fund commer-
21 cial biofuels production for defense purposes.

22 “(e) DEFINITIONS.—In this section:

23 “(1) BIOMASS.—The term ‘biomass’ means—

24 “(A) any organic material grown for the
25 purpose of being converted to energy;

1 “(B) any organic byproduct of agriculture
2 (including wastes from food production and
3 processing) that can be converted into energy;
4 or

5 “(C) any waste material that can be con-
6 verted to energy, is segregated from other waste
7 materials, and is derived from—

8 “(i) any of the following forest-related
9 resources: mill residues, precommercial
10 thinnings, slash, brush, or otherwise non-
11 merchantable material;

12 “(ii) wood waste materials, including
13 waste pallets, crates, dunnage, manufac-
14 turing and construction wood wastes (other
15 than pressure-treated, chemically treated,
16 or painted wood wastes), and landscape or
17 right-of-way tree trimmings, but not in-
18 cluding municipal solid waste, gas derived
19 from the biodegradation of municipal solid
20 waste, or paper that is commonly recycled;
21 or

22 “(iii) solids derived from waste water
23 treatment processes.

24 “(2) LIGNOCELLULOSIC FEEDSTOCK.—The
25 term ‘lignocellulosic feedstock’ means any portion of

1 a plant or coproduct from conversion, including
2 crops, trees, forest residues, grasses, and agricul-
3 tural residues not specifically grown for food, includ-
4 ing from barley grain, grapeseed, rice bran, rice
5 hulls, rice straw, soybean matter, cornstover, and
6 sugarcane bagasse.”.

7 **SEC. 649. CONCENTRATING SOLAR POWER RESEARCH PRO-**
8 **GRAM.**

9 Section 934 of the Energy Policy Act of 2005 (42
10 U.S.C. 16234) and the item relating thereto in the table
11 of contents of that Act are repealed.

12 **SEC. 650. RENEWABLE ENERGY IN PUBLIC BUILDINGS.**

13 Section 935 of the Energy Policy Act of 2005 (42
14 U.S.C. 16235) and the item relating thereto in the table
15 of contents of that Act are repealed.

16 **Subtitle E—Fossil Energy Research**
17 **and Development**

18 **SEC. 661. FOSSIL ENERGY.**

19 Section 961 of Energy Policy Act of 2005 (42 U.S.C.
20 16291) is amended to read as follows:

21 **“SEC. 961. FOSSIL ENERGY.**

22 **“(a) IN GENERAL.—**The Secretary shall carry out re-
23 search, development, demonstration, and commercial ap-
24 plication programs in fossil energy, including activities
25 under this subtitle, with the goal of improving the effi-

1 ciency, effectiveness, and environmental performance of
2 fossil energy production, upgrading, conversion, and con-
3 sumption. Such programs shall take into consideration the
4 following objectives:

5 “(1) Increasing the energy conversion efficiency
6 of all forms of fossil energy through improved tech-
7 nologies.

8 “(2) Decreasing the cost of all fossil energy
9 production, generation, and delivery.

10 “(3) Promoting diversity of energy supply.

11 “(4) Decreasing the dependence of the United
12 States on foreign energy supplies.

13 “(5) Decreasing the environmental impact of
14 energy-related activities.

15 “(6) Increasing the export of fossil energy-re-
16 lated equipment, technology, and services from the
17 United States.

18 “(b) OBJECTIVES.—To the maximum extent prac-
19 ticable, the Secretary shall seek to—

20 “(1) leverage existing programs;

21 “(2) consolidate and coordinate activities
22 throughout the Department to promote collaboration
23 and crosscutting approaches;

24 “(3) ensure activities are undertaken in a man-
25 ner that does not duplicate other activities within

1 the Department or other Federal Government activi-
2 ties; and

3 “(4) identify programs that may be more effec-
4 tively left to the States, industry, nongovernmental
5 organizations, institutions of higher education, or
6 other stakeholders.

7 “(c) LIMITATIONS.—

8 “(1) USES.—None of the funds authorized for
9 carrying out this section may be used for Fossil En-
10 ergy Environmental Restoration.

11 “(2) INSTITUTIONS OF HIGHER EDUCATION.—
12 Not less than 20 percent of the funds appropriated
13 for carrying out section 964 of this Act for each fis-
14 cal year shall be dedicated to research and develop-
15 ment carried out at institutions of higher education.

16 “(3) USE FOR REGULATORY ASSESSMENTS OR
17 DETERMINATIONS.—The results of any research, de-
18 velopment, demonstration, or commercial application
19 projects or activities of the Department authorized
20 under this subtitle may not be used for regulatory
21 assessments or determinations by Federal regulatory
22 authorities.

23 “(d) ASSESSMENTS.—

24 “(1) CONSTRAINTS AGAINST BRINGING RE-
25 SOURCES TO MARKET.—Not later than 1 year after

1 the date of enactment of the America COMPETES
2 Reauthorization Act of 2015, the Secretary shall
3 transmit to Congress an assessment of the technical,
4 institutional, policy, and regulatory constraints to
5 bringing new domestic fossil resources to market.

6 “(2) TECHNOLOGY CAPABILITIES.—Not later
7 than 2 years after the date of enactment of the
8 America COMPETES Reauthorization Act of 2015,
9 the Secretary shall transmit to Congress a long-term
10 assessment of existing and projected technological
11 capabilities for expanded production from domestic
12 unconventional oil, gas, and methane reserves.”.

13 **SEC. 662. COAL RESEARCH, DEVELOPMENT, DEMONSTRATION,**
14 **AND COMMERCIAL APPLICATION PRO-**
15 **GRAMS.**

16 (a) IN GENERAL.—Section 962 of the Energy Policy
17 Act of 2005 (42 U.S.C. 16292) is amended—

18 (1) in subsection (a)—

19 (A) in paragraph (10), by striking “and”
20 at the end;

21 (B) in paragraph (11), by striking the pe-
22 riod at the end and inserting a semicolon; and

23 (C) by adding at the end the following:

24 “(12) specific additional programs to address
25 water use and reuse;

1 “(13) the testing, including the construction of
2 testing facilities, of high temperature materials for
3 use in advanced systems for combustion or use of
4 coal; and

5 “(14) innovations to application of existing coal
6 conversion systems designed to increase efficiency of
7 conversion, flexibility of operation, and other modi-
8 fications to address existing usage requirements.”;

9 (2) by redesignating subsections (b) through (d)
10 as subsections (c) through (e), respectively;

11 (3) by inserting after subsection (a) the fol-
12 lowing:

13 “(b) TRANSFORMATIONAL COAL TECHNOLOGY PRO-
14 GRAM.—

15 “(1) IN GENERAL.—As part of the program es-
16 tablished under subsection (a), the Secretary may
17 carry out a program designed to undertake research,
18 development, demonstration, and commercial appli-
19 cation of technologies, including the accelerated de-
20 velopment of—

21 “(A) chemical looping technology;

22 “(B) supercritical carbon dioxide power
23 generation cycles;

24 “(C) pressurized oxycombustion, including
25 new and retrofit technologies; and

- 1 “(D) other technologies that are character-
- 2 ized by the use of—
- 3 “(i) alternative energy cycles;
- 4 “(ii) thermionic devices using waste
- 5 heat;
- 6 “(iii) fuel cells;
- 7 “(iv) replacement of chemical proc-
- 8 esses with biotechnology;
- 9 “(v) nanotechnology;
- 10 “(vi) new materials in applications
- 11 (other than extending cycles to higher tem-
- 12 perature and pressure), such as mem-
- 13 branes or ceramics;
- 14 “(vii) carbon utilization, such as in
- 15 construction materials, using low quality
- 16 energy to reconvert back to a fuel, or man-
- 17 ufactured food;
- 18 “(viii) advanced gas separation con-
- 19 cepts; and
- 20 “(ix) other technologies, including—
- 21 “(I) modular, manufactured com-
- 22 ponents; and
- 23 “(II) innovative production or re-
- 24 search techniques, such as using 3-D
- 25 printer systems, for the production of

1 early research and development proto-
2 types.

3 “(2) COST SHARE.—In carrying out the pro-
4 gram described in paragraph (1), the Secretary shall
5 enter into partnerships with private entities to share
6 the costs of carrying out the program. The Secretary
7 may reduce the non-Federal cost share requirement
8 if the Secretary determines that the reduction is nec-
9 essary and appropriate considering the technological
10 risks involved in the project.”; and

11 (4) in subsection (c) (as so redesignated) by
12 striking paragraph (1) and inserting the following:

13 “(1) IN GENERAL.—In carrying out programs
14 authorized by this section, the Secretary shall iden-
15 tify cost and performance goals for coal-based tech-
16 nologies that would permit the continued cost-com-
17 petitive use of coal for the production of electricity,
18 chemical feedstocks, transportation fuels, and other
19 marketable products.”.

20 (b) ADVISORY COMMITTEE; AUTHORIZATION OF AP-
21 PROPRIATIONS.—Section 963 of the Energy Policy Act of
22 2005 (42 U.S.C. 16293) is amended—

23 (1) by amending paragraph (6) of subsection
24 (c) to read as follows:

25 “(6) ADVISORY COMMITTEE.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the Secretary shall establish an advi-
3 sory committee to undertake, not less fre-
4 quently than once every 3 years, a review and
5 prepare a report on the progress being made by
6 the Department of Energy to achieve the goals
7 described in subsections (a) and (b) of section
8 962 and subsection (b) of this section.

9 “(B) MEMBERSHIP REQUIREMENTS.—
10 Members of the advisory committee established
11 under subparagraph (A) shall be appointed by
12 the Secretary, except that three members shall
13 be appointed by the Speaker of the House of
14 Representatives and two members shall be ap-
15 pointed by the Majority Leader of the Senate.
16 The total number of members of the advisory
17 committee shall be 15.”; and

18 (2) by amending subsection (d) to read as fol-
19 lows:

20 “(d) STUDY OF CARBON DIOXIDE PIPELINES.—Not
21 later than 1 year after the date of enactment of the Amer-
22 ica COMPETES Reauthorization Act of 2015, the Sec-
23 retary shall transmit to Congress the results of a study
24 to assess the cost and feasibility of engineering, permit-

1 ting, building, maintaining, regulating, and insuring a na-
2 tional system of carbon dioxide pipelines.”.

3 **SEC. 663. HIGH EFFICIENCY GAS TURBINES RESEARCH AND**
4 **DEVELOPMENT.**

5 (a) IN GENERAL.—The Secretary, through the Office
6 of Fossil Energy, shall carry out a multiyear, multiphase
7 program of research, development, demonstration, and
8 commercial application to innovate technologies to maxi-
9 mize the efficiency of gas turbines used in power genera-
10 tion systems.

11 (b) PROGRAM ELEMENTS.—The program under this
12 section shall—

13 (1) support innovative engineering and detailed
14 gas turbine design for megawatt-scale and utility-
15 scale electric power generation, including—

16 (A) high temperature materials, including
17 superalloys, coatings, and ceramics;

18 (B) improved heat transfer capability;

19 (C) manufacturing technology required to
20 construct complex three-dimensional geometry
21 parts with improved aerodynamic capability;

22 (D) combustion technology to produce
23 higher firing temperature while lowering nitro-
24 gen oxide and carbon monoxide emissions per
25 unit of output;

1 (E) advanced controls and systems integra-
2 tion;

3 (F) advanced high performance compressor
4 technology; and

5 (G) validation facilities for the testing of
6 components and subsystems;

7 (2) include technology demonstration through
8 component testing, subscale testing, and full scale
9 testing in existing fleets;

10 (3) include field demonstrations of the devel-
11 oped technology elements so as to demonstrate tech-
12 nical and economic feasibility; and

13 (4) assess overall combined cycle and simple
14 cycle system performance.

15 (c) PROGRAM GOALS.—The goals of the multiphase
16 program established under subsection (a) shall be—

17 (1) in phase I—

18 (A) to develop the conceptual design of ad-
19 vanced high efficiency gas turbines that can
20 achieve at least 62 percent combined cycle effi-
21 ciency or 47 percent simple cycle efficiency on
22 a lower heating value basis; and

23 (B) to develop and demonstrate the tech-
24 nology required for advanced high efficiency gas
25 turbines that can achieve at least 62 percent

1 combined cycle efficiency or 47 percent simple
2 cycle efficiency on a lower heating value basis;
3 and

4 (2) in phase II, to develop the conceptual de-
5 sign for advanced high efficiency gas turbines that
6 can achieve at least 65 percent combined cycle effi-
7 ciency or 50 percent simple cycle efficiency on a
8 lower heating value basis.

9 (d) PROPOSALS.—Within 180 days after the date of
10 enactment of this Act, the Secretary shall solicit grant and
11 contract proposals from industry, small businesses, univer-
12 sities, and other appropriate parties for conducting activi-
13 ties under this section. In selecting proposals, the Sec-
14 retary shall emphasize—

15 (1) the extent to which the proposal will stimu-
16 late the creation or increased retention of jobs in the
17 United States; and

18 (2) the extent to which the proposal will pro-
19 mote and enhance United States technology leader-
20 ship.

21 (e) COMPETITIVE AWARDS.—The provision of fund-
22 ing under this section shall be on a competitive basis with
23 an emphasis on technical merit.

1 (f) COST SHARING.—Section 988 of the Energy Pol-
2 icy Act of 2005 (42 U.S.C. 16352) shall apply to an award
3 of financial assistance made under this section.

4 **Subtitle F—Advanced Research**
5 **Projects Agency—Energy**

6 **SEC. 671. ARPA-E AMENDMENTS.**

7 Section 5012 of the America COMPETES Act (42
8 U.S.C. 16538) is amended—

9 (1) by amending paragraph (1) of subsection
10 (c) to read as follows:

11 “(1) IN GENERAL.—The goals of ARPA-E
12 shall be to enhance the economic and energy security
13 of the United States and to ensure that the United
14 States maintains a technological lead through the
15 development of advanced energy technologies.”;

16 (2) in subsection (i)(1), by inserting “ARPA-E
17 shall not provide funding for a project unless the
18 prospective grantee demonstrates sufficient attempts
19 to secure private financing or indicates that the
20 project is not independently commercially viable.”
21 after “relevant research agencies.”;

22 (3) in subsection (l)(1), by inserting “and once
23 every 6 years thereafter,” after “operation for 6
24 years,”; and

1 (4) by redesignating subsection (n) as sub-
2 section (o) and inserting after subsection (m) the
3 following new subsection:

4 “(n) PROTECTION OF PROPRIETARY INFORMA-
5 TION.—

6 “(1) IN GENERAL.—The following categories of
7 information collected by the Advanced Research
8 Projects Agency–Energy from recipients of financial
9 assistance awards shall be considered privileged and
10 confidential and not subject to disclosure pursuant
11 to section 552 of title 5, United States Code:

12 “(A) Plans for commercialization of tech-
13 nologies developed under the award, including
14 business plans, technology to market plans,
15 market studies, and cost and performance mod-
16 els.

17 “(B) Investments provided to an awardee
18 from third parties, such as venture capital,
19 hedge fund, or private equity firms, including
20 amounts and percentage of ownership of the
21 awardee provided in return for such invest-
22 ments.

23 “(C) Additional financial support that the
24 awardee plans to invest or has invested into the

1 technology developed under the award, or that
2 the awardee is seeking from third parties.

3 “(D) Revenue from the licensing or sale of
4 new products or services resulting from the re-
5 search conducted under the award.

6 “(2) EFFECT OF SUBSECTION.—Nothing in this
7 subsection affects—

8 “(A) the authority of the Secretary to use
9 information without publicly disclosing such in-
10 formation; or

11 “(B) the responsibility of the Secretary to
12 transmit information to Congress as required
13 by law.”.

14 **Subtitle G—Authorization of** 15 **Appropriations**

16 **SEC. 681. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) ELECTRICITY DELIVERY AND ENERGY RELI-
18 ABILITY RESEARCH AND DEVELOPMENT.—There are au-
19 thorized to be appropriated to the Secretary for research,
20 development, demonstration, and commercial application
21 for electrical delivery and energy reliability technology ac-
22 tivities within the Office of Electricity \$113,000,000 for
23 each of fiscal years 2016 and 2017.

24 (b) NUCLEAR ENERGY.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to the Secretary for research, develop-
3 ment, demonstration, and commercial application for
4 nuclear energy technology activities within the Office
5 of Nuclear Energy \$504,600,000 for each of fiscal
6 years 2016 and 2017.

7 (2) LIMITATION.—Any amounts made available
8 pursuant to the authorization of appropriations
9 under paragraph (1) shall not be derived from the
10 Nuclear Waste Fund established under section
11 302(c) of the Nuclear Waste Policy Act of 1982 (42
12 U.S.C. 10222(c)).

13 (c) ENERGY EFFICIENCY AND RENEWABLE EN-
14 ERGY.—There are authorized to be appropriated to the
15 Secretary for research, development, demonstration, and
16 commercial application for energy efficiency and renewable
17 energy technology activities within the Office of Energy
18 Efficiency and Renewable Energy \$1,193,500,000 for
19 each of fiscal years 2016 and 2017.

20 (d) FOSSIL ENERGY.—There are authorized to be ap-
21 propriated to the Secretary for research, development,
22 demonstration, and commercial application for fossil en-
23 ergy technology activities within the Office of Fossil En-
24 ergy \$605,000,000 for each of fiscal years 2016 and 2017.

1 (e) ARPA-E.—There are authorized to be appro-
2 priated to the Secretary for the Advanced Research
3 Projects Agency–Energy \$140,000,000 for each of fiscal
4 years 2016 and 2017.

5 **Subtitle H—Definitions**

6 **SEC. 691. DEFINITIONS.**

7 In this title—

8 (1) the term “Department” means the Depart-
9 ment of Energy; and

10 (2) the term “Secretary” means the Secretary
11 of Energy.

12 **TITLE VII—DEPARTMENT OF EN- 13 ERGY TECHNOLOGY TRANS- 14 FER**

15 **Subtitle A—In General**

16 **SEC. 701. DEFINITIONS.**

17 In this title:

18 (1) DEPARTMENT.—The term “Department”
19 means the Department of Energy.

20 (2) NATIONAL LABORATORY.—The term “Na-
21 tional Laboratory” means a Department of Energy
22 nonmilitary national laboratory, including—

23 (A) Ames Laboratory;

24 (B) Argonne National Laboratory;

25 (C) Brookhaven National Laboratory;

- 1 (D) Fermi National Accelerator Labora-
2 tory;
- 3 (E) Idaho National Laboratory;
- 4 (F) Lawrence Berkeley National Labora-
5 tory;
- 6 (G) National Energy Technology Labora-
7 tory;
- 8 (H) National Renewable Energy Labora-
9 tory;
- 10 (I) Oak Ridge National Laboratory;
- 11 (J) Pacific Northwest National Labora-
12 tory;
- 13 (K) Princeton Plasma Physics Laboratory;
- 14 (L) Savannah River National Laboratory;
- 15 (M) Stanford Linear Accelerator Center;
- 16 (N) Thomas Jefferson National Accel-
17 erator Facility; and
- 18 (O) any laboratory operated by the Na-
19 tional Nuclear Security Administration, but
20 only with respect to the civilian energy activities
21 thereof.
- 22 (3) SECRETARY.—The term “Secretary” means
23 the Secretary of Energy.

1 **SEC. 702. SAVINGS CLAUSE.**

2 Nothing in this title or an amendment made by this
3 title abrogates or otherwise affects the primary respon-
4 sibilities of any National Laboratory to the Department.

5 **Subtitle B—Innovation Manage-**
6 **ment at Department of Energy**

7 **SEC. 712. TECHNOLOGY TRANSFER AND TRANSITIONS AS-**
8 **SESSMENT.**

9 Not later than 1 year after the date of enactment
10 of this Act, and annually thereafter, the Secretary shall
11 transmit to the Committee on Science, Space, and Tech-
12 nology of the House of Representatives and the Committee
13 on Energy and Natural Resources of the Senate a report
14 which shall include—

15 (1) an assessment of the Department's current
16 ability to carry out the goals of section 1001 of the
17 Energy Policy Act of 2005 (42 U.S.C. 16391), in-
18 cluding an assessment of the role and effectiveness
19 of the Director of the Office of Technology Transi-
20 tions; and

21 (2) recommended departmental policy changes
22 and legislative changes to section 1001 of the En-
23 ergy Policy Act of 2005 (42 U.S.C. 16391) to im-
24 prove the Department's ability to successfully trans-
25 fer new energy technologies to the private sector.

1 **SEC. 713. SENSE OF CONGRESS.**

2 It is the sense of the Congress that the Secretary
3 should encourage the National Laboratories and federally
4 funded research and development centers to inform small
5 businesses of the opportunities and resources that exist
6 pursuant to this title.

7 **SEC. 714. NUCLEAR ENERGY INNOVATION.**

8 Not later than 180 days after the date of enactment
9 of this Act, the Secretary, in consultation with the Na-
10 tional Laboratories, relevant Federal agencies, and other
11 stakeholders, shall transmit to the Committee on Science,
12 Space, and Technology of the House of Representatives
13 and the Committee on Energy and Natural Resources of
14 the Senate a report assessing the Department's capabili-
15 ties to authorize, host, and oversee privately funded fusion
16 and non-light water reactor prototypes and related dem-
17 onstration facilities at Department-owned sites. For pur-
18 poses of this report, the Secretary shall consider the De-
19 partment's capabilities to facilitate privately-funded proto-
20 types up to 20 megawatts thermal output. The report shall
21 address the following:

22 (1) The Department's safety review and over-
23 sight capabilities.

24 (2) Potential sites capable of hosting research,
25 development, and demonstration of prototype reac-

1 tors and related facilities for the purpose of reducing
2 technical risk.

3 (3) The Department's and National Labora-
4 tories' existing physical and technical capabilities
5 relevant to research, development, and oversight.

6 (4) The efficacy of the Department's available
7 contractual mechanisms, including cooperative re-
8 search and development agreements, work for others
9 agreements, and agreements for commercializing
10 technology.

11 (5) Potential cost structures related to physical
12 security, decommissioning, liability, and other long-
13 term project costs.

14 (6) Other challenges or considerations identified
15 by the Secretary, including issues related to poten-
16 tial cases of demonstration reactors up to 2
17 gigawatts of thermal output.

18 **Subtitle C—Cross-Sector Partner-**
19 **ships and Grant Competitive-**
20 **ness**

21 **SEC. 721. AGREEMENTS FOR COMMERCIALIZING TECH-**
22 **NOLOGY PILOT PROGRAM.**

23 (a) IN GENERAL.—The Secretary shall carry out the
24 Agreements for Commercializing Technology pilot pro-

1 gram of the Department, as announced by the Secretary
2 on December 8, 2011, in accordance with this section.

3 (b) TERMS.—Each agreement entered into pursuant
4 to the pilot program referred to in subsection (a) shall
5 provide to the contractor of the applicable National Lab-
6 oratory, to the maximum extent determined to be appro-
7 priate by the Secretary, increased authority to negotiate
8 contract terms, such as intellectual property rights, pay-
9 ment structures, performance guarantees, and multiparty
10 collaborations.

11 (c) ELIGIBILITY.—

12 (1) IN GENERAL.—Any director of a National
13 Laboratory may enter into an agreement pursuant
14 to the pilot program referred to in subsection (a).

15 (2) AGREEMENTS WITH NON-FEDERAL ENTI-
16 TIES.—To carry out paragraph (1) and subject to
17 paragraph (3), the Secretary shall permit the direc-
18 tors of the National Laboratories to execute agree-
19 ments with a non-Federal entity, including a non-
20 Federal entity already receiving Federal funding
21 that will be used to support activities under agree-
22 ments executed pursuant to paragraph (1), provided
23 that such funding is solely used to carry out the
24 purposes of the Federal award.

1 (3) RESTRICTION.—The requirements of chap-
2 ter 18 of title 35, United States Code (commonly
3 known as the “Bayh-Dole Act”) shall apply if—

4 (A) the agreement is a funding agreement
5 (as that term is defined in section 201 of that
6 title); and

7 (B) at least one of the parties to the fund-
8 ing agreement is eligible to receive rights under
9 that chapter.

10 (d) SUBMISSION TO SECRETARY.—Each affected di-
11 rector of a National Laboratory shall submit to the Sec-
12 retary, with respect to each agreement entered into under
13 this section—

14 (1) a summary of information relating to the
15 relevant project;

16 (2) the total estimated costs of the project;

17 (3) estimated commencement and completion
18 dates of the project; and

19 (4) other documentation determined to be ap-
20 propriate by the Secretary.

21 (e) CERTIFICATION.—The Secretary shall require the
22 contractor of the affected National Laboratory to certify
23 that each activity carried out under a project for which
24 an agreement is entered into under this section—

1 (1) is not in direct competition with the private
2 sector; and

3 (2) does not present, or minimizes, any appar-
4 ent conflict of interest, and avoids or neutralizes any
5 actual conflict of interest, as a result of the agree-
6 ment under this section.

7 (f) EXTENSION.—The pilot program referred to in
8 subsection (a) shall be extended until October 31, 2017.

9 (g) REPORTS.—

10 (1) OVERALL ASSESSMENT.—Not later than 60
11 days after the date described in subsection (f), the
12 Secretary, in coordination with directors of the Na-
13 tional Laboratories, shall submit to the Committee
14 on Science, Space, and Technology of the House of
15 Representatives and the Committee on Energy and
16 Natural Resources of the Senate a report that—

17 (A) assesses the overall effectiveness of the
18 pilot program referred to in subsection (a);

19 (B) identifies opportunities to improve the
20 effectiveness of the pilot program;

21 (C) assesses the potential for program ac-
22 tivities to interfere with the responsibilities of
23 the National Laboratories to the Department;
24 and

1 (D) provides a recommendation regarding
2 the future of the pilot program.

3 (2) TRANSPARENCY.—The Secretary, in coordi-
4 nation with directors of the National Laboratories,
5 shall submit to the Committee on Science, Space,
6 and Technology of the House of Representatives and
7 the Committee on Energy and Natural Resources of
8 the Senate an annual report that accounts for all
9 incidences of, and provides a justification for, non-
10 Federal entities using funds derived from a Federal
11 contract or award to carry out agreements pursuant
12 to this section.

13 **SEC. 722. PUBLIC-PRIVATE PARTNERSHIPS FOR COMMER-**
14 **CIALIZATION.**

15 (a) IN GENERAL.—Subject to subsections (b) and (c),
16 the Secretary shall delegate to directors of the National
17 Laboratories signature authority with respect to any
18 agreement described in subsection (b) the total cost of
19 which (including the National Laboratory contributions
20 and project recipient cost share) is less than \$1 million.

21 (b) AGREEMENTS.—Subsection (a) applies to—

22 (1) a cooperative research and development
23 agreement;

24 (2) a non-Federal work-for-others agreement;

25 and

1 (3) any other agreement determined to be ap-
2 propriate by the Secretary, in collaboration with the
3 directors of the National Laboratories.

4 (c) ADMINISTRATION.—

5 (1) ACCOUNTABILITY.—The director of the af-
6 fected National Laboratory and the affected con-
7 tractor shall carry out an agreement under this sec-
8 tion in accordance with applicable policies of the De-
9 partment, including by ensuring that the agreement
10 does not compromise any national security, eco-
11 nomic, or environmental interest of the United
12 States.

13 (2) CERTIFICATION.—The director of the af-
14 fected National Laboratory and the affected con-
15 tractor shall certify that each activity carried out
16 under a project for which an agreement is entered
17 into under this section does not present, or mini-
18 mizes, any apparent conflict of interest, and avoids
19 or neutralizes any actual conflict of interest, as a re-
20 sult of the agreement under this section.

21 (3) AVAILABILITY OF RECORDS.—On entering
22 an agreement under this section, the director of a
23 National Laboratory shall submit to the Secretary
24 for monitoring and review all records of the National
25 Laboratory relating to the agreement.

1 (4) RATES.—The director of a National Lab-
2 oratory may charge higher rates for services per-
3 formed under a partnership agreement entered into
4 pursuant to this section, regardless of the full cost
5 of recovery, if such funds are used exclusively to
6 support further research and development activities
7 at the respective National Laboratory.

8 (d) EXCEPTION.—This section does not apply to any
9 agreement with a majority foreign-owned company.

10 (e) CONFORMING AMENDMENT.—Section 12 of the
11 Stevenson-Wydler Technology Innovation Act of 1980 (15
12 U.S.C. 3710a) is amended—

13 (1) in subsection (a)—

14 (A) by redesignating paragraphs (1) and
15 (2) as subparagraphs (A) and (B), respectively,
16 and indenting the subparagraphs appropriately;

17 (B) by striking “Each Federal agency”
18 and inserting the following:

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), each Federal agency”; and

21 (C) by adding at the end the following:

22 “(2) EXCEPTION.—Notwithstanding paragraph
23 (1), in accordance with section 722(a) of the Amer-
24 ica COMPETES Reauthorization Act of 2015, ap-
25 proval by the Secretary of Energy shall not be re-

1 required for any technology transfer agreement pro-
2 posed to be entered into by a National Laboratory
3 of the Department of Energy, the total cost of which
4 (including the National Laboratory contributions
5 and project recipient cost share) is less than \$1 mil-
6 lion.”; and

7 (2) in subsection (b), by striking “subsection
8 (a)(1)” each place it appears and inserting “sub-
9 section (a)(1)(A)”.

10 **SEC. 723. INCLUSION OF EARLY-STAGE TECHNOLOGY DEM-**
11 **ONSTRATION IN AUTHORIZED TECHNOLOGY**
12 **TRANSFER ACTIVITIES.**

13 Section 1001 of the Energy Policy Act of 2005 (42
14 U.S.C. 16391) is amended by—

15 (1) redesignating subsection (g) as subsection
16 (h); and

17 (2) inserting after subsection (f) the following:

18 “(g) **EARLY-STAGE TECHNOLOGY DEMONSTRA-**
19 **TION.**—The Secretary shall permit the directors of the Na-
20 tional Laboratories to use funds authorized to support
21 technology transfer within the Department to carry out
22 early-stage and pre-commercial technology demonstration
23 activities to remove technology barriers that limit private
24 sector interest and demonstrate potential commercial ap-

1 plications of any research and technologies arising from
2 National Laboratory activities.”.

3 **SEC. 724. FUNDING COMPETITIVENESS FOR INSTITUTIONS**
4 **OF HIGHER EDUCATION AND OTHER NON-**
5 **PROFIT INSTITUTIONS.**

6 Section 988(b) of the Energy Policy Act of 2005 (42
7 U.S.C. 16352(b)) is amended—

8 (1) in paragraph (1), by striking “Except as
9 provided in paragraphs (2) and (3)” and inserting
10 “Except as provided in paragraphs (2), (3), and
11 (4)”;

12 (2) by adding at the end the following:

13 “(4) EXEMPTION FOR INSTITUTIONS OF HIGH-
14 ER EDUCATION AND OTHER NONPROFIT INSTITU-
15 TIONS.—

16 “(A) IN GENERAL.—Paragraph (1) shall
17 not apply to a research or development activity
18 performed by an institution of higher education
19 or nonprofit institution (as defined in section 4
20 of the Stevenson-Wydler Technology Innovation
21 Act of 1980 (15 U.S.C. 3703)).

22 “(B) TERMINATION DATE.—The exemp-
23 tion under subparagraph (A) shall apply during
24 the 6-year period beginning on the date of en-
25 actment of this paragraph.”.

1 **SEC. 725. PARTICIPATION IN THE INNOVATION CORPS PRO-**
2 **GRAM.**

3 The Secretary may enter into an agreement with the
4 Director of the National Science Foundation to enable re-
5 searchers funded by the Department to participate in the
6 National Science Foundation Innovation Corps program.

7 **Subtitle D—Assessment of Impact**

8 **SEC. 731. REPORT BY GOVERNMENT ACCOUNTABILITY OF-**
9 **FICE.**

10 Not later than 3 years after the date of enactment
11 of this Act, the Comptroller General of the United States
12 shall submit to Congress a report—

13 (1) describing the results of the projects devel-
14 oped under sections 721, 722, and 723, including in-
15 formation regarding—

16 (A) partnerships initiated as a result of
17 those projects and the potential linkages pre-
18 sented by those partnerships with respect to na-
19 tional priorities and other taxpayer-funded re-
20 search; and

21 (B) whether the activities carried out
22 under those projects result in—

23 (i) fiscal savings;

24 (ii) expansion of National Laboratory
25 capabilities;

1 (iii) increased efficiency of technology
2 transfers; or
3 (iv) an increase in general efficiency
4 of the National Laboratory system; and
5 (2) assess the scale, scope, efficacy, and impact
6 of the Department's efforts to promote technology
7 transfer and private sector engagement at the Na-
8 tional Laboratories, and make recommendations on
9 how the Department can improve these activities.

10 **TITLE XXXIII—NUCLEAR EN-**
11 **ERGY INNOVATION CAPABILI-**
12 **TIES**

13 **SEC. 3301. SHORT TITLE.**

14 This title may be cited as the “Nuclear Energy Inno-
15 vation Capabilities Act”.

16 **SEC. 3302. NUCLEAR ENERGY.**

17 Section 951 of the Energy Policy Act of 2005 (42
18 U.S.C. 16271) is amended to read as follows:

19 **“SEC. 951. NUCLEAR ENERGY.**

20 “(a) **MISSION.**—The Secretary shall conduct pro-
21 grams of civilian nuclear research, development, dem-
22 onstration, and commercial application, including activi-
23 ties in this subtitle. Such programs shall take into consid-
24 eration the following objectives:

1 “(1) Providing research infrastructure to pro-
2 mote scientific progress and enable users from aca-
3 demia, the National Laboratories, and the private
4 sector to make scientific discoveries relevant for nu-
5 clear, chemical, and materials science engineering.

6 “(2) Maintaining National Laboratory and uni-
7 versity nuclear energy research and development
8 programs, including their infrastructure.

9 “(3) Providing the technical means to reduce
10 the likelihood of nuclear weapons proliferation and
11 increasing confidence margins for public safety of
12 nuclear energy systems.

13 “(4) Reducing the environmental impact of nu-
14 clear energy related activities.

15 “(5) Supporting technology transfer from the
16 National Laboratories to the private sector.

17 “(6) Enabling the private sector to partner with
18 the National Laboratories to demonstrate novel reac-
19 tor concepts for the purpose of resolving technical
20 uncertainty associated with the aforementioned ob-
21 jectives in this subsection.

22 “(b) DEFINITIONS.—In this subtitle:

23 “(1) ADVANCED NUCLEAR REACTOR.—The
24 term ‘advanced nuclear reactor’ means—

1 “(A) a nuclear fission reactor with signifi-
2 cant improvements over the most recent genera-
3 tion of nuclear fission reactors, which may in-
4 clude inherent safety features, lower waste
5 yields, greater fuel utilization, superior reli-
6 ability, resistance to proliferation, and increased
7 thermal efficiency; or

8 “(B) a nuclear fusion reactor.

9 “(2) FAST NEUTRON.—The term ‘fast neutron’
10 means a neutron with kinetic energy above 100
11 kiloelectron volts.

12 “(3) NATIONAL LABORATORY.—The term ‘Na-
13 tional Laboratory’ has the meaning given that term
14 in paragraph (3) of section 2, except that with re-
15 spect to subparagraphs (G), (H), and (N) of such
16 paragraph, for purposes of this subtitle the term in-
17 cludes only the civilian activities thereof.

18 “(4) NEUTRON FLUX.—The term ‘neutron flux’
19 means the intensity of neutron radiation measured
20 as a rate of flow of neutrons applied over an area.

21 “(5) NEUTRON SOURCE.—The term ‘neutron
22 source’ means a research machine that provides neu-
23 tron irradiation services for research on materials
24 sciences and nuclear physics as well as testing of ad-

1 vanced materials, nuclear fuels, and other related
2 components for reactor systems.”.

3 **SEC. 3303. NUCLEAR ENERGY RESEARCH PROGRAMS.**

4 Section 952 of the Energy Policy Act of 2005 (42
5 U.S.C. 16272) is amended—

6 (1) by striking subsection (e); and

7 (2) by redesignating subsections (d) and (e) as
8 subsections (c) and (d), respectively.

9 **SEC. 3304. ADVANCED FUEL CYCLE INITIATIVE.**

10 Section 953(a) of the Energy Policy Act of 2005 (42
11 U.S.C. 16273(a)) is amended by striking “, acting
12 through the Director of the Office of Nuclear Energy,
13 Science and Technology,”.

14 **SEC. 3305. UNIVERSITY NUCLEAR SCIENCE AND ENGINEER-**
15 **ING SUPPORT.**

16 Section 954(d)(4) of the Energy Policy Act of 2005
17 (42 U.S.C. 16274(d)(4)) is amended by striking “as part
18 of a taking into consideration effort that emphasizes” and
19 inserting “that emphasize”.

20 **SEC. 3306. DEPARTMENT OF ENERGY CIVILIAN NUCLEAR**
21 **INFRASTRUCTURE AND FACILITIES.**

22 Section 955 of the Energy Policy Act of 2005 (42
23 U.S.C. 16275) is amended—

24 (1) by striking subsections (c) and (d); and

25 (2) by adding at the end the following:

1 “(c) VERSATILE NEUTRON SOURCE.—

2 “(1) MISSION NEED.—Not later than December
3 31, 2016, the Secretary shall determine the mission
4 need for a versatile reactor-based fast neutron
5 source, which shall operate as a national user facil-
6 ity. During this process, the Secretary shall consult
7 with the private sector, universities, National Lab-
8 oratories, and relevant Federal agencies to ensure
9 that this user facility will meet the research needs
10 of the largest possible majority of prospective users.

11 “(2) ESTABLISHMENT.—Upon the determina-
12 tion of mission need made under paragraph (1), the
13 Secretary shall, as expeditiously as possible, provide
14 to the Committee on Science, Space, and Technology
15 of the House of Representatives and the Committee
16 on Energy and Natural Resources of the Senate a
17 detailed plan for the establishment of the user facil-
18 ity.

19 “(3) FACILITY REQUIREMENTS.—

20 “(A) CAPABILITIES.—The Secretary shall
21 ensure that this user facility will provide, at a
22 minimum, the following capabilities:

23 “(i) Fast neutron spectrum irradiation
24 capability.

1 “(ii) Capacity for upgrades to accom-
2 modate new or expanded research needs.

3 “(B) CONSIDERATIONS.—In carrying out
4 the plan provided under paragraph (2), the Sec-
5 retary shall consider the following:

6 “(i) Capabilities that support experi-
7 mental high-temperature testing.

8 “(ii) Providing a source of fast neu-
9 trons at a neutron flux, higher than that
10 at which current research facilities operate,
11 sufficient to enable research for an optimal
12 base of prospective users.

13 “(iii) Maximizing irradiation flexibility
14 and irradiation volume to accommodate as
15 many concurrent users as possible.

16 “(iv) Capabilities for irradiation with
17 neutrons of a lower energy spectrum.

18 “(v) Multiple loops for fuels and ma-
19 terials testing in different coolants.

20 “(vi) Additional pre-irradiation and
21 post-irradiation examination capabilities.

22 “(vii) Lifetime operating costs and
23 lifecycle costs.

24 “(4) REPORTING PROGRESS.—The Department
25 shall, in its annual budget requests, provide an ex-

1 planation for any delay in its progress and otherwise
2 make every effort to complete construction and ap-
3 prove the start of operations for this facility by De-
4 cember 31, 2025.

5 “(5) COORDINATION.—The Secretary shall le-
6 verage the best practices for management, construc-
7 tion, and operation of national user facilities from
8 the Office of Science.”.

9 **SEC. 3307. SECURITY OF NUCLEAR FACILITIES.**

10 Section 956 of the Energy Policy Act of 2005 (42
11 U.S.C. 16276) is amended by striking “, acting through
12 the Director of the Office of Nuclear Energy, Science and
13 Technology,”.

14 **SEC. 3308. HIGH-PERFORMANCE COMPUTATION AND SUP-**
15 **PORTIVE RESEARCH.**

16 Section 957 of the Energy Policy Act of 2005 (42
17 U.S.C. 16277) is amended to read as follows:

18 **“SEC. 957. HIGH-PERFORMANCE COMPUTATION AND SUP-**
19 **PORTIVE RESEARCH.**

20 “(a) MODELING AND SIMULATION.—The Secretary
21 shall carry out a program to enhance the Nation’s capa-
22 bilities to develop new reactor technologies through high-
23 performance computation modeling and simulation tech-
24 niques. This program shall coordinate with relevant Fed-
25 eral agencies through the National Strategic Computing

1 Initiative created under Executive Order No. 13702 (July
2 29, 2015) while taking into account the following objec-
3 tives:

4 “(1) Utilizing expertise from the private sector,
5 universities, and National Laboratories to develop
6 computational software and capabilities that pro-
7 spective users may access to accelerate research and
8 development of advanced nuclear reactor systems,
9 and reactor systems for space exploration.

10 “(2) Developing computational tools to simulate
11 and predict nuclear phenomena that may be vali-
12 dated through physical experimentation.

13 “(3) Increasing the utility of the Department’s
14 research infrastructure by coordinating with the Ad-
15 vanced Scientific Computing Research program
16 within the Office of Science.

17 “(4) Leveraging experience from the Energy In-
18 novation Hub for Modeling and Simulation.

19 “(5) Ensuring that new experimental and com-
20 putational tools are accessible to relevant research
21 communities.

22 “(b) SUPPORTIVE RESEARCH ACTIVITIES.—The Sec-
23 retary shall consider support for additional research activi-
24 ties to maximize the utility of its research facilities, includ-
25 ing physical processes to simulate degradation of materials

1 and behavior of fuel forms and for validation of computa-
2 tional tools.”.

3 **SEC. 3309. ENABLING NUCLEAR ENERGY INNOVATION.**

4 Subtitle E of title IX of the Energy Policy Act of
5 2005 (42 U.S.C. 16271 et seq.) is amended by adding at
6 the end the following:

7 **“SEC. 958. ENABLING NUCLEAR ENERGY INNOVATION.**

8 “(a) NATIONAL REACTOR INNOVATION CENTER.—
9 The Secretary shall carry out a program to enable the
10 testing and demonstration of reactor concepts to be pro-
11 posed and funded by the private sector. The Secretary
12 shall leverage the technical expertise of relevant Federal
13 agencies and National Laboratories in order to minimize
14 the time required to enable construction and operation of
15 privately funded experimental reactors at National Lab-
16 oratories or other Department-owned sites. Such reactors
17 shall operate to meet the following objectives:

18 “(1) Enabling physical validation of novel reac-
19 tor concepts.

20 “(2) Resolving technical uncertainty and in-
21 creasing practical knowledge relevant to safety, resil-
22 ience, security, and functionality of first-of-a-kind
23 reactor concepts.

24 “(3) General research and development to im-
25 prove nascent technologies.

1 “(b) REPORTING REQUIREMENT.—Not later than
2 180 days after the date of enactment of the Nuclear En-
3 ergy Innovation Capabilities Act, the Secretary, in con-
4 sultation with the National Laboratories, relevant Federal
5 agencies, and other stakeholders, shall transmit to the
6 Committee on Science, Space, and Technology of the
7 House of Representatives and the Committee on Energy
8 and Natural Resources of the Senate a report assessing
9 the Department’s capabilities to authorize, host, and over-
10 see privately funded experimental advanced nuclear reac-
11 tors as described under subsection (a). The report shall
12 address the following:

13 “(1) The Department’s oversight capabilities,
14 including options to leverage expertise from the Nu-
15 clear Regulatory Commission and National Labora-
16 tories.

17 “(2) Potential sites capable of hosting activities
18 described under subsection (a).

19 “(3) The efficacy of the Department’s available
20 contractual mechanisms to partner with the private
21 sector and Federal agencies, including cooperative
22 research and development agreements, strategic
23 partnership projects, and agreements for commer-
24 cializing technology.

1 “(4) Potential cost structures related to long-
2 term projects, including physical security, distribu-
3 tion of liability, and other related costs.

4 “(5) Other challenges or considerations identi-
5 fied by the Secretary.”.

6 **SEC. 3310. BUDGET PLAN.**

7 (a) IN GENERAL.—Subtitle E of title IX of the En-
8 ergy Policy Act of 2005 (42 U.S.C. 16271 et seq.) is fur-
9 ther amended by adding at the end the following:

10 **“SEC. 959. BUDGET PLAN.**

11 “Not later than 12 months after the date of enact-
12 ment of the Nuclear Energy Innovation Capabilities Act,
13 the Department shall transmit to the Committee on
14 Science, Space, and Technology of the House of Rep-
15 resentatives and the Committee on Energy and Natural
16 Resources of the Senate 2 alternative 10-year budget
17 plans for civilian nuclear energy research and development
18 by the Department. The first shall assume constant an-
19 nual funding for 10 years at the appropriated level for
20 the Department’s civilian nuclear energy research and de-
21 velopment for fiscal year 2016. The second shall be an
22 unconstrained budget. The two plans shall include—

23 “(1) a prioritized list of the Department’s pro-
24 grams, projects, and activities to best support the

1 development of advanced nuclear reactor tech-
2 nologies;

3 “(2) realistic budget requirements for the De-
4 partment to implement sections 955(c), 957, and
5 958 of this Act; and

6 “(3) the Department’s justification for con-
7 tinuing or terminating existing civilian nuclear en-
8 ergy research and development programs.”.

9 (b) REPORT ON FUSION INNOVATION.—Not later
10 than 6 months after the date of enactment of this title,
11 the Secretary of the Department of Energy shall transmit
12 to the Committee on Science, Space, and Technology of
13 the House of Representatives and the Committee on En-
14 ergy and Natural Resources of the Senate a report that
15 will identify engineering designs for innovative fusion en-
16 ergy systems that have the potential to demonstrate net
17 energy production not later than 15 years after the start
18 of construction. In this report, the Secretary will identify
19 budgetary requirements that would be necessary for the
20 Department to carry out a fusion innovation initiative to
21 accelerate research and development of these designs.

22 **SEC. 3311. CONFORMING AMENDMENTS.**

23 The table of contents for the Energy Policy Act of
24 2005 is amended by striking the item relating to section
25 957 and inserting the following:

“957. High-performance computation and supportive research.

“958. Enabling nuclear energy innovation.
“959. Budget plan.”.

