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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2001

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (C) retail motor fuel price volatility;

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

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

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

1 fications would reduce supply disruptions and price
2 spikes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (4) internal corrosion control;

21 (5) corrosion-resistant coatings;

22 (6) improved cathodic protection;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **SEC. 201. PURPOSE.**

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

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

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

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

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

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

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

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

8 (1) the United States coal industry;

9 (2) State coal development agencies;

10 (3) the electric utility industry;

11 (4) railroads and other transportation indus-
12 tries;

13 (5) manufacturers of equipment using advanced
14 coal technologies;

15 (6) organizations representing workers; and

16 (7) organizations formed to—

17 (A) further the goals of environmental pro-
18 tection;

19 (B) promote the use of coal; or

20 (C) promote the development and use of
21 advanced coal technologies.

22 (c) TIMING.—The Secretary shall—

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

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

5 **SEC. 203. STUDY.**

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

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

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

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

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

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

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

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

9 (1) this Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 208. FUNDING.**

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

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

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

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

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

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

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

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

11 **TITLE III—OIL AND GAS**
 12 **Subtitle A—Deepwater and**
 13 **Frontier Royalty Relief**

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

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

18 **SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL**
 19 **SHELF LANDS ACT.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **SEC. 303. NEW LEASES.**

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

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

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

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

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

13 **SEC. 304. LEASE SALES.**

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

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

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

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

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

20 (3) The Secretary of the Interior may—

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

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

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

- 8 (A) transporting the oil or gas,
9 (B) processing the gas, or
10 (C) disposing of the oil or gas.

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

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

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

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

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

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

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

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

4 (f) DEDUCTION OF EXPENSES.—

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

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

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

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

7 (h) PROVISIONS FOR SMALL REFINERIES.—

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

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

22 (i) DISPOSITION TO FEDERAL AGENCIES.—

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

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

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

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

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

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

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

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

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

7 **SEC. 331. DEFINITIONS.**

8 In this Part—

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

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

13 (2) **FEDERAL LAND.—**

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

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

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

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

2 or

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

7 (3) OIL AND GAS CONSERVATION AUTHORITY.—

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

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

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

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

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

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

4 **SEC. 332. NO PROPERTY RIGHT.**

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

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

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

14 (b) TRANSFER OF AUTHORITY.—

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

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

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

25 (B) production operations;

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

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

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

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

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

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

1 (b) STATE AUTHORITY.—

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

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

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

20 (d) PENDING APPLICATIONS.—

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

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

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

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

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

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

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

17 **SEC. 336. APPLICATIONS.**

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

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

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

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

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

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

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

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

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

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

8 (b) OFFER TO LEASE.—

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

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

15 (c) APPLICATION FOR PERMIT TO DRILL.—

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

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

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

5 (e) ADMINISTRATIVE APPEALS.—

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

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

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

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

24 (b) LAND DESIGNATED FOR MULTIPLE USE.—

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

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

17 (c) REJECTION OF OFFER TO LEASE.—

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

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

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

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

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

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

1 **SEC. 339. REPORTS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 406. REPORTS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (1) QUALIFIED NUCLEAR ENERGY FACILITY.—

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

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

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

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

8 (d) AMOUNT OF PAYMENT.—

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

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

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

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

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

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

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

23 (b) LIMITATIONS.—

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

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

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

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

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

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

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

20 **SEC. 501. SHORT TITLE.**

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

23 **SEC. 502. DEFINITIONS.**

24 When used in this title the term—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (d) OTHER GRANTS.—

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

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

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

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

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

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

8 (e) IMPLEMENTATION.—

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

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

21 (f) ALLOCATION OF FUNDS.—

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

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

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

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

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

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

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

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

24 (j) DEFINITIONS.—

1 (1) ELEMENTARY AND SECONDARY SCHOOL.—

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

7 (2) ENERGY EFFICIENT SCHOOL BUILDING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (1) striking “and”,

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

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

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

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

3 (1) in paragraph (2)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (c) ANNUAL REPORT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (d) ANNUAL REPORT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Subtitle B—Renewable Energy**

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

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

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

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

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

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

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

25 (c) **TOTAL COST.**—

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

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

8 (B) installation charges,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (A) solar thermal,

12 (B) solar photovoltaic,

13 (C) wind,

14 (D) biomass,

15 (E) hydroelectric, or

16 (F) geothermal.

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

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

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

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

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

13 (2) CONDOMINIUMS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **SEC. 722. FINDINGS.**

19 Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

7 **SEC. 723. PURPOSE.**

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

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

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

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

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

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

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

8 “(a) DEFINITIONS.—In this section:

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

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

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

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

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

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

1 “(b) FACTORS TO BE CONSIDERED.—

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

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

5 “(i) economic and power values;

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

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

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

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

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

21 “(2) DOCUMENTATION.—

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

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

8 “(B) SUBMISSION TO THE COMMISSION.—

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

12 “(c) SCIENTIFIC REVIEW.—

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

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

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

22 “(B) was subjected to peer review.

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

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

4 “(e) ADMINISTRATIVE REVIEW.—

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

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

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

22 “(2) COMPLETION OF REVIEW.—

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

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

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

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

16 “(A) render a decision that—

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

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

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

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

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

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

9 “(i) withdraw the condition;

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

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

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

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

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

21 “(f) SUBMISSION OF FINAL CONDITION.—

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

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

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

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

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

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

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

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

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

4 “(g) ANALYSIS BY THE COMMISSION.—

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

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

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

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

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

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

4 “(4) is reasonable;

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

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

8 (b) CONFORMING AND TECHNICAL AMENDMENTS.—

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

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

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

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

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

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

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

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

13 “(1) for each such project; or

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

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

22 “(c) **DEADLINES.**—

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

1 statement or environmental assessment required for
2 a project.

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

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

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

10 “(C) applicable statutory requirements.”.

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

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

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

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

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

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

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

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

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

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

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

17 “(a) **DEFINITIONS.—**As used in this section:

18 “(1) **AFFILIATED REGIONAL RELIABILITY ENTI-**
 19 **TY.—**The term ‘affiliated regional reliability entity’
 20 means an entity delegated authority under the provi-
 21 sions of subsection (h).

22 “(2) **BULK POWER SYSTEM.—**The term ‘bulk
 23 power system’ means all facilities and control sys-
 24 tems necessary for operating an interconnected
 25 transmission grid (or any portion thereof), including

1 high-voltage transmission lines; substations; control
2 centers; communications; data, and operations plan-
3 ning facilities; and the output of generating units
4 necessary to maintain transmission system reli-
5 ability.

6 “(3) ELECTRIC RELIABILITY ORGANIZATION, OR
7 ORGANIZATION.—The term ‘Electric Reliability Or-
8 ganization’ or ‘Organization’ means the organization
9 approved by the Commission under subsection
10 (d)(4).

11 “(4) ENTITY RULE.—The term ‘entity rule’
12 means a rule adopted by an affiliated regional reli-
13 ability entity for a specific region and designed to
14 implement or enforce one or more Organization
15 Standards. An entity rule shall be approved by the
16 organization and once approved, shall be treated as
17 an Organization Standard.

18 “(5) INDUSTRY SECTOR.—The term ‘industry
19 sector’ means a group of users of the bulk power
20 system with substantially similar commercial inter-
21 ests, as determined by the Board of the Electric Re-
22 liability Organization.

23 “(6) INTERCONNECTION.—The term ‘inter-
24 connection’ means a geographic area in which the
25 operation of bulk power system components is syn-

1 chronized such that the failure of one or more such
2 components may adversely affect the ability of the
3 operators of other components within the inter-
4 connection to maintain safe and reliable operation of
5 the facilities within their control.

6 “(7) ORGANIZATION STANDARD.—The term
7 ‘Organization Standard’ means a policy or standard
8 duly adopted by the Electric Reliability Organization
9 to provide for the reliable operation of a bulk power
10 system.

11 “(8) PUBLIC INTEREST GROUP.—The term
12 ‘public interest group’ means any nonprofit private
13 or public organization that has an interest in the ac-
14 tivities of the Electric Reliability Organization, in-
15 cluding, but not limited to, ratepayer advocates, en-
16 vironmental groups, and State and local government
17 organizations that regulate market participants and
18 promulgate government policy.

19 “(9) VARIANCE.—The term ‘variance’ means an
20 exception or variance from the requirements of an
21 Organization Standard (including a proposal for an
22 Organization Standard where there is no Organiza-
23 tion Standard) that is adopted by an affiliated re-
24 gional reliability entity and applicable to all or a
25 part of the region for which the affiliated regional

1 reliability entity is responsible. A variance shall be
2 approved by the organization and once approved,
3 shall be treated as an Organization Standard.

4 “(10) SYSTEM OPERATOR.—The term ‘system
5 operator’ means any entity that operates or is re-
6 sponsible for the operation of a bulk power system,
7 including but not limited to a control area operator,
8 an independent system operator, a regional trans-
9 mission organization, a transmission company, a
10 transmission system operator, or a regional security
11 coordinator.

12 “(11) USER OF THE BULK POWER SYSTEM.—
13 The term ‘user of the bulk power system’ means any
14 entity that sells, purchases, or transmits electric
15 power over a bulk power system, or that owns, oper-
16 ates, or maintains facilities or control systems that
17 are part of a bulk power system, or that is a system
18 operator.

19 “(b) COMMISSION AUTHORITY.—

20 “(1) Within the United States, the Commission
21 shall have jurisdiction over the Electric Reliability
22 Organization, all affiliated regional reliability entities,
23 all system operators, and all users of the bulk-power
24 system, for purposes of approving and enforcing
25 compliance with the requirements of this section.

1 “(2) The Commission may, by rule, define any
2 other term used in this section, provided such defini-
3 tion is consistent with the definitions in, and the
4 purpose and intent of, this Act.

5 “(3) Not later than 90 days after the date of
6 enactment of this section, the Commission shall
7 issue a proposed rule for implementing the require-
8 ments of this section. The Commission shall provide
9 notice and opportunity for comment on the proposed
10 rule. The Commission shall issue a final rule under
11 this subsection within 180 days after the date of en-
12 actment of this section.

13 “(4) Nothing in this section shall be construed
14 as limiting or impairing any authority of the Com-
15 mission under any other provision of this Act, in-
16 cluding its exclusive authority to determine rates,
17 terms, and conditions of transmission services sub-
18 ject to its jurisdiction.

19 “(c) EXISTING RELIABILITY STANDARDS.—Fol-
20 lowing enactment of this section, and prior to the approval
21 of an organization under subsection (d), any entity, in-
22 cluding the North American Electric Reliability Council
23 and its member regional reliability councils, may file any
24 reliability standard, guidance, or practice that such entity
25 would propose to be made mandatory and enforceable. The

1 Commission, after allowing an opportunity to submit com-
2 ments, may approve any such proposed mandatory stand-
3 ard, guidance, or practice, or any amendment thereto, if
4 it finds that the standard, guidance, or practice, or
5 amendment is just, reasonable, not unduly discriminatory
6 or preferential, and in the public interest. The Commission
7 may, without further proceeding or finding, grant its ap-
8 proval to any standard, guidance, or practice for which
9 no substantive objections are filed in the comment period.
10 Filed standards, guidances, or practices, including any
11 amendments thereto, shall be mandatory and applicable
12 according to their terms following approval by the Com-
13 mission and shall remain in effect until—

14 “(1) withdrawn, disapproved, or superseded by
15 an Organization Standard, issued or approved by the
16 Electric Reliability Organization and made effective
17 by the Commission under subsection (e); or

18 “(2) disapproved by the Commission if, upon
19 complaint or upon its own motion and after notice
20 and an opportunity for comment, the Commission
21 finds the standard, guidance, or practice unjust, un-
22 reasonable, unduly discriminatory, or preferential or
23 not in the public interest.

1 Standards, guidances, or practices in effect pursuant to
2 the provisions of this subsection shall be enforceable by
3 the Commission.

4 “(d) ORGANIZATION APPROVAL.—

5 “(1) Following the issuance of a final Commis-
6 sion rule under subsection (b)(3), an entity may sub-
7 mit an application to the Commission for approval
8 as the Electric Reliability Organization. The appli-
9 cant shall specify in its application its governance
10 and procedures, as well as its funding mechanism
11 and initial funding requirements.

12 “(2) The Commission shall provide public no-
13 tice of the application and afford interested parties
14 an opportunity to comment.

15 “(3) The Commission shall approve the applica-
16 tion if the Commission determines that the
17 applicant—

18 “(A) has the ability to develop, implement,
19 and enforce standards that provide for an ade-
20 quate level of reliability of the bulk power sys-
21 tem;

22 “(B) permits voluntary membership to any
23 user of the bulk power system or public interest
24 group;

1 “(C) assures fair representation of its
2 members in the selection of its directors and
3 fair management of its affairs, taking into ac-
4 count the need for efficiency and effectiveness
5 in decisionmaking and operations and the re-
6 quirements for technical competency in the de-
7 velopment of Organization Standards and the
8 exercise of oversight of bulk power system reli-
9 ability;

10 “(D) assures that no two industry sectors
11 have the ability to control, and no one industry
12 sector has the ability to veto, the Electric Reli-
13 ability Organization’s discharge of its respon-
14 sibilities (including actions by committees rec-
15 ommending standards to the board or other
16 board actions to implement and enforce stand-
17 ards);

18 “(E) provides for governance by a board
19 wholly comprised of independent directors;

20 “(F) provides a funding mechanism and
21 requirements that are just, reasonable, and not
22 unduly discriminatory or preferential and are in
23 the public interest, and which satisfy the re-
24 quirements of subsection (l);

1 “(G) establishes procedures for develop-
2 ment of Organization Standards that provide
3 reasonable notice and opportunity for public
4 comment, taking into account the need for effi-
5 ciency and effectiveness in decisionmaking and
6 operations and the requirements for technical
7 competency in the development of Organization
8 Standards, and which standards development
9 process has the following attributes:

10 “(i) openness,

11 “(ii) balance of interests, and

12 “(iii) due process, except that the pro-
13 cedures may include alternative procedures
14 for emergencies;

15 “(H) establishes fair and impartial proce-
16 dures for implementation and enforcement of
17 Organization Standards, either directly or
18 through delegation to an affiliated regional reli-
19 ability entity, including the imposition of pen-
20 alties, limitations on activities, functions, or op-
21 erations, or other appropriate sanctions;

22 “(I) establishes procedures for notice and
23 opportunity for public observation of all meet-
24 ings, except that the procedures for public ob-
25 servation may include alternative procedures for

1 emergencies or for the discussion of information
2 the directors determine should take place in
3 closed session, such as litigation, personnel ac-
4 tions, or commercially sensitive information;

5 “(J) provides for the consideration of rec-
6 ommendations of States and State commissions;
7 and

8 “(K) addresses other matters that the
9 Commission may deem necessary or appropriate
10 to ensure that the procedures, governance, and
11 funding of the Electric Reliability Organization
12 are just, reasonable, not unduly discriminatory
13 or preferential, and are in the public interest.

14 “(4) The Commission shall approve only one
15 Electric Reliability Organization. If the Commission
16 receives two or more timely applications that satisfy
17 the requirements of this subsection, the Commission
18 shall approve only the application it concludes will
19 best implement the provisions of this section.

20 “(e) ESTABLISHMENT OF AND MODIFICATIONS TO
21 ORGANIZATION STANDARDS.—

22 “(1) The Electric Reliability Organization shall
23 file with the Commission any new or modified orga-
24 nization standards, including any variances or entity

1 rules, and the Commission shall follow the proce-
2 dures under paragraph (2) for review of that filing.

3 “(2) Submissions under paragraph (1) shall in-
4 clude:

5 “(A) a concise statement of the purpose of
6 the proposal, and

7 “(B) a record of any proceedings con-
8 ducted with respect to such proposal.

9 The Commission shall provide notice of the filing of
10 such proposal and afford interested entities 30 days
11 to submit comments. The Commission, after taking
12 into consideration any submitted comments, shall
13 approve or disapprove such proposal not later than
14 60 days after the deadline for the submission of
15 comments, except that the Commission may extend
16 the 60 day period for an additional 90 days for good
17 cause, and except further that if the Commission
18 does not act to approve or disapprove a proposal
19 within the foregoing periods, the proposal shall go
20 into effect subject to its terms, without prejudice to
21 the authority of the Commission thereafter to modify
22 the proposal in accordance with the standards and
23 requirements of this section. Proposals approved by
24 the Commission shall take effect according to their
25 terms but not earlier than 30 days after the effective

1 date of the Commission's order, except as provided
2 in paragraph (3) of this subsection.

3 “(3)(A) In the exercise of its review responsibil-
4 ities under this subsection, the Commission shall
5 give due weight to the technical expertise of the
6 Electric Reliability Organization with respect to the
7 content of a new or modified organization standard,
8 but shall not defer to the organization with respect
9 to the effect of the standard on competition. The
10 Commission shall approve a proposed new or modi-
11 fied organization standard if it determines the pro-
12 posal to be just, reasonable, not unduly discrimina-
13 tory or preferential, and in the public interest.

14 “(B) An existing or proposed organization
15 standard which is disapproved in whole or in part by
16 the Commission shall be remanded to the Electric
17 Reliability Organization for further consideration.

18 “(C) The Commission, on its own motion or
19 upon complaint, may direct the Electric Reliability
20 Organization to develop an organization standard,
21 including modification to an existing organization
22 standard, addressing a specific matter by a date cer-
23 tain if the Commission considers such new or modi-
24 fied organization standard necessary or appropriate
25 to further the purposes of this section. The Electric

1 Reliability Organization shall file any such new or
2 modified organization standard in accordance with
3 this subsection.

4 “(D) An affiliated regional reliability entity
5 may propose a variance or entity rule to the Electric
6 Reliability Organization. The affiliated regional reli-
7 ability entity may request that the Electric Reli-
8 ability Organization expedite consideration of the
9 proposal, and may file a notice of such request with
10 the Commission, if expedited consideration is nec-
11 essary to provide for bulk-power system reliability. If
12 the Electric Reliability Organization fails to adopt
13 the variance or entity rule, either in whole or in
14 part, the affiliated regional reliability entity may re-
15 quest that the Commission review such action. If the
16 Commission determines, after its review of such a
17 request, that the action of the Electric Reliability
18 Organization did not conform to the applicable
19 standards and procedures approved by the Commis-
20 sion, or if the Commission determines that the vari-
21 ance or entity rule is just, reasonable, not unduly
22 discriminatory or preferential, and in the public in-
23 terest, and that the Electric Reliability Organization
24 has unreasonably rejected the proposed variance or
25 entity rule, then the Commission may remand the

1 proposed variance or entity rule for further consider-
2 ation by the Electric Reliability Organization or may
3 direct the Electric Reliability Organization or the af-
4 filiated regional reliability entity to develop a vari-
5 ance or entity rule consistent with that requested by
6 the affiliated regional reliability entity. Any such
7 variance or entity rule proposed by an affiliated re-
8 gional reliability entity shall be submitted to the
9 Electric Reliability Organization for review and fil-
10 ing with the Commission in accordance with the pro-
11 cedures specified in this subsection.

12 “(E) Notwithstanding any other provision of
13 this subsection, a proposed organization standard or
14 amendment shall take effect according to its terms
15 if the Electric Reliability Organization determines
16 that an emergency exists requiring that such pro-
17 posed organization standard or amendment take ef-
18 fect without notice or comment. The Electric Reli-
19 ability Organization shall notify the Commission im-
20 mediately following such determination and shall file
21 such emergency organization standard or amend-
22 ment with the Commission not later than 5 days fol-
23 lowing such determination and shall include in such
24 filing an explanation of the need for such emergency
25 standard. Subsequently, the Commission shall pro-

1 vide notice of the organization standard or amend-
2 ment for comment, and shall follow the procedures
3 set out in paragraphs (2) and (3) for review of the
4 new or modified organization standard. Any such or-
5 ganization standard that has gone into effect shall
6 remain in effect unless and until suspended or dis-
7 approved by the Commission. If the Commission de-
8 termines at any time that the emergency organiza-
9 tion standard or amendment is not necessary, the
10 Commission may suspend such emergency organiza-
11 tion standard or amendment.

12 “(4) All users of the bulk power system shall
13 comply with any organization standard that takes ef-
14 fect under this section.

15 “(f) COORDINATION WITH CANADA AND MEXICO.—
16 The Electric Reliability Organization shall take all appro-
17 priate steps to gain recognition in Canada and Mexico.
18 The United States shall use its best efforts to enter into
19 international agreements with the appropriate govern-
20 ments of Canada and Mexico to provide for effective com-
21 pliance with organization standards and to provide for the
22 effectiveness of the Electric Reliability Organization in
23 carrying out its mission and responsibilities. All actions
24 taken by the Electric Reliability Organization, any affili-
25 ated regional reliability entity, and the Commission shall

1 be consistent with the provisions of such international
2 agreements.

3 “(g) CHANGES IN PROCEDURES, GOVERNANCE, OR
4 FUNDING.—

5 “(1) The Electric Reliability Organization shall
6 file with the Commission any proposed change in its
7 procedures, governance, or funding, or any changes
8 in the affiliated regional reliability entity’s proce-
9 dures, governance, or funding relating to delegated
10 functions, and shall include with the filing an expla-
11 nation of the basis and purpose for the change.

12 “(2) A proposed procedural change may take
13 effect 90 days after filing with the Commission if
14 the change constitutes a statement of policy, prac-
15 tice, or interpretation with respect to the meaning or
16 enforcement of an existing procedure. Otherwise, a
17 proposed procedural change shall take effect only
18 upon a finding by the Commission, after notice and
19 opportunity for comments, that the change is just,
20 reasonable, not unduly discriminatory or pref-
21 erential, is in the public interest, and satisfies the
22 requirements of subsection (d)(4).

23 “(3) A change in governance or funding shall
24 not take effect unless the Commission finds that the
25 change is just, reasonable, not unduly discriminatory

1 or preferential, in the public interest, and satisfies
2 the requirements of subsection (d)(4).

3 “(4) The Commission, upon complaint or upon
4 its own motion, may require the Electric Reliability
5 Organization to amend the procedures, governance,
6 or funding if the Commission determines that the
7 amendment is necessary to meet the requirements of
8 this section. The Electric Reliability Organization
9 shall file the amendment in accordance with para-
10 graph (1) of this subsection.

11 “(h) DELEGATIONS OF AUTHORITY.—

12 “(1) The Electric Reliability Organization shall,
13 upon request by an entity, enter into an agreement
14 with such entity for the delegation of authority to
15 implement and enforce compliance with organization
16 standards in a specified geographic area if the orga-
17 nization finds that the entity requesting the delega-
18 tion satisfies the requirements of subparagraphs (A),
19 (B), (C), (D), (F), (J), and (K) of subsection (d)(4),
20 and if the delegation promotes the effective and effi-
21 cient implementation and administration of bulk
22 power system reliability. The Electric Reliability Or-
23 ganization may enter into an agreement to delegate
24 to the entity any other authority, except that the
25 Electric Reliability Organization shall reserve the

1 right to set and approve standards for bulk power
2 system reliability.

3 “(2) The Electric Reliability Organization shall
4 file with the Commission any agreement entered into
5 under this subsection and any information the Com-
6 mission requires with respect to the affiliated re-
7 gional reliability entity to which authority is to be
8 delegated. The Commission shall approve the agree-
9 ment, following public notice and an opportunity for
10 comment, if it finds that the agreement meets the
11 requirements of paragraph (1), and is just, reason-
12 able, not unduly discriminatory or preferential, and
13 is in the public interest. A proposed delegation
14 agreement with an affiliated regional reliability enti-
15 ty organized on an interconnection-wide basis shall
16 be rebuttably presumed by the Commission to pro-
17 mote the effective and efficient implementation and
18 administration of bulk power system reliability. No
19 delegation by the Electric Reliability Organization
20 shall be valid unless approved by the Commission.

21 “(3)(A) A delegation agreement entered into
22 under this subsection shall specify the procedures for
23 an affiliated regional reliability entity to propose en-
24 tity rules or variances for review by the Electric Re-
25 liability Organization. With respect to any such pro-

1 proposal that would apply on an interconnection-wide
2 basis, the Electric Reliability Organization shall pre-
3 sume such proposal valid if made by an interconnec-
4 tion-wide affiliated regional reliability entity unless
5 the Electric Reliability Organization makes a written
6 finding that the proposal—

7 “(i) was not developed in a fair and open
8 process that provided an opportunity for all in-
9 terested parties to participate;

10 “(ii) has a significant adverse impact on
11 reliability or commerce in other interconnec-
12 tions;

13 “(iii) fails to provide a level of reliability of
14 the bulk-power system within the interconnec-
15 tion such that it would constitute a serious and
16 substantial threat to public health, safety, wel-
17 fare, or national security; or

18 “(iv) creates a serious and substantial bur-
19 den on competitive markets within the inter-
20 connection that is not necessary for reliability.

21 “(B) With respect to any such proposal that
22 would apply only to part of an interconnection, the
23 Electric Reliability Organization shall find such pro-
24 posal valid if the affiliated regional reliability entity

1 or entities making the proposal demonstrate that
2 it—

3 “(i) was developed in a fair and open proc-
4 ess that provided an opportunity for all inter-
5 ested parties to participate;

6 “(ii) would not have an adverse impact on
7 commerce that is not necessary for reliability;

8 “(iii) provides a level of bulk power system
9 reliability adequate to protect public health,
10 safety, welfare, and national security, and
11 would not have a significant adverse impact on
12 reliability; and

13 “(iv) in the case of a variance, is based on
14 legitimate differences between regions or be-
15 tween subregions within the affiliated regional
16 reliability entity’s geographic area.

17 The Electric Reliability Organization shall approve
18 or disapprove such proposal within 120 days, or the
19 proposal shall be deemed approved. Following ap-
20 proval of any such proposal under this paragraph,
21 the Electric Reliability Organization shall seek Com-
22 mission approval pursuant to the procedures pre-
23 scribed under subsection (e)(3). Affiliated regional
24 reliability entities may not make requests for ap-

1 proval directly to the Commission except pursuant to
2 subsection (e)(3)(D).

3 “(4) If an affiliated regional reliability entity
4 requests, consistent with paragraph (1) of this sub-
5 section, that the Electric Reliability Organization
6 delegate authority to it, but is unable within 180
7 days to reach agreement with the Electric Reliability
8 Organization with respect to such requested delega-
9 tion, such entity may seek relief from the Commis-
10 sion. If, following notice and opportunity for com-
11 ment, the Commission determines that a delegation
12 to the entity would meet the requirements of para-
13 graph (1) above, and that the delegation would be
14 just, reasonable, not unduly discriminatory or pref-
15 erential, and in the public interest, and that the
16 Electric Reliability Organization has unreasonably
17 withheld such delegation, the Commission may, by
18 order, direct the Electric Reliability Organization to
19 make such delegation.

20 “(5)(A) The Commission may, upon its own
21 motion or upon complaint, and with notice to the ap-
22 propriate affiliated regional reliability entity or enti-
23 ties, direct the Electric Reliability Organization to
24 propose a modification to an agreement entered into

1 under this subsection if the Commission determines
2 that—

3 “(i) the affiliated regional reliability entity
4 no longer has the capacity to carry out effec-
5 tively or efficiently its implementation or en-
6 forcement responsibilities under that agree-
7 ment, has failed to meet its obligations under
8 that agreement, or has violated any provision of
9 this section;

10 “(ii) the rules, practices, or procedures of
11 the affiliated regional reliability entity no longer
12 provide for fair and impartial discharge of its
13 implementation or enforcement responsibilities
14 under the agreement;

15 “(iii) the geographic boundary of a trans-
16 mission entity approved by the Commission is
17 not wholly within the boundary of an affiliated
18 regional reliability entity and such difference is
19 inconsistent with the effective and efficient im-
20 plementation and administration of bulk power
21 system reliability; or

22 “(iv) the agreement is inconsistent with
23 another delegation agreement as a result of ac-
24 tions taken under paragraph (4) of this sub-
25 section.

1 “(B) Following an order of the Commission
2 issued under subparagraph (A), the Commission
3 may suspend the affected agreement if the Electric
4 Reliability Organization or the affiliated regional re-
5 liability entity does not propose an appropriate and
6 timely modification. If the agreement is suspended,
7 the Electric Reliability Organization shall assume
8 the previously delegated responsibilities. The Com-
9 mission shall allow the Electric Reliability Organiza-
10 tion and the affiliated regional reliability entity an
11 opportunity to appeal the suspension.

12 “(i) ORGANIZATION MEMBERSHIP.—Every system
13 operator shall be required to be a member of the electric
14 Reliability Organization and shall be required also to be
15 a member of any affiliated regional reliability entity oper-
16 ating under an agreement effective pursuant to subsection
17 (h) applicable to the region in which the system operator
18 operates or is responsible for the operation of bulkpower
19 system facilities.

20 “(j) INJUNCTIONS AND DISCIPLINARY ACTION.—

21 “(1) Consistent with the range of actions ap-
22 proved by the Commission under subsection
23 (d)(4)(H), the Electric Reliability Organization may
24 impose a penalty, limitation of activities, functions,
25 operations, or other disciplinary action the Electric

1 Reliability Organization finds appropriate against a
2 user of the bulk power system if the Electric Reli-
3 ability Organization, after notice and an opportunity
4 for interested parties to be heard, issues a finding
5 in writing that the user of the bulk-power system
6 has violated an organization standard. The Electric
7 Reliability Organization shall immediately notify the
8 Commission of any disciplinary action imposed with
9 respect to an act or failure to act of a user of the
10 bulk-power system that affected or threatened to af-
11 fect bulk power system facilities located in the
12 United States, and the sanctioned party shall have
13 the right to seek modification or rescission of such
14 disciplinary action by the Commission. If the organi-
15 zation finds it necessary to prevent a serious threat
16 to reliability, the organization may seek injunctive
17 relief in a Federal court in the district in which the
18 affected facilities are located.

19 “(2) A disciplinary action taken under para-
20 graph (1) may take effect not earlier than the 30th
21 day after the Electric Reliability Organization files
22 with the Commission its written finding and record
23 of proceedings before the Electric Reliability Organi-
24 zation and the Commission posts its written finding,
25 unless the Commission, on its own motion or upon

1 application by the user of the bulk power system
2 which is the subject of the action, suspends the ac-
3 tion. The action shall remain in effect or remain sus-
4 pended unless and until the Commission, after notice
5 and opportunity for hearing, affirms, sets aside,
6 modifies, or reinstates the action, but the Commis-
7 sion shall conduct such hearing under procedures es-
8 tablished to ensure expedited consideration of the
9 action taken.

10 “(3) The Commission, on its own motion or on
11 complaint, may order compliance with an organiza-
12 tion standard and may impose a penalty, limitation
13 of activities, functions, or operations, or take such
14 other disciplinary action as the Commission finds
15 appropriate, against a user of the bulk power system
16 with respect to actions affecting or threatening to
17 affect bulk power system facilities located in the
18 United States if the Commission finds, after notice
19 and opportunity for a hearing, that the user of the
20 bulk power system has violated or threatens to vio-
21 late an organization standard.

22 “(4) The Commission may take such action as
23 is necessary against the Electric Reliability Organi-
24 zation or an affiliated regional reliability entity to
25 assure compliance with an organization standard, or

1 any Commission order affecting the Electric Reli-
2 ability Organization or an affiliated regional reli-
3 ability entity.

4 “(k) RELIABILITY REPORTS.—The Electric Reli-
5 ability Organization shall conduct periodic assessments of
6 the reliability and adequacy of the interconnected bulk
7 power system in North America and shall report annually
8 to the Secretary of Energy and the Commission its find-
9 ings and recommendations for monitoring or improving
10 system reliability and adequacy.

11 “(l) ASSESSMENT AND RECOVERY OF CERTAIN
12 COSTS.—The reasonable costs of the Electric Reliability
13 Organization, and the reasonable costs of each affiliated
14 regional reliability entity that are related to implementa-
15 tion and enforcement of organization standards or other
16 requirements contained in a delegation agreement ap-
17 proved under subsection (h), shall be assessed by the Elec-
18 tric Reliability Organization and each affiliated regional
19 reliability entity, respectively, taking into account the rela-
20 tionship of costs to reach region and based on an alloca-
21 tion that reflects an equitable sharing of the costs among
22 all end users. The Commission shall provide by rule for
23 the review of such costs and allocations, pursuant to the
24 standards in this subsection and subsection (d)(4)(F).

25 “(m) SAVINGS PROVISIONS.—

1 “(1) The Electric Reliability Organization shall
2 have authority to develop, implement and enforce
3 compliance with standards for the reliable operation
4 of only the bulk power system.

5 “(2) This section does not provide the Electric
6 Reliability Organization or the Commission with the
7 authority to set and enforce compliance with stand-
8 ards for adequacy or safety of electric facilities or
9 services.

10 “(3) Nothing in this section shall be construed
11 to preempt any authority of any State to take action
12 to ensure the safety, adequacy, and reliability of
13 electric service within that State, as long as such ac-
14 tion is not inconsistent with any Organization
15 Standard.

16 “(4) Within 90 days of the application of the
17 Electric Reliability Organization or other affected
18 party, the Commission shall issue a final order de-
19 termining whether a state action is inconsistent with
20 an Organization Standard, after notice and oppor-
21 tunity for comment, taking into consideration any
22 recommendations of the Electric Reliability Organi-
23 zation.

24 “(5) The Commission, after consultation with
25 the Electric Reliability Organization, may stay the

1 effectiveness of any state action, pending the Com-
2 mission's issuance of a final order.

3 “(n) REGIONAL ADVISORY BODIES.—The Commis-
4 sion shall establish a regional advisory body on the petition
5 of at least two-thirds of the States within a region that
6 have more than one-half of their electric load served within
7 the region. A regional advisory body shall be composed of
8 one member from each participating State in the region,
9 appointed by the Governor of each State, and may include
10 representatives of agencies, States, and provinces outside
11 the United States, upon execution of an international
12 agreement or agreements described in subsection (f). A
13 regional advisory body may provide advice to the electric
14 reliability organization, an affiliated regional reliability en-
15 tity, or the Commission regarding the governance of an
16 existing or proposed affiliated regional reliability entity
17 within the same region, whether an organization standard,
18 entity rule, or variance proposed to apply within the region
19 is just, reasonable, not unduly discriminatory or pref-
20 erential, and in the public interest, and whether fees pro-
21 posed to be assessed within the region are just, reasonable,
22 not unduly discriminatory or preferential, in the public in-
23 terest, and consistent with the requirements of subsection
24 (l). The Commission may give deference to the advice of

1 any such regional advisory body if that body is organized
2 on an interconnection-wide basis.

3 “(o) COORDINATION WITH REGIONAL TRANSMISSION
4 ORGANIZATIONS.—

5 “(1) Each regional transmission organization
6 authorized by the Commission shall be responsible
7 for maintaining the short-term reliability of the bulk
8 power system that it operates, consistent with orga-
9 nization standards.

10 “(2) Except as provided in paragraph (5), in
11 connection with a proceeding under subsection (e) to
12 consider a proposed organization standard, each re-
13 gional transmission organization authorized by the
14 Commission shall report to the Commission, and no-
15 tify the electric reliability organization and any ap-
16 plicable affiliated regional reliability entity, regard-
17 ing whether the proposed organization standard
18 hinders or conflicts with that regional transmission
19 organization’s ability to fulfill the requirements of
20 any rule, regulation, order, tariff, rate schedule, or
21 agreement accepted, approved or ordered by the
22 Commission. Where such hindrance or conflict is
23 identified, the Commission shall address such hin-
24 drance or conflict, and the need for any changes to
25 such rule, order, tariff, rate schedule, or agreement

1 accepted, approved or ordered by the Commission in
2 its order under subsection (e) regarding the pro-
3 posed standard. Where such hindrance or conflict is
4 identified between a proposed organization standard
5 and a provision of any rule, order, tariff, rate sched-
6 ule or agreement accepted, approved or ordered by
7 the Commission applicable to a regional trans-
8 mission organization, nothing in this section shall re-
9 quire a change in the regional transmission organi-
10 zation's obligation to comply with such provision un-
11 less the Commission orders such a change and the
12 change becomes effective. If the Commission finds
13 that the tariff, rate schedule, or agreement needs to
14 be changed, the regional transmission organization
15 must expeditiously make a section 205 filing to re-
16 flect the change. If the Commission finds that the
17 proposed organization standard needs to be changed,
18 it shall remand the proposed organization standard
19 to the electric reliability organization under sub-
20 section (e)(3)(B).

21 “(3) Except as provided in paragraph (5), to
22 the extent hindrances and conflicts arise after ap-
23 proval of a reliability standard under subsection (c)
24 or organization standard under subsection (e), each
25 regional transmission organization authorized by the

1 Commission shall report to the Commission, and no-
2 tify the electric reliability organization and any ap-
3 plicable affiliated regional reliability entity, regard-
4 ing any reliability standard approved under sub-
5 section (c) or organization standard that hinders or
6 conflicts with that regional transmission organiza-
7 tion's ability to fulfill the requirements of any rule,
8 regulation, order tariff, rate schedule, or agreement
9 accepted, approved or ordered by the Commission.
10 The Commission shall seek to assure that such hin-
11 drances or conflicts are resolved promptly. Where a
12 hindrance or conflict is identified between a reli-
13 ability standard or an organization standard and a
14 provision of any rule, order, tariff, rate schedule or
15 agreement accepted, approved or ordered by the
16 Commission applicable to a regional reliability orga-
17 nization, nothing in this section shall require a
18 change in the regional transmission organization's
19 obligation to comply with such provision unless the
20 Commission orders such a change and the change
21 becomes effective. If the Commission finds that the
22 tariff, rate schedule or agreement needs to be
23 changed, the regional transmission organization
24 must expeditiously make a section 205 filing to re-
25 flect the change. If the Commission finds that an or-

1 organization standard needs to be changed, it shall
2 order the electric reliability organization to develop
3 and submit a modified organization standard under
4 subsection (e)(3)(C).

5 “(4) An affiliated regional reliability entity and
6 a regional transmission organization operating in the
7 same geographic area shall cooperate to avoid con-
8 flicts between implementation and enforcement of
9 organization standards by the affiliated regional reli-
10 ability entity and implementation and enforcement
11 by the regional transmission organization of tariffs,
12 rate schedules, and agreements accepted, approved
13 or ordered by the Commission. In areas without an
14 affiliated regional reliability entity, the electric reli-
15 ability organization shall act as the affiliated re-
16 gional reliability entity for purposes of this para-
17 graph.

18 “(5) Until 6 months after approval of applica-
19 ble subsection (h)(3) procedures, any reliability
20 standard, guidance, or practice contained in Com-
21 mission-accepted tariffs, rate schedules, or agree-
22 ments in effect of any Commission-authorized inde-
23 pendent system operator or regional transmission or-
24 ganization shall continue to apply unless the Com-
25 mission accepts an amendment thereto by the appli-

1 cable operator or organization, or upon complaint
2 finds them to be unjust, unreasonable, unduly dis-
3 criminatory or preferential, or not in the public in-
4 terest. At the conclusion of such transition period,
5 any such reliability standard, guidance, practice, or
6 amendment thereto that the Commission determines
7 is inconsistent with organization standards shall no
8 longer apply.”.

9 (2) ENFORCEMENT.—Sections 316 and 316A of
10 the Federal Power Act are each amended by striking
11 “or 214” each place it appears and inserting “214,
12 or 215”.

13 (b) APPLICATION OF ANTITRUST LAWS.—Notwith-
14 standing any other provision of law, each of the following
15 activities are rebuttably presumed to be in compliance with
16 the antitrust laws of the United States:

17 (1) Activities undertaken by the Electric Reli-
18 ability Organization under section 215 of the Fed-
19 eral Power Act or affiliated regional reliability entity
20 operating under an agreement in effect under sec-
21 tion 215(h) of such Act.

22 (2) Activities of a member of the Electric Reli-
23 ability Organization or affiliated regional reliability
24 entity in pursuit of organization objectives under

1 section 215 of the Federal Power Act undertaken in
2 good faith under the rules of the organization.

3 Primary jurisdiction, and immunities and other affirma-
4 tive defenses, shall be available to the extent otherwise ap-
5 plicable.

6 **Subtitle B—PURPA Mandatory**
7 **Purchase and Sale Requirements**

8 **SEC. 803. PURPA MANDATORY PURCHASE AND SALE RE-**
9 **QUIREMENTS.**

10 Section 210 of the Public Utility Regulatory Policies
11 Act of 1978 is amended by adding the following:

12 “(m) TERMINATION OF MANDATORY PURCHASE AND
13 SALE REQUIREMENTS.—

14 “(1) IN GENERAL.—After the date of the enact-
15 ment of this subsection, no electric utility shall be
16 required to enter into a new contract or obligation
17 to purchase electric energy from, or sell electric en-
18 ergy under this section.

19 “(2) NO EFFECT ON EXISTING RIGHTS AND
20 REMEDIES.—Nothing in this subsection affects the
21 rights or remedies of any party with respect to the
22 purchase or sale of electric energy or capacity from
23 or to a facility under this section under any contract
24 or obligation to purchase or to sell electric energy or

1 capacity on the date of enactment of this subsection,
2 including—

3 “(A) the right to recover costs of pur-
4 chasing such electric energy or capacity; and

5 “(B) in States without competition for re-
6 tail electric supply, the obligation of a utility to
7 provide, at just and reasonable rates for con-
8 sumption by a qualifying small power produc-
9 tion facility or a qualifying cogeneration facility,
10 backup, standby, and maintenance power.

11 “(3) RECOVERY OF COSTS.—

12 “(A) REGULATION.—To ensure recovery,
13 by an electric utility that purchases electricity
14 or capacity from a qualifying facility pursuant
15 to any legally enforceable obligation entered
16 into or imposed under this section before the
17 date of enactment of this subsection, of all costs
18 associated with the purchases, the Commission
19 shall issue and enforce such regulations as are
20 required to ensure that no electric utility shall
21 be required directly or indirectly to absorb the
22 costs associated with such purchases.

23 “(B) ENFORCEMENT.—A regulation under
24 subparagraph (A) shall be enforceable in ac-
25 cordance with the provisions of law applicable

1 to enforcement of regulations under the Federal
2 Power Act.”.

3 **Subtitle C—Repeal of the Public**
4 **Utility Holding Company Act of**
5 **1935 and Enactment of the Pub-**
6 **lic Utility Holding Company Act**
7 **of 2001**

8 **SEC. 810. SHORT TITLE.**

9 This subtitle may be cited as the “Public Utility
10 Holding Company Act of 2001”.

11 **SEC. 811. FINDINGS AND PURPOSES.**

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

13 (1) the Public Utility Holding Company Act of
14 1935 was intended to facilitate the work of Federal
15 and State regulators by placing certain constraints
16 on the activities of holding company systems;

17 (2) developments since 1935, including changes
18 in other regulation and in the electric and gas indus-
19 tries, have called into question the continued rel-
20 evance of the model of regulation established by that
21 Act;

22 (3) there is a continuing need for State regula-
23 tion in order to ensure the rate protection of utility
24 customers; and

1 (4) limited Federal regulation is necessary to
2 supplement the work of State commissions for the
3 continued rate protection of electric and gas utility
4 customers.

5 (b) PURPOSES.—The purposes of this title are—

6 (1) to eliminate unnecessary regulation, yet
7 continue to provide for consumer protection by facili-
8 tating existing rate regulatory authority through im-
9 proved Federal and State commission access to
10 books and records of all companies in a holding com-
11 pany system, to the extent that such information is
12 relevant to rates paid by utility customers, while af-
13 fording companies the flexibility required to compete
14 in the energy markets; and

15 (2) to address protection of electric and gas
16 utility customers by providing for Federal and State
17 access to books and records of all companies in a
18 holding company system that are relevant to utility
19 rates.

20 **SEC. 812. DEFINITIONS.**

21 For the purposes of this subtitle—

22 (1) the term “affiliate” of a company means
23 any company 5 percent or more of the outstanding
24 voting securities of which are owned, controlled, or

1 held with power to vote, directly or indirectly, by
2 such company;

3 (2) the term “associate company” of a company
4 means any company in the same holding company
5 system with such company;

6 (3) the term “Commission” means the Federal
7 Energy Regulatory Commission;

8 (4) the term “company” means a corporation,
9 partnership, association, joint stock company, busi-
10 ness trust, or any organized group of persons,
11 whether incorporated or not, or a receiver, trustee,
12 or other liquidating agent of any of the foregoing;

13 (5) the term “electric utility company” means
14 any company that owns or operates facilities used
15 for the generation, transmission, or distribution of
16 electric energy for sale;

17 (6) the terms “exempt wholesale generator”
18 and “foreign utility company” have the same mean-
19 ings as in sections 32 and 33, respectively, of the
20 Public Utility Holding Company Act of 1935, as
21 those sections existed on the day before the effective
22 date of this Act;

23 (7) the term “gas utility company” means any
24 company that owns or operates facilities used for
25 distribution at retail (other than the distribution

1 only in enclosed portable containers or distribution
2 to tenants or employees of the company operating
3 such facilities for their own use and not for resale)
4 of natural or manufactured gas for heat, light, or
5 power;

6 (8) the term “holding company” means—

7 (A) any company that directly or indirectly
8 owns, controls, or holds with power to vote, 10
9 percent or more of the outstanding voting secu-
10 rities of a public utility company or of a holding
11 company of any public utility company; and

12 (B) any person, determined by the Com-
13 mission, after notice and opportunity for hear-
14 ing, to exercise directly or indirectly (either
15 alone or pursuant to an arrangement or under-
16 standing with one or more persons) such a con-
17 trolling influence over the management or poli-
18 cies of any public utility company or holding
19 company as to make it necessary or appropriate
20 for the rate protection of utility customers with
21 respect to rates that such person be subject to
22 the obligations, duties, and liabilities imposed
23 by this Title upon holding companies;

1 (9) the term “holding company system” means
2 a holding company, together with its subsidiary com-
3 panies;

4 (10) the term “jurisdiction rates” means rates
5 established by the Commission for the transmission
6 of electric energy in interstate commerce, the sale of
7 electric energy at wholesale in interstate commerce,
8 the transportation of natural gas in interstate com-
9 merce, and the sale in interstate commerce of nat-
10 ural gas for resale for ultimate public consumption
11 for domestic, commercial, industrial, or any other
12 use;

13 (11) the term “natural gas company” means a
14 person engaged in the transportation of natural gas
15 in interstate commerce or the sale of such gas in
16 interstate commerce for resale;

17 (12) the term “person” means an individual or
18 company;

19 (13) the term “public utility” means any person
20 who owns or operates facilities used for transmission
21 of electric energy in interstate commerce or sales of
22 electric energy at wholesale in interstate commerce;

23 (14) the term “public utility company” means
24 an electric utility company or a gas utility company;

1 (15) the term “State commission” means any
2 commission, board, agency, or officer, by whatever
3 name designated, of a State, municipality, or other
4 political subdivision of a State that, under the laws
5 of such State, has jurisdiction to regulate public util-
6 ity companies;

7 (16) the term “subsidiary company” of a hold-
8 ing company means—

9 (A) any company, 10 percent or more of
10 the outstanding voting securities of which are
11 directly or indirectly owned, controlled, or held
12 with power to vote, by such holding company;
13 and

14 (B) any person, the management or poli-
15 cies of which the Commission, after notice and
16 opportunity for hearing, determines to be sub-
17 ject to a controlling influence, directly or indi-
18 rectly, by such holding company (either alone or
19 pursuant to an arrangement or understanding
20 with one or more other persons) so as to make
21 it necessary for the rate protection of utility
22 customers with respect to rates that such per-
23 son be subject to the obligations, duties, and li-
24 abilities imposed by this Title upon subsidiary
25 companies of holding companies; and

1 (b) AFFILIATE COMPANIES.—Each affiliate of a hold-
2 ing company or of any subsidiary company of a holding
3 company shall maintain, and make available to the Com-
4 mission, such books, accounts, memoranda, and other
5 records with respect to any transaction with another affil-
6 iate, as the Commission deems to be relevant to costs in-
7 curred by a public utility or natural gas company that is
8 an associate company of such holding company and nec-
9 essary or appropriate for the protection of utility cus-
10 tomers with respect to jurisdictional rates.

11 (c) HOLDING COMPANY SYSTEMS.—The Commission
12 may examine the books, accounts, memoranda, and other
13 records of any company in a holding company system, or
14 any affiliate thereof, as the Commission deems to be rel-
15 evant to costs incurred by a public utility or natural gas
16 company within such holding company system and nec-
17 essary or appropriate for the protection of utility cus-
18 tomers with respect to jurisdictional rates.

19 (d) CONFIDENTIALITY.—No member, officer, or em-
20 ployee of the Commission shall divulge any fact or infor-
21 mation that may come to his or her knowledge during the
22 course of examination of books, accounts, memoranda, or
23 other records as provided in this section, except as may
24 be directed by the Commission or by a court of competent
25 jurisdiction.

1 **SEC. 815. STATE ACCESS TO BOOKS AND RECORDS.**

2 (a) IN GENERAL.—Upon the written request of a
3 State commission having jurisdiction to regulate a public
4 utility company in a holding company system, the holding
5 company or any associate company or affiliate thereof,
6 other than such public utility company, wherever located,
7 shall produce for inspection books, accounts, memoranda,
8 and other records that—

9 (1) have been identified in reasonable detail in
10 a proceeding before the State commission;

11 (2) the State commission deems are relevant to
12 costs incurred by such public utility company; and

13 (3) are necessary for the effective discharge of
14 the responsibilities of the State commission with re-
15 spect to such proceeding.

16 (b) LIMITATION.—Subsection (a) does not apply to
17 any person that is a holding company solely by reason of
18 ownership of one or more qualifying facilities under the
19 Public Utility Regulatory Policies Act.

20 (c) CONFIDENTIALITY OF INFORMATION.—The pro-
21 duction of books, accounts, memoranda, and other records
22 under subsection (a) shall be subject to such terms and
23 conditions as may be necessary and appropriate to safe-
24 guard against unwarranted disclosure to the public of any
25 trade secrets or sensitive commercial information.

1 (d) EFFECT ON STATE LAW.—Nothing in this sec-
 2 tion shall preempt applicable State law concerning the pro-
 3 vision of books, records, or any other information, or in
 4 any way limit the rights of any State to obtain books,
 5 records, or any other information under any other Federal
 6 law, contract, or otherwise.

7 (e) COURT JURISDICTION.—Any United States dis-
 8 trict court located in the State in which the State commis-
 9 sion referred to in subsection (a) is located shall have ju-
 10 risdiction to enforce compliance with this section.

11 **SEC. 816. EXEMPTION AUTHORITY.**

12 (a) RULEMAKING.—Not later than 90 days after the
 13 effective date of this subtitle, the Commission shall pro-
 14 mulgate a final rule to exempt from the requirements of
 15 section 815 any person that is a holding company, solely
 16 with respect to one or more—

17 (1) qualifying facilities under the Public Utility
 18 Regulatory Policies Act of 1978;

19 (2) exempt wholesale generators; or

20 (3) foreign utility companies.

21 (b) OTHER AUTHORITY.—If, upon application or
 22 upon its own motion, the Commission finds that the books,
 23 records, accounts, memoranda, and other records of any
 24 person are not relevant to the jurisdictional rates of a pub-
 25 lic utility or natural gas company, or if the Commission

1 finds that any class of transactions is not relevant to the
2 jurisdictional rates of a public utility or natural gas com-
3 pany, the Commission shall exempt such person or trans-
4 action from the requirements of section 815.

5 **SEC. 817. AFFILIATE TRANSACTION.**

6 Nothing in this subtitle shall preclude the Commis-
7 sion or a State commission from exercising its jurisdiction
8 under otherwise applicable law to determine whether a
9 public utility company, public utility, or natural gas com-
10 pany may recover in rates any costs of an activity per-
11 formed by an associate company, or any costs of goods
12 or services acquired by such public utility company from
13 an associate company.

14 **SEC. 818. APPLICABILITY.**

15 No provision of this subtitle shall apply to, or be
16 deemed to include—

17 (1) the United States;

18 (2) a State or any political subdivision of a
19 State;

20 (3) any foreign governmental authority not op-
21 erating in the United States;

22 (4) any agency, authority, or instrumentality of
23 any entity referred to in paragraph (1), (2), or (3);

24 or

1 (5) any officer, agent, or employee of any entity
2 referred to in paragraph (1), (2), or (3) acting as
3 such in the course of his or her official duty.

4 **SEC. 819. EFFECT ON OTHER REGULATIONS.**

5 Nothing in this subtitle precludes the Commission or
6 a State commission from exercising its jurisdiction under
7 otherwise applicable law to protect utility customers.

8 **SEC. 820. ENFORCEMENT.**

9 The Commission shall have the same powers as set
10 forth in sections 306 through 317 of the Federal Power
11 Act (16 U.S.C. 825d–825p) to enforce the provisions of
12 this subtitle.

13 **SEC. 821. SAVINGS PROVISIONS.**

14 (a) **IN GENERAL.**—Nothing in this subtitle prohibits
15 a person from engaging in or continuing to engage in ac-
16 tivities or transactions in which it is legally engaged or
17 authorized to engage on the effective date of this subtitle.

18 (b) **EFFECT ON OTHER COMMISSION AUTHORITY.**—
19 Nothing in this subtitle limits the authority of the Com-
20 mission under the Federal Power Act (16 U.S.C. 791a et
21 seq.) (including section 301 of that Act) or the Natural
22 Gas Act (15 U.S.C. 717 et seq.) (including section 8 of
23 that Act).

1 **SEC. 822. IMPLEMENTATION.**

2 Not later than 6 months after the date of enactment
3 of this subtitle, the Commission shall—

4 (1) promulgate such regulations as may be nec-
5 essary or appropriate to implement this title (other
6 than section 815); and

7 (2) submit to Congress detailed recommenda-
8 tions on technical and conforming amendments to
9 Federal law necessary to carry out this subtitle and
10 the amendments made by this subtitle.

11 **SEC. 823. TRANSFER OF RESOURCES.**

12 All books and records that relate primarily to the
13 functions transferred to the Commission under this sub-
14 title shall be transferred from the Securities and Exchange
15 Commission to the Commission.

16 **SEC. 824. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such funds
18 as may be necessary to carry out this subtitle.

19 **SEC. 825. CONFORMING AMENDMENT TO THE FEDERAL**
20 **POWER ACT.**

21 Section 318 of the Federal Power Act (16 U.S.C.
22 825q) is repealed.

1 **Subtitle D—Emission-Free Control**
 2 **Measures Under State Imple-**
 3 **mentation Plans**

4 **SEC. 830. EMISSION-FREE CONTROL MEASURES UNDER A**
 5 **STATE IMPLEMENTATION PLAN.**

6 Actions taken by a State to support the continued
 7 operation of existing emission-free electricity sources, or
 8 the construction or operation of new emission-free elec-
 9 tricity sources, shall be considered control measures nec-
 10 essary or appropriate to meet applicable requirements
 11 under section 110(a) of the Clean Air Act (42 U.S.C.
 12 7410(a)) and shall be included in a State Implementation
 13 Plan.

14 **TITLE IX—TAX INCENTIVES FOR**
 15 **ENERGY PRODUCTION AND**
 16 **CONSERVATION**

17 **SEC. 900. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE**
 18 **OF CONTENTS.**

19 (a) **SHORT TITLE.**—This title may be cited as the
 20 “Energy Security Tax Policy Act of 2001”.

21 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
 22 wise expressly provided, whenever in this title an amend-
 23 ment or repeal is expressed in terms of an amendment
 24 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents of
 4 this title is as follows:

TITLE IX—TAX INCENTIVES FOR ENERGY PRODUCTION AND
 CONSERVATION

Sec. 900. Short title; amendment of 1986 Code; table of contents.

Subtitle A—Enhancement of Domestic Oil and Gas Production

PART I—TAX CREDITS

- Sec. 901. Tax credit for marginal domestic oil and natural gas well production.
 Sec. 902. Enhanced oil recovery credit extended to certain nontertiary recovery
 methods.
 Sec. 903. Extension of credit for producing fuel from a nonconventional source.

PART II—PERCENTAGE DEPLETION

- Sec. 911. 10-year carryback for percentage depletion for oil and gas property.
 Sec. 912. Net income limitation on percentage depletion repealed for oil and
 gas properties.
 Sec. 913. Determination of small refiner exception to oil depletion deduction.

PART III—EXPENSING

- Sec. 916. Election to expense geological and geophysical expenditures and delay
 rental payments.

PART IV—DEPRECIATION

- Sec. 921. Oil and gas pipelines treated as 7-year property.
 Sec. 922. Class life for petroleum storage facilities.
 Sec. 923. Class life for petroleum refineries.

PART V—OFFSHORE OIL AND GAS VESSELS AND STRUCTURES

- Sec. 931. Accelerated depreciation.
 Sec. 932. Tax credit.
 Sec. 933. Capital construction funds for United States-built drilling vessels.

Subtitle B—Provisions Relating to Coal

PART I—CREDIT FOR EMISSION REDUCTIONS AND EFFICIENCY IMPROVE-
 MENTS IN EXISTING COAL-BASED ELECTRICITY GENERATION FACILITIES

- Sec. 941. Credit for investment in qualifying clean coal technology.
 Sec. 942. Credit for production from a qualifying clean coal technology unit.

PART II—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF
 ADVANCED CLEAN COAL TECHNOLOGIES

- Sec. 946. Credit for investment in qualifying advanced clean coal technology.

Sec. 947. Credit for production from qualifying advanced clean coal technology.

Subtitle C—Provisions Relating to Natural Gas

Sec. 951. Arbitrage rules not to apply to prepayments for natural gas and other commodities.

Sec. 952. Private loan financing test not to apply to prepayments for natural gas and other commodities.

Subtitle D—Provisions Relating to Electric Power

Sec. 956. Depreciation of property used in the generation or transmission of electricity.

Sec. 957. Tax-exempt bond financing of certain electric facilities.

Sec. 958. Independent transmission companies.

Sec. 959. Certain amounts received by energy, natural gas, or steam utilities excluded from gross income as contributions to capital.

Subtitle E—Provisions Relating to Nuclear Energy

Sec. 961. Expensing of costs incurred for temporary storage of spent nuclear fuel.

Sec. 962. Nuclear decommissioning reserve fund.

Subtitle F—Tax Incentives for Energy Efficiency

Sec. 971. Credit for certain distributed power and combined heat and power system property used in business.

Sec. 972. Credit for energy efficiency improvements to existing homes.

Sec. 973. Business credit for construction of new energy efficient home.

Sec. 974. Tax credit for energy efficient appliances.

Sec. 975. Credit for certain energy efficient motor vehicles.

Subtitle G—Alternative Fuels

Sec. 981. Credit for alternative fuel vehicles.

Sec. 982. Modification of credit for qualified electric vehicles.

Sec. 983. Credit for retail sale of alternative fuels as motor vehicle fuel.

Sec. 984. Extension of deduction for certain refueling property.

Sec. 985. Additional deduction for cost of installation of alternative fueling stations.

Subtitle H—Renewable Energy

Sec. 991. Modifications to credit for electricity produced from renewable resources and extension to waste energy.

Sec. 992. Credit for residential solar and wind energy property.

Sec. 993. Treatment of facilities using bagasse to produce energy as solid waste disposal facilities eligible for tax-exempt financing.

1 **Subtitle A—Enhancement of**
2 **Domestic Oil and Gas Production**

3 **PART I—TAX CREDITS**

4 **SEC. 901. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND**
5 **NATURAL GAS WELL PRODUCTION.**

6 (a) **PURPOSE.**—The purpose of this section is to pre-
7 vent the abandonment of marginal oil and gas wells re-
8 sponsible for half of the domestic production of oil and
9 gas in the United States.

10 (b) **CREDIT FOR PRODUCING OIL AND GAS FROM**
11 **MARGINAL WELLS.**—Subpart D of part IV of subchapter
12 A of chapter 1 (relating to business credits) is amended
13 by adding at the end the following new section:

14 **“SEC. 45E. CREDIT FOR PRODUCING OIL AND GAS FROM**
15 **MARGINAL WELLS.**

16 “(a) **GENERAL RULE.**—For purposes of section 38,
17 the marginal well production credit for any taxable year
18 is an amount equal to the product of—

19 “(1) the credit amount, and

20 “(2) the qualified crude oil production and the
21 qualified natural gas production which is attrib-
22 utable to the taxpayer.

23 “(b) **CREDIT AMOUNT.**—For purposes of this
24 section—

25 “(1) **IN GENERAL.**—The credit amount is—

1 “(A) \$3 per barrel of qualified crude oil
2 production, and

3 “(B) 50 cents per 1,000 cubic feet of
4 qualified natural gas production.

5 “(2) REDUCTION AS OIL AND GAS PRICES IN-
6 CREASE.—

7 “(A) IN GENERAL.—The \$3 and 50 cents
8 amounts under paragraph (1) shall each be re-
9 duced (but not below zero) by an amount which
10 bears the same ratio to such amount (deter-
11 mined without regard to this paragraph) as—

12 “(i) the excess (if any) of the applica-
13 ble reference price over \$15 (\$1.67 for
14 qualified natural gas production), bears to

15 “(ii) \$3 (\$0.33 for qualified natural
16 gas production).

17 The applicable reference price for a taxable
18 year is the reference price for the calendar year
19 preceding the calendar year in which the tax-
20 able year begins.

21 “(B) INFLATION ADJUSTMENT.—In the
22 case of any taxable year beginning in a calendar
23 year after 2001, each of the dollar amounts
24 contained in subparagraph (A) shall be in-
25 creased to an amount equal to such dollar

1 amount multiplied by the inflation adjustment
2 factor for such calendar year (determined under
3 section 43(b)(3)(B) by substituting ‘2000’ for
4 ‘1990’).

5 “(C) REFERENCE PRICE.—For purposes of
6 this paragraph, the term ‘reference price’
7 means, with respect to any calendar year—

8 “(i) in the case of qualified crude oil
9 production, the reference price determined
10 under section 29(d)(2)(C), and

11 “(ii) in the case of qualified natural
12 gas production, the Secretary’s estimate of
13 the annual average wellhead price per
14 1,000 cubic feet for all domestic natural
15 gas.

16 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS
17 PRODUCTION.—For purposes of this section—

18 “(1) IN GENERAL.—The terms ‘qualified crude
19 oil production’ and ‘qualified natural gas production’
20 mean domestic crude oil or natural gas which is pro-
21 duced from a marginal well.

22 “(2) LIMITATION ON AMOUNT OF PRODUCTION
23 WHICH MAY QUALIFY.—

24 “(A) IN GENERAL.—Crude oil or natural
25 gas produced during any taxable year from any

1 well shall not be treated as qualified crude oil
2 production or qualified natural gas production
3 to the extent production from the well during
4 the taxable year exceeds 1,095 barrels or barrel
5 equivalents.

6 “(B) PROPORTIONATE REDUCTIONS.—

7 “(i) SHORT TAXABLE YEARS.—In the
8 case of a short taxable year, the limitations
9 under this paragraph shall be proportion-
10 ately reduced to reflect the ratio which the
11 number of days in such taxable year bears
12 to 365.

13 “(ii) WELLS NOT IN PRODUCTION EN-
14 TIRE YEAR.—In the case of a well which is
15 not capable of production during each day
16 of a taxable year, the limitations under
17 this paragraph applicable to the well shall
18 be proportionately reduced to reflect the
19 ratio which the number of days of produc-
20 tion bears to the total number of days in
21 the taxable year.

22 “(3) DEFINITIONS.—

23 “(A) MARGINAL WELL.—The term ‘mar-
24 ginal well’ means a domestic well—

1 “(i) the production from which during
2 the taxable year is treated as marginal
3 production under section 613A(c)(6), ex-
4 cept that ‘22 degrees’ shall be substituted
5 for ‘20 degrees’ in applying subparagraph
6 (F) thereof, or

7 “(ii) which, during the taxable year—

8 “(I) has average daily production
9 of not more than 25 barrel equiva-
10 lents, and

11 “(II) produces water at a rate
12 not less than 95 percent of total well
13 effluent.

14 “(B) CRUDE OIL, ETC.—The terms ‘crude
15 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have
16 the meanings given such terms by section
17 613A(e).

18 “(C) BARREL EQUIVALENT.—The term
19 ‘barrel equivalent’ means, with respect to nat-
20 ural gas, a conversion ratio of 6,000 cubic feet
21 of natural gas to 1 barrel of crude oil.

22 “(d) OTHER RULES.—

23 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
24 PAYER.—In the case of a marginal well in which
25 there is more than one owner of operating interests

1 in the well and the crude oil or natural gas produc-
2 tion exceeds the limitation under subsection (c)(2),
3 qualifying crude oil production or qualifying natural
4 gas production attributable to the taxpayer shall be
5 determined on the basis of the ratio which the tax-
6 payer's revenue interest in the production bears to
7 the aggregate of the revenue interests of all oper-
8 ating interest owners in the production.

9 “(2) OPERATING INTEREST REQUIRED.—Any
10 credit under this section may be claimed only on
11 production which is attributable to the holder of an
12 operating interest.

13 “(3) PRODUCTION FROM NONCONVENTIONAL
14 SOURCES EXCLUDED.—In the case of production
15 from a marginal well which is eligible for the credit
16 allowed under section 29 for the taxable year, no
17 credit shall be allowable under this section unless
18 the taxpayer elects not to claim the credit under sec-
19 tion 29 with respect to the well.”.

20 (c) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
21 tion 38(b) is amended by striking “plus” at the end of
22 paragraph (12), by striking the period at the end of para-
23 graph (13) and inserting “, plus”, and by adding at the
24 end the following new paragraph:

1 “(14) the marginal oil and gas well production
2 credit determined under section 45E(a).”

3 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-
4 IMUM TAX.—

5 (1) IN GENERAL.—Subsection (c) of section 38
6 (relating to limitation based on amount of tax) is
7 amended by redesignating paragraph (3) as para-
8 graph (4) and by inserting after paragraph (2) the
9 following new paragraph:

10 “(3) SPECIAL RULES FOR MARGINAL OIL AND
11 GAS WELL PRODUCTION CREDIT.—

12 “(A) IN GENERAL.—In the case of the
13 marginal oil and gas well production credit—

14 “(i) this section and section 39 shall
15 be applied separately with respect to the
16 credit, and

17 “(ii) in applying paragraph (1) to the
18 credit—

19 “(I) subparagraphs (A) and (B)
20 thereof shall not apply, and

21 “(II) the limitation under para-
22 graph (1) (as modified by subclause
23 (I)) shall be reduced by the credit al-
24 lowed under subsection (a) for the

1 taxable year (other than the marginal
2 oil and gas well production credit).

3 “(B) MARGINAL OIL AND GAS WELL PRO-
4 Duction CREDIT.—For purposes of this sub-
5 section, the term ‘marginal oil and gas well pro-
6 duction credit’ means the credit allowable under
7 subsection (a) by reason of section 45E(a).”

8 (2) CONFORMING AMENDMENT.—Subclause (II)
9 of section 38(c)(2)(A)(ii) is amended by inserting
10 “or the marginal oil and gas well production credit”
11 after “employment credit”.

12 (e) CARRYBACK.—Subsection (a) of section 39 (relat-
13 ing to carryback and carryforward of unused credits gen-
14 erally) is amended by adding at the end the following new
15 paragraph:

16 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL
17 AND GAS WELL PRODUCTION CREDIT.—In the case
18 of the marginal oil and gas well production credit
19 (as defined in section 38(c)(3))—

20 “(A) this section shall be applied sepa-
21 rately from the business credit (other than the
22 marginal oil and gas well production credit),

23 “(B) paragraph (1) shall be applied by
24 substituting ‘10 taxable years’ for ‘1 taxable
25 years’ in subparagraph (A) thereof, and

1 “(C) paragraph (2) shall be applied—

2 “(i) by substituting ‘31 taxable years’
3 for ‘21 taxable years’ in subparagraph (A)
4 thereof, and

5 “(ii) by substituting ‘30 taxable years’
6 for ‘20 taxable years’ in subparagraph (B)
7 thereof.”.

8 (f) COORDINATION WITH SECTION 29.—Section
9 29(a) is amended by striking “There” and inserting “At
10 the election of the taxpayer, there”.

11 (g) CLERICAL AMENDMENT.—The table of sections
12 for subpart D of part IV of subchapter A of chapter 1
13 is amended by adding at the end the following item:

“45E. Credit for producing oil and gas from marginal wells.”

14 (h) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to production in taxable years be-
16 ginning after December 31, 2000.

17 **SEC. 902. ENHANCED OIL RECOVERY CREDIT EXTENDED TO**
18 **CERTAIN NONTERTIARY RECOVERY**
19 **METHODS.**

20 (a) PURPOSE.—The purpose of this section is to ex-
21 tend the productive lives of existing domestic oil and gas
22 wells in order to recover the 75 percent of the oil and gas
23 that is not recoverable using primary oil and gas recovery
24 techniques.

1 (b) QUALIFIED PROJECTS.—Clause (i) of section
2 43(c)(2)(A) (defining qualified enhanced oil recovery
3 project) is amended to read as follows:

4 “(i) which involves the application (in
5 accordance with sound engineering prin-
6 ciples) of—

7 “(I) one or more tertiary recov-
8 ery methods (as defined in section
9 193(b)(3)) which can reasonably be
10 expected to result in more than an in-
11 significant increase in the amount of
12 crude oil which will ultimately be re-
13 covered, or

14 “(II) one or more qualified non-
15 tertiary recovery methods which are
16 required to recover oil with tradition-
17 ally immobile characteristics or from
18 formations which have proven to be
19 uneconomical or noncommercial under
20 conventional recovery methods,”

21 (c) QUALIFIED NONTERTIARY RECOVERY METH-
22 ODS.—Section 43(c)(2) is amended by adding at the end
23 the following new subparagraphs:

24 “(C) QUALIFIED NONTERTIARY RECOVERY
25 METHOD.—For purposes of this paragraph—

1 “(i) IN GENERAL.—The term ‘quali-
2 fied nontertiary recovery method’ means
3 any recovery method described in clause
4 (ii), (iii), or (iv), or any combination there-
5 of.

6 “(ii) ENHANCED GRAVITY DRAINAGE
7 (EGD) METHODS.—The methods described
8 in this clause are as follows:

9 “(I) HORIZONTAL DRILLING.—

10 The drilling of horizontal, rather than
11 vertical, wells to penetrate any hydro-
12 carbon-bearing formation which has
13 an average in situ calculated perme-
14 ability to fluid flow of less than or
15 equal to 12 or less millidarcies and
16 which has been demonstrated by use
17 of a vertical wellbore to be uneco-
18 nomical unless drilled with lateral hor-
19 izontal lengths in excess of 1,000 feet.

20 “(II) GRAVITY DRAINAGE.—The
21 production of oil by gravity flow from
22 drainholes which are drilled from a
23 shaft or tunnel dug within or below
24 the oil-bearing zone.

1 “(iii) MARGINALLY ECONOMIC RES-
2 ERVOIR REPRESSURIZATION (MERR) METH-
3 ODS.—The methods described in this
4 clause are as follows, except that this
5 clause shall only apply to the first
6 1,000,000 barrels produced in any project:

7 “(I) CYCLIC GAS INJECTION.—

8 The increase or maintenance of pres-
9 sure by injection of hydrocarbon gas
10 into the reservoir from which it was
11 originally produced.

12 “(II) FLOODING.—The injection

13 of water into an oil reservoir to dis-
14 place oil from the reservoir rock and
15 into the bore of a producing well.

16 “(iv) OTHER METHODS.—Any method

17 used to recover oil having an average lab-
18 oratory measured air permeability less
19 than or equal to 100 millidarcies when
20 averaged over the productive interval being
21 completed, or an in situ calculated perme-
22 ability to fluid flow less than or equal to
23 12 millidarcies or oil defined by the De-
24 partment of Energy as being immobile.

1 “(D) AUTHORITY TO ADD OTHER NONTER-
2 TIARY RECOVERY METHODS.—The Secretary
3 shall provide procedures under which—

4 “(i) the Secretary may treat methods
5 not described in clause (ii), (iii), or (iv) of
6 subparagraph (C) as qualified nontertiary
7 recovery methods, and

8 “(ii) a taxpayer may request the Sec-
9 retary to treat any method not so de-
10 scribed as a qualified nontertiary recovery
11 method.

12 The Secretary may only specify methods as
13 qualified nontertiary recovery methods under
14 this subparagraph if the Secretary determines
15 that such specification is consistent with the
16 purposes of subparagraph (C) and will result in
17 greater production of oil and natural gas.”

18 (d) CONFORMING AMENDMENT.—Clause (iii) of sec-
19 tion 43(c)(2)(A) is amended to read as follows:

20 “(iii) with respect to which—

21 “(I) in the case of a tertiary re-
22 covery method, the first injection of
23 liquids, gases, or other matter com-
24 mences after December 31, 1990, and

1 “(II) in the case of a qualified
2 nontertiary recovery method, the im-
3 plementation of the method begins
4 after December 31, 2000.”.

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years ending after De-
7 cember 31, 2000.

8 **SEC. 903. EXTENSION OF CREDIT FOR PRODUCING FUEL**
9 **FROM A NONCONVENTIONAL SOURCE.**

10 (a) EXTENSION OF CREDIT.—Subsection (f) of sec-
11 tion 29 (relating to credit for producing fuel from a non-
12 conventional source) is amended—

13 (1) in paragraph (1)(A), by inserting before
14 “or” the following: “or from a well drilled after the
15 date of the enactment of the Energy Security Tax
16 Policy Act of 2001, and before January 1, 2011,”,

17 (2) in paragraph (1)(B), by inserting before
18 “and” at the end the following: “or placed in service
19 after the date of the enactment of the Energy Secu-
20 rity Tax Policy Act of 2001, and before January 1,
21 2011,” and

22 (3) in paragraph (2), by striking “2003” and
23 inserting “2013”.

1 (b) REDUCTION IN AMOUNT OF CREDIT STARTING
 2 IN 2007.—Subsection (a) of section 29 is amended to read
 3 as follows:

4 “(a) ALLOWANCE OF CREDIT.—

5 “(1) IN GENERAL.—There shall be allowed as a
 6 credit against the tax imposed by this chapter for
 7 the taxable year an amount equal to—

8 “(A) the applicable amount, multiplied by

9 “(B) the barrel-of-oil equivalent of quali-
 10 fied fuels—

11 “(i) sold by the taxpayer to an unre-
 12 lated person during the taxable year, and

13 “(ii) the production of which is attrib-
 14 utable to the taxpayer.

15 “(2) APPLICABLE AMOUNT.—For purposes of
 16 paragraph (1), the applicable amount is the amount
 17 determined in accordance with the following table:

“In the case of taxable years beginning in calendar year:	The applicable amount is:
2001 to 2008	\$3.00
2009	\$2.60
2010	\$2.00
2011	\$1.40
2012	\$0.80
2013 and thereafter	\$0.00.”

18 (c) QUALIFIED FUELS TO INCLUDE HEAVY OIL.—

19 Subsection (c) of section 29 (defining qualified fuels) is
 20 amended—

1 (1) in paragraph (1), by striking “and” at the
2 end of subparagraph (B), by striking the period at
3 the end of subparagraph (C) and inserting “, and”,
4 and by adding at the end the following new subpara-
5 graph:

6 “(D) heavy oil, as defined in section
7 613A(e)(6), except that ‘22 degrees’ shall be
8 substituted for ‘20 degrees’ in applying sub-
9 paragraph (F) thereof.”, and

10 (2) by adding at the end the following new
11 paragraph:

12 “(4) SPECIAL RULES FOR HEAVY OIL.—

13 “(A) TERMINATION.—Heavy oil shall be
14 considered to be a qualified fuel only if it is
15 produced from a well drilled, or in a facility
16 placed in service, after the date of the enact-
17 ment of the Energy Security Tax Policy Act of
18 2001, and before January 1, 2011.

19 “(B) WAIVER OF UNRELATED PERSON RE-
20 QUIREMENT.—In the case of heavy oil, the re-
21 quirement under subsection (a)(1)(B)(i) of a
22 sale to an unrelated person shall not apply to
23 any sale to the extent that the heavy oil is not
24 consumed in the immediate vicinity of the well-
25 head.”

1 (d) CONFORMING AMENDMENT.—Section 29(g) (re-
 2 lating to extension for certain facilities) is amended to
 3 read as follows:

4 “(g) EXTENSION FOR CERTAIN FACILITIES.—In the
 5 case of a facility for producing qualified fuels described
 6 in subparagraph (B)(ii) or (C) of subsection (e)(1), such
 7 facility shall, for purposes of subsection (f)(1)(B), be
 8 treated as being placed in service before January 1, 1993,
 9 if such facility is placed in service before July 1, 1998,
 10 pursuant to a binding written contract in effect before
 11 January 1, 1997.”

12 (e) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 2000.

15 **PART II—PERCENTAGE DEPLETION**

16 **SEC. 911. 10-YEAR CARRYBACK FOR PERCENTAGE DEPLE-** 17 **TION FOR OIL AND GAS PROPERTY.**

18 (a) IN GENERAL.—Subsection (d)(1) of section 613A
 19 (relating to limitations on percentage depletion in case of
 20 oil and gas wells) is amended to read as follows:

21 “(1) LIMITATION BASED ON TAXABLE IN-
 22 COME.—

23 “(A) IN GENERAL.—The deduction for the
 24 taxable year attributable to the application of
 25 subsection (c) shall not exceed so much of the

1 taxpayer's taxable income for the year as the
2 taxpayer elects, computed without regard to—

3 “(i) any depletion on production from
4 an oil or gas property which is subject to
5 the provisions of subsection (c),

6 “(ii) any net operating loss carryback
7 to the taxable year under section 172,

8 “(iii) any capital loss carryback to the
9 taxable year under section 1212, and

10 “(iv) in the case of a trust, any dis-
11 tributions to its beneficiary, except in the
12 case of any trust where any beneficiary of
13 such trust is a member of the family (as
14 defined in section 267(c)(4)) of a settlor
15 who created inter vivos and testamentary
16 trusts for members of the family and such
17 settlor died within the last six days of the
18 fifth month in 1970, and the law in the ju-
19 risdiction in which such trust was created
20 requires all or a portion of the gross or net
21 proceeds of any royalty or other interest in
22 oil, gas, or other mineral representing any
23 percentage depletion allowance to be allo-
24 cated to the principal of the trust.

1 “(B) CARRYBACKS AND
2 CARRYFORWARDS.—

3 “(i) IN GENERAL.—If any amount is
4 disallowed as a deduction for the taxable
5 year (in this subparagraph referred to as
6 the ‘unused depletion year’) by reason of
7 application of subparagraph (A), the dis-
8 allowed amount shall be treated as an
9 amount allowable as a deduction under
10 subsection (c) for—

11 “(I) each of the 10 taxable years
12 preceding the unused depletion year,
13 and

14 “(II) the taxable year following
15 the unused depletion year,
16 subject to the application of subparagraph
17 (A) to such taxable year.

18 “(ii) ELECTION TO WAIVE
19 CARRYBACK.—Any taxpayer may elect to
20 waive any carryback under clause (i) to
21 any of the taxable years to which the
22 carryback may otherwise be carried. A tax-
23 payer making an election under this clause
24 with respect to any taxable year may re-
25 voke such election in any succeeding tax-

1 able year in such manner as the Secretary
2 may prescribe.

3 “(C) ALLOCATION OF DISALLOWED
4 AMOUNTS.—For purposes of basis adjustments
5 and determining whether cost depletion exceeds
6 percentage depletion with respect to the produc-
7 tion from a property, any amount disallowed as
8 a deduction on the application of this para-
9 graph shall be allocated to the respective prop-
10 erties from which the oil or gas was produced
11 in proportion to the percentage depletion other-
12 wise allowable to such properties under sub-
13 section (c).”

14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendment made by
16 this section shall apply to taxable years beginning
17 after December 31, 2000, and to any taxable year
18 beginning on or before such date to the extent nec-
19 essary to apply section 613A(d)(1) of the Internal
20 Revenue Code of 1986 (as amended by subsection
21 (a)).

22 (2) WAIVER OF LIMITATIONS.—If refund or
23 credit of any overpayment of tax resulting from the
24 application of the amendment made by this section
25 is prevented at any time before the close of the 1-

1 year period beginning on the date of the enactment
2 of this Act by the operation of any law or rule of
3 law (including res judicata), such refund or credit
4 may nevertheless be made or allowed if claimed
5 therefor is filed before the close of such period.

6 **SEC. 912. NET INCOME LIMITATION ON PERCENTAGE DE-**
7 **PLETION REPEALED FOR OIL AND GAS PROP-**
8 **ERTIES.**

9 (a) IN GENERAL.—Section 613(a) (relating to per-
10 centage depletion) is amended by striking the second sen-
11 tence and inserting: “Except in the case of oil and gas
12 properties, such allowance shall not exceed 50 percent of
13 the taxpayer’s taxable income from the property (com-
14 puted without allowances for depletion).”

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 613A(c)(7) (relating to special
17 rules) is amended by striking subparagraph (C) and
18 redesignating subparagraph (D) as subparagraph
19 (C).

20 (2) Section 613A(c)(6) (relating to oil and nat-
21 ural gas produced from marginal properties) is
22 amended by striking subparagraph (H).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2000.

1 **SEC. 913. DETERMINATION OF SMALL REFINER EXCEPTION**
2 **TO OIL DEPLETION DEDUCTION.**

3 (a) IN GENERAL.—Paragraph (4) of section 613A(d)
4 (relating to certain refiners excluded) is amended to read
5 as follows:

6 “(4) CERTAIN REFINERS EXCLUDED.—If the
7 taxpayer or related person engages in the refining of
8 crude oil, subsection (c) shall not apply to the tax-
9 payer for a taxable year if the average daily refinery
10 runs of the taxpayer and the related person for the
11 taxable year exceed 50,000 barrels. For purposes of
12 this paragraph, the average daily refinery runs for
13 any taxable year shall be determined by dividing the
14 aggregate refinery runs for the taxable year by the
15 number of days in the taxable year.”

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to taxable years beginning after
18 December 31, 2000.

19 **PART III—EXPENSING**

20 **SEC. 916. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**
21 **PHYSICAL EXPENDITURES AND DELAY RENT-**
22 **AL PAYMENTS.**

23 (a) PURPOSE.—The purpose of this section is to rec-
24 ognize that geological and geophysical expenditures and
25 delay rentals are ordinary and necessary business expenses

1 that should be deducted in the year the expense is in-
2 curred.

3 (b) ELECTION TO EXPENSE GEOLOGICAL AND GEO-
4 PHYSICAL EXPENDITURES.—

5 (1) IN GENERAL.—Section 263 (relating to cap-
6 ital expenditures) is amended by adding at the end
7 the following new subsection:

8 “(j) GEOLOGICAL AND GEOPHYSICAL EXPENDI-
9 TURES FOR DOMESTIC OIL AND GAS WELLS.—Notwith-
10 standing subsection (a), a taxpayer may elect to treat geo-
11 logical and geophysical expenses incurred in connection
12 with the exploration for, or development of, oil or gas with-
13 in the United States (as defined in section 638) as ex-
14 penses which are not chargeable to capital account. Any
15 expenses so treated shall be allowed as a deduction in the
16 taxable year in which paid or incurred.”

17 (2) CONFORMING AMENDMENT.—Section
18 263A(c)(3) is amended by inserting “263(j),” after
19 “263(i),”.

20 (3) EFFECTIVE DATE.—

21 (A) IN GENERAL.—The amendments made
22 by this subsection shall apply to expenses paid
23 or incurred after the date of the enactment of
24 this Act.

1 (B) TRANSITION RULE.—In the case of
2 any expenses described in section 263(j) of the
3 Internal Revenue Code of 1986, as added by
4 this subsection, which were paid or incurred on
5 or before the date of the enactment of this Act,
6 the taxpayer may elect, at such time and in
7 such manner as the Secretary of the Treasury
8 may prescribe, to amortize the suspended por-
9 tion of such expenses over the 36-month period
10 beginning with the month in which the date of
11 the enactment of this Act occurs. For purposes
12 of this subparagraph, the suspended portion of
13 any expense is that portion of such expense
14 which, as of the first day of the 36-month pe-
15 riod, has not been included in the cost of a
16 property or otherwise deducted.

17 (c) ELECTION TO EXPENSE DELAY RENTAL PAY-
18 MENTS.—

19 (1) IN GENERAL.—Section 263 (relating to cap-
20 ital expenditures), as amended by subsection (b)(1),
21 is amended by adding at the end the following new
22 subsection:

23 “(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL
24 AND GAS WELLS.—

1 “(1) IN GENERAL.—Notwithstanding subsection
2 (a), a taxpayer may elect to treat delay rental pay-
3 ments incurred in connection with the development
4 of oil or gas within the United States (as defined in
5 section 638) as payments which are not chargeable
6 to capital account. Any payments so treated shall be
7 allowed as a deduction in the taxable year in which
8 paid or incurred.

9 “(2) DELAY RENTAL PAYMENTS.—For purposes
10 of paragraph (1), the term ‘delay rental payment’
11 means an amount paid for the privilege of deferring
12 the drilling of an oil or gas well under an oil or gas
13 lease.”

14 (2) CONFORMING AMENDMENT.—Section
15 263A(c)(3), as amended by subsection (b)(2), is
16 amended by inserting “263(k),” after “263(j),”.

17 (3) EFFECTIVE DATE.—

18 (A) IN GENERAL.—The amendments made
19 by this subsection shall apply to payments made
20 or incurred after the date of the enactment of
21 this Act.

22 (B) TRANSITION RULE.—In the case of
23 any expenses described in section 263(k) of the
24 Internal Revenue Code of 1986, as added by
25 this subsection, which were paid or incurred on

1 or before the date of the enactment of this Act,
2 the taxpayer may elect, at such time and in
3 such manner as the Secretary of the Treasury
4 may prescribe, to amortize the suspended por-
5 tion of such expenses over the 36-month period
6 beginning with the month in which the date of
7 the enactment of this Act occurs. For purposes
8 of this subparagraph, the suspended portion of
9 any expense is that portion of such expense
10 which, as of the first day of the 36-month pe-
11 riod, has not been included in the cost of a
12 property or otherwise deducted.

13 **PART IV—DEPRECIATION**

14 **SEC. 921. OIL AND GAS PIPELINES TREATED AS 7-YEAR** 15 **PROPERTY.**

16 (a) IN GENERAL.—Subparagraph (C) of section
17 168(e)(3) (relating to classification of certain property) is
18 amended by redesignating clause (ii) as clause (iii) and
19 by inserting after clause (i) the following new clause:

20 “(ii) any oil and gas pipeline, and”.

21 (b) OIL AND GAS PIPELINE.—Subsection (i) of sec-
22 tion 168 is amended by adding at the end the following
23 new paragraph:

24 “(15) OIL AND GAS PIPELINE.—The term ‘oil
25 and gas pipeline’ means the pipe, storage facilities,

1 equipment, distribution infrastructure, and appur-
2 tenances used to deliver oil, natural gas, crude oil,
3 or crude oil products.”

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply to property placed in service
7 on or after the date of the enactment of this Act.

8 (2) GAS GATHERING LINES.—In the case of gas
9 gathering lines, such amendments shall, at the elec-
10 tion of the taxpayer, also apply to property placed
11 in service before such date. For purposes of the pre-
12 ceding sentence, a gas gathering line includes the
13 pipe, storage facilities, equipment, and appur-
14 tenances used to deliver natural gas from the well-
15 head or a common point to the point at which such
16 gas first reaches a gas processing plant, an inter-
17 connection with a transmission pipeline, or a direct
18 interconnection with a local distribution company, a
19 gas storage facility, or an industrial consumer.

20 (3) ACCOUNTING RULE FOR PUBLIC UTILITY
21 PROPERTY.—If any oil and gas pipeline is public
22 utility property (as defined in section 46(f)(5) of the
23 Internal Revenue Code of 1986, as in effect on the
24 day before the date of the enactment of the Revenue
25 Reconciliation Act of 1990), the amendments made

1 by this section shall only apply to such property if,
 2 with respect to such property, the taxpayer uses a
 3 normalization method of accounting.

4 **SEC. 922. CLASS LIFE FOR PETROLEUM STORAGE FACILI-**
 5 **TIES.**

6 (a) 7-YEAR PROPERTY.—

7 (1) IN GENERAL.—Subparagraph (C) of section
 8 168(e)(3), as amended by this Act, is amended by
 9 striking “and” at the end of clause (ii), by redesignig-
 10 nating clause (iii) as clause (iv), and by adding after
 11 clause (ii) the following:

12 “(iii) any section 1245 property de-
 13 scribed in section 1245(a)(3)(E) other
 14 than property to which section 179(b)(5)
 15 applies, and”.

16 (2) CONFORMING AMENDMENT.—Subparagraph
 17 (B) of section 168(g)(3) (relating to special rules for
 18 determining class life) is amended by inserting after
 19 the item relating to subparagraph (C)(i) in the table
 20 contained therein the following new item:

“(C)(iii) 10”.

21 (b) FULL EXPENSING OF HEATING OIL, NATURAL
 22 GAS, AND PROPANE STORAGE FACILITY.—Section 179(b)
 23 (relating to limitations) is amended by adding at the end
 24 the following new paragraph:

1 “(5) FULL EXPENSING OF HEATING OIL, NAT-
2 URAL GAS, AND PROPANE STORAGE FACILITY.—
3 Paragraphs (1) and (2) shall not apply to section
4 179 property which is any storage facility (not in-
5 cluding a building or its structural components) used
6 in connection with the distribution of heating oil,
7 natural gas, or liquefied petroleum gas.”

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to property which is placed in serv-
10 ice on or after the date of enactment of this Act. A tax-
11 payer may elect (in such form and manner as the Sec-
12 retary of the Treasury may prescribe) to have such
13 amendments apply with respect to any property placed in
14 service before such date.

15 **SEC. 923. CLASS LIFE FOR PETROLEUM REFINERIES.**

16 (a) 7-YEAR PROPERTY.—

17 (1) IN GENERAL.—Subparagraph (C) of section
18 168(e)(3) (relating to classification of certain prop-
19 erty), as amended by this Act, is amended by strik-
20 ing “and” at the end of clause (iii), by redesignating
21 clause (iv) as clause (v), and by adding at the end
22 the following new clause:

23 “(iv) any petroleum refining assets, and”.

24 (2) CONFORMING AMENDMENT.—Subparagraph
25 (B) of section 168(g)(3) (relating to special rules for

1 determining class life) is amended by inserting after
 2 the item relating to subparagraph (C)(iii) in the
 3 table contained therein the following new item:

“(C)(iv) 10”.

4 (b) ASSETS USED IN PETROLEUM REFINING.—Sub-
 5 section (i) of section 168 is amended by adding at the end
 6 the following new paragraph:

7 “(16) ASSETS USED IN PETROLEUM REFIN-
 8 ING.—The term ‘petroleum refining assets’ means
 9 assets used for the distillation, fractionation, and
 10 catalytic cracking of crude petroleum into gasoline
 11 and other petroleum products.”

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to property which is placed in serv-
 14 ice on or after the date of enactment of this Act.

15 **PART V—OFFSHORE OIL AND GAS VESSELS AND**
 16 **STRUCTURES**

17 **SEC. 931. ACCELERATED DEPRECIATION.**

18 (a) 7-YEAR PROPERTY.—

19 (1) IN GENERAL.—Subparagraph (C) of section
 20 168(e)(3) (relating to classification of certain prop-
 21 erty), as amended by this Act, is amended by strik-
 22 ing “and” at the end of clause (iv), by redesignating
 23 clause (v) as clause (vi), and by adding at the end
 24 the following new clause:

1 “(v) a vessel of at least 10,000 gross tons, or
 2 any type of structure of at least 10,000 tons, that
 3 is owned by a drilling company and used to explore
 4 for, drill for, or produce offshore oil and gas, if that
 5 vessel or structure was constructed or reconstructed
 6 in the United States, and”.

7 (2) CONFORMING AMENDMENT.—Subparagraph
 8 (B) of section 168(g)(3) (relating to special rules for
 9 determining class life) is amended by inserting after
 10 the item relating to subparagraph (C)(iv) in the
 11 table contained therein the following new item:

“(C)(v) 10”.

12 (3) DRILLING COMPANY DEFINED.—Section
 13 168(i) is amended by adding at the end the following
 14 new paragraph:

15 “(17) DRILLING COMPANY.—The term ‘drilling
 16 company’ means a person engaged in the business of
 17 exploration, development, or production of oil and
 18 gas.”

19 (b) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to vessels and structures placed
 21 in service after December 31, 2000, and constructed or
 22 reconstructed under a contract executed before January
 23 1, 2007.

24 **SEC. 932. TAX CREDIT.**

25 (a) AMENDMENTS.—

1 (1) CREDIT FOR CERTAIN VESSELS AND STRUC-
2 TURES.—Section 48(a)(3)(A) (relating to the energy
3 tax credit) is amended—

4 (A) by striking “or” at the end of clause

5 (i);

6 (B) by adding “or” at the end of clause

7 (ii); and

8 (C) by adding at the end the following new

9 clause:

10 “(iii) a vessel of at least 10,000 gross

11 tons, or any type of structure of at least

12 10,000 tons, that is owned by a drilling

13 company and used to explore for, drill for,

14 or produce oil and gas, if that vessel or

15 structure was constructed or reconstructed

16 in the United States.”.

17 (2) DRILLING COMPANY DEFINED.—Section
18 48(a)(3) is amended by adding at the end the fol-

19 lowing new sentence: “The term ‘drilling company’

20 means a person engaged in the business of explo-

21 ration, development, or production of oil and gas.”

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to vessels and structures placed
24 in service after December 31, 2000, and constructed or

1 reconstructed under a contract executed before January
2 1, 2007.

3 **SEC. 933. CAPITAL CONSTRUCTION FUNDS FOR UNITED**
4 **STATES-BUILT DRILLING VESSELS.**

5 (a) AMENDMENTS TO MERCHANT MARINE ACT,
6 1936.—

7 (1) CHANGES IN VESSELS TO WHICH CAPITAL
8 CONSTRUCTION FUNDS APPLY.—

9 (A) The second sentence of section 607(a)
10 of the Merchant Marine Act, 1936 (46 U.S.C.
11 App. 1177(a)), is amended by striking “for op-
12 eration in the United States foreign, Great
13 Lakes, or noncontiguous domestic trade or in
14 the fisheries of the United States” and insert-
15 ing “for the operation in the fisheries of the
16 United States, or in the United States foreign,
17 Great Lakes, or noncontiguous domestic trade,
18 or for operation as an oil and gas drilling vessel
19 in the United States foreign or domestic com-
20 merce,”.

21 (B) Section 607(k)(1) of that Act (46
22 U.S.C. App. 1177(k)(1)) is amended by insert-
23 ing “, including an oil and gas drilling vessel”
24 after “means any vessel”.

1 (C) Subparagraph (C) of section 607(k)(2)
2 of that Act (46 U.S.C. App. 1177(k)(2)) is
3 amended to read as follows:

4 “(C) which the person maintaining the
5 fund agrees with the Secretary will be operated
6 in the fisheries of the United States, in the
7 United States foreign, Great Lakes, or non-con-
8 tiguous domestic trade, or, in the case of an oil
9 and gas drilling vessel, in the foreign or domes-
10 tic commerce of the United States.”

11 (D) Section 607(k) of that Act (46 U.S.C.
12 App. 1177(k)) is amended by adding at the end
13 the following new paragraph:

14 “(10) The term ‘oil and gas drilling vessel’
15 means a vessel constructed or reconstructed that is
16 at least 10,000 gross tons and is used to explore for,
17 drill for, or produce oil and gas.”

18 (2) TREATMENT OF CERTAIN LEASE PAY-
19 MENTS.—

20 (A) Section 607(f)(1) of the Merchant Ma-
21 rine Act, 1936 (46 U.S.C. App. 1171(f)(1)), is
22 amended—

23 (i) by striking “or” at the end of sub-
24 paragraph (B);

1 (ii) by striking the period at the end
2 of subparagraph (C) and inserting “, or”;
3 and

4 (iii) by inserting after subparagraph
5 (C) the following new subparagraph:

6 “(D) the payment of amounts which re-
7 duce the principal amount (as determined under
8 regulations promulgated by the Secretary) of a
9 qualified lease of a qualified vessel or container
10 which is part of the complement of a qualified
11 vessel.”

12 (B) Section 607(g)(4) of that Act (46
13 U.S.C. App. 1171(g)(4)) is amended by insert-
14 ing “or to reduce the principal amount of any
15 qualified lease” after “indebtedness”.

16 (C) Section 607(k) of that Act (46 U.S.C.
17 App. 1171(k)), as previously amended in this
18 Act, is further amended by adding at the end
19 the following new paragraph:

20 “(11) The term ‘qualified lease’ means any
21 lease with a term of at least 5 years.”

22 (3) TREATMENT OF CAPITAL GAINS AND
23 LOSSES.—

1 (A) Section 607(e)(3) of the Merchant Ma-
2 rine Act, 1936 (46 U.S.C. App. 1177(e)(3)), is
3 amended to read as follows:

4 “(3) The capital gain account shall consist of—

5 “(A) amounts representing long-term cap-
6 ital gains (as defined in section 1222 of such
7 Code) on assets referred to in subsection
8 (b)(1)(C), reduced by,

9 “(B) amounts representing long-term cap-
10 ital losses (as defined in such section 1222) on
11 assets held in the fund.”

12 (B) Section 607(e)(4)(B) of that Act (46
13 U.S.C. App. 1177(e)(4)(B)) is amended to read
14 as follows:

15 “(B)(i) amounts representing short-term
16 capital gains (as defined in section 1222 of
17 such Code) on assets referred to in subsection
18 (b)(1)(C), reduced by,

19 “(ii) amounts representing short-term cap-
20 ital losses (as defined in such section 1222) on
21 assets held in the fund,”.

22 (C) Section 607(h)(3)(B) of that Act (46
23 U.S.C. App. 1177(h)(3)(B)) is amended by
24 striking “gain” and all that follows and insert-

1 ing "long-term capital gain (as defined in sec-
2 tion 1222 of such Code), and".

3 (D) The last sentence of section
4 607(h)(6)(A) of that Act (46 U.S.C. App.
5 1177(h)(6)(A)) is amended by striking "20 per-
6 cent (34 percent in the case of a corporation)"
7 and inserting "the rate applicable to net capital
8 gain under section 1(h) or 1201(a) of such
9 Code, as the case may be".

10 (4) COMPUTATION OF INTEREST WITH RESPECT
11 TO NONQUALIFIED WITHDRAWALS.—

12 (A) Section 607(h)(3)(C) of the Merchant
13 Marine Act, 1936 (46 U.S.C. App.
14 1177(h)(3)(C)), is amended—

15 (i) by amending clause (i) to read as
16 follows:

17 “(i) no addition to the tax shall be
18 payable under section 6651 of such
19 Code,”; and

20 (ii) in clause (ii), by striking “paid at
21 the applicable rate (as defined in para-
22 graph (4))” and inserting “paid in accord-
23 ance with section 6601 of such Code”.

24 (B) Section 607(h) of that Act (46 U.S.C.
25 App. 1177(h)) is amended by striking para-

1 graph (4) and by redesignating paragraphs (5)
2 and (6) as paragraphs (4) and (5), respectively.

3 (C) Section 607(h)(5)(A) of that Act (46
4 U.S.C. App. 1177(h)(5)(A)), as so redesignated
5 by paragraph (2) of this subsection, is amended
6 by striking “paragraph (5)” and inserting
7 “paragraph (4)”.

8 (5) OTHER CHANGES.—Section 607 of the Mer-
9 chant Marine Act, 1936 (46 U.S.C. App. 1177) is
10 amended by striking “Internal Revenue Code of
11 1954” each place it appears and inserting “Internal
12 Revenue Code of 1986”.

13 (b) AMENDMENTS TO INTERNAL REVENUE CODE OF
14 1986.—

15 (1) TREATMENT OF CERTAIN LEASE PAY-
16 MENTS.—

17 (A) Section 7518(e)(1) (relating to pur-
18 poses of qualified withdrawals) is amended—

19 (i) by striking “or” at the end of sub-
20 paragraph (B);

21 (ii) by striking the period at the end
22 of subparagraph (C) and inserting “, or”;
23 and

24 (iii) by inserting after subparagraph
25 (C) the following new subparagraph:

1 “(D) the payment of amounts which re-
2 duce the principal amount (as determined under
3 regulations) of a qualified lease of a qualified
4 vessel or container which is part of the com-
5 plement of a qualified vessel.”

6 (B) Section 7518(f)(4) is amended by in-
7 serting “or to reduce the principal amount of
8 any qualified lease” after “indebtedness”.

9 (2) TREATMENT OF CAPITAL GAINS AND
10 LOSSES.—

11 (A) Section 7518(d)(3) is amended to read
12 as follows:

13 “(3) CAPITAL GAIN ACCOUNT.—The capital
14 gain account shall consist of—

15 “(A) amounts representing long-term cap-
16 ital gain (as defined in section 1222) on assets
17 referred to in subsection (a)(1)(C), reduced by,

18 “(B) amounts representing long-term cap-
19 ital loss (as defined in section 1222) on assets
20 held in the fund.”

21 (B) Section 7518(d)(4)(B) is amended to
22 read as follows:

23 “(B)(i) amounts representing short-term
24 capital gain (as defined in section 1222) on as-

1 sets referred to in subsection (a)(1)(C), reduced
2 by,

3 “(ii) amounts representing short-term cap-
4 ital loss (as defined in section 1222) on assets
5 held in the fund,”.

6 (C) Section 7518(g)(3)(B) is amended by
7 striking “gain” and all that follows and insert-
8 ing “long-term capital gain (as defined in sec-
9 tion 1222), and”.

10 (D) The last sentence of section
11 7518(g)(6)(A) is amended by striking “20 per-
12 cent (34 percent in the case of a corporation)”
13 and inserting “the rate applicable to net capital
14 gain under section 1(h) or 1201(a), as the case
15 may be”.

16 (3) COMPUTATION OF INTEREST WITH RESPECT
17 TO NONQUALIFIED WITHDRAWALS.—

18 (A) Section 7518(g)(3)(C) is amended—

19 (i) by striking clause (i) and inserting
20 the following new clause:

21 “(i) no addition to the tax shall be
22 payable under section 6651,”; and

23 (ii) in clause (ii), by striking “paid at
24 the applicable rate (as defined in para-

1 graph (4))” and inserting “paid in accord-
2 ance with section 6601”.

3 (B) Section 7518(g) is amended by strik-
4 ing paragraph (4) and by redesignating para-
5 graphs (5) and (6) as paragraphs (4) and (5),
6 respectively.

7 (C) Section 7518(g)(5)(A), as redesignated
8 by paragraph (2) of this subsection, is amended
9 by striking “paragraph (5)” and inserting
10 “paragraph (4)”.

11 (4) APPLICABILITY OF ALTERNATIVE MINIMUM
12 TAX.—Section 56(c) is amended by striking para-
13 graph (2) and by redesignating paragraph (3) as
14 paragraph (2).

15 (5) OTHER CHANGES.—

16 (1) Section 7518(i) is amended by striking “en-
17 actment of this section” and inserting “enactment of
18 the Energy Security Tax Policy Act of 2001”.

19 (2) Section 543(a)(1)(B) is amended to read as
20 follows:

21 “(B) interest on amounts set aside in a
22 capital construction fund under section 607 of
23 the Merchant Marine Act, 1936 (46 App.
24 U.S.C. 1177), or in a construction reserve fund

1 under section 511 of such Act (46 App. U.S.C.
2 1161),”.

3 (c) REGULATIONS.—

4 (1) 46 CFR PART 390.—Not later than 90 days
5 after the date of the enactment of this Act, the Sec-
6 retary of Transportation shall promulgate final regu-
7 lations implementing the amendments made by sub-
8 section (a)(1).

9 (2) JOINT REGULATIONS.—The amendments
10 made by paragraphs (2) through (4) of subsection
11 (a) shall be implemented under revised joint regula-
12 tions promulgated by the Secretary of Transpor-
13 tation and the Secretary of the Treasury.

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the amendments made by
17 this section shall apply as of the date of the enact-
18 ment of this Act.

19 (2) CHANGES IN COMPUTATION OF INTER-
20 EST.—The amendments made by subsections (a)(4)
21 and (b)(3) shall apply to withdrawals made after
22 December 31, 2000, including for purposes of com-
23 puting interest on such a withdrawal for periods on
24 or before such date.

1 **“SEC. 48A. QUALIFYING CLEAN COAL TECHNOLOGY UNIT**
2 **CREDIT.**

3 “(a) IN GENERAL.—For purposes of section 46, the
4 qualifying clean coal technology unit credit for any taxable
5 year is an amount equal to 10 percent of the qualified
6 investment in a qualifying system of continuous emission
7 control for such taxable year.

8 “(b) QUALIFYING SYSTEM OF CONTINUOUS EMIS-
9 SION CONTROL.—

10 “(1) IN GENERAL.—For purposes of subsection
11 (a), the term ‘qualifying system of continuous emis-
12 sion control’ means a system of the taxpayer
13 which—

14 “(A) serves, is added to, or retrofits an ex-
15 isting coal-based electricity generation unit, the
16 construction, installation, or retrofitting of
17 which is completed by the taxpayer (but only
18 with respect to that portion of the basis which
19 is properly attributable to such construction, in-
20 stallation, or retrofitting),

21 “(B) removes or reduces 1 or more of the
22 pollutants regulated under title I of the Clean
23 Air Act (42 U.S.C. 7401 et seq.),

24 “(C) is depreciable under section 167,

25 “(D) has a useful life of not less than 4
26 years, and

1 “(E) is located in the United States.

2 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—

3 For purposes of subparagraph (A) of paragraph (1),

4 in the case of a unit which—

5 “(A) is originally placed in service by a
6 person, and

7 “(B) is sold and leased back by such per-
8 son, or is leased to such person, within 3
9 months after the date such unit was originally
10 placed in service, for a period of not less than
11 12 years,

12 such unit shall be treated as originally placed in
13 service not earlier than the date on which such prop-
14 erty is used under the leaseback (or lease) referred
15 to in subparagraph (B). The preceding sentence
16 shall not apply to any property if the lessee and les-
17 sor of such property make an election under this
18 sentence. Such an election, once made, may be re-
19 voked only with the consent of the Secretary.

20 “(c) EXISTING COAL-BASED ELECTRICITY GENERA-
21 TION UNIT.—For purposes of subsection (a), the term ‘ex-
22 isting coal-based electricity generating unit’ means, with
23 respect to any taxable year, a steam generator-turbine
24 unit that uses coal to produce 75 percent or more of its

1 output as electricity and was in operation before the effec-
2 tive date of this section.

3 “(d) LIMIT ON QUALIFYING CLEAN COAL TECH-
4 NOLOGY UNIT CREDIT.—For purposes of subsection (a),
5 the credit shall be applicable to not more than the first
6 \$100,000,000 of qualifying investment in a qualifying sys-
7 tem of continuous emission control at any 1 existing coal-
8 based electricity generating unit.

9 “(e) QUALIFIED INVESTMENT.—For purposes of sub-
10 section (a), the term ‘qualified investment’ means, with
11 respect to any taxable year, the basis of a qualifying sys-
12 tem of continuous emission control placed in service by
13 the taxpayer during such taxable year.

14 “(f) QUALIFIED PROGRESS EXPENDITURES.—

15 “(1) INCREASE IN QUALIFIED INVESTMENT.—
16 In the case of a taxpayer who has made an election
17 under paragraph (5), the amount of the qualified in-
18 vestment of such taxpayer for the taxable year (de-
19 termined under subsection (e) without regard to this
20 subsection) shall be increased by an amount equal to
21 the aggregate of each qualified progress expenditure
22 for the taxable year with respect to progress expend-
23 iture property.

24 “(2) PROGRESS EXPENDITURE PROPERTY DE-
25 FINED.—For purposes of this subsection, the term

1 ‘progress expenditure property’ means any property
2 being constructed by or for the taxpayer and which
3 it is reasonable to believe will qualify as a qualifying
4 system of continuous emission control which is being
5 constructed by or for the taxpayer when it is placed
6 in service.

7 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
8 FINED.—For purposes of this subsection—

9 “(A) SELF-CONSTRUCTED PROPERTY.—In
10 the case of any self-constructed property, the
11 term ‘qualified progress expenditures’ means
12 the amount which, for purposes of this subpart,
13 is properly chargeable (during such taxable
14 year) to capital account with respect to such
15 property.

16 “(B) NONSELF-CONSTRUCTED PROP-
17 ERTY.—In the case of nonself-constructed prop-
18 erty, the term ‘qualified progress expenditures’
19 means the amount paid during the taxable year
20 to another person for the construction of such
21 property.

22 “(4) OTHER DEFINITIONS.—For purposes of
23 this subsection—

24 “(A) SELF-CONSTRUCTED PROPERTY.—
25 The term ‘self-constructed property’ means

1 property for which it is reasonable to believe
2 that more than half of the construction expendi-
3 tures will be made directly by the taxpayer.

4 “(B) NONSELF-CONSTRUCTED PROP-
5 ERTY.—The term ‘nonself-constructed property’
6 means property which is not self-constructed
7 property.

8 “(C) CONSTRUCTION, ETC.—The term
9 ‘construction’ includes reconstruction and erec-
10 tion, and the term ‘constructed’ includes recon-
11 structed and erected.

12 “(D) ONLY CONSTRUCTION OF QUALI-
13 FYING SYSTEM OF CONTINUOUS EMISSION CON-
14 TROL TO BE TAKEN INTO ACCOUNT.—Construc-
15 tion shall be taken into account only if, for pur-
16 poses of this subpart, expenditures therefore
17 are properly chargeable to capital account with
18 respect to the property.

19 “(5) ELECTION.—An election under this sub-
20 section may be made at such time and in such man-
21 ner as the Secretary may by regulations prescribe.
22 Such an election shall apply to the taxable year for
23 which made and to all subsequent taxable years.
24 Such an election, once made, may not be revoked ex-
25 cept with the consent of the Secretary.

1 “(g) COORDINATION WITH OTHER CREDITS.—This
2 section shall not apply to any property with respect to
3 which the rehabilitation credit under section 47 or the en-
4 ergy credit under section 48 is allowed unless the taxpayer
5 elects to waive the application of such credit to such prop-
6 erty.

7 “(h) TERMINATION.—This section shall not apply
8 with respect to any qualified investment made more than
9 10 years after the effective date of this section.”

10 (c) RECAPTURE.—Section 50(a) (relating to other
11 special rules) is amended by adding at the end the fol-
12 lowing:

13 “(6) SPECIAL RULES RELATING TO QUALIFYING
14 SYSTEM OF CONTINUOUS EMISSION CONTROL.—For
15 purposes of applying this subsection in the case of
16 any credit allowable by reason of section 48A, the
17 following shall apply:

18 “(A) GENERAL RULE.—In lieu of the
19 amount of the increase in tax under paragraph
20 (1), the increase in tax shall be an amount
21 equal to the investment tax credit allowed under
22 section 38 for all prior taxable years with re-
23 spect to a qualifying system of continuous emis-
24 sion control (as defined by section 48A(b)(1))
25 multiplied by a fraction whose numerator is the

1 number of years remaining to fully depreciate
2 under this title the qualifying system of contin-
3 uous emission control disposed of, and whose
4 denominator is the total number of years over
5 which such unit would otherwise have been sub-
6 ject to depreciation. For purposes of the pre-
7 ceding sentence, the year of disposition of the
8 qualifying system of continuous emission con-
9 trol property shall be treated as a year of re-
10 maining depreciation.

11 “(B) PROPERTY CEASES TO QUALIFY FOR
12 PROGRESS EXPENDITURES.—Rules similar to
13 the rules of paragraph (2) shall apply in the
14 case of qualified progress expenditures for a
15 qualifying system of continuous emission con-
16 trol under section 48A, except that the amount
17 of the increase in tax under subparagraph (A)
18 of this paragraph shall be substituted in lieu of
19 the amount described in such paragraph (2).

20 “(C) APPLICATION OF PARAGRAPH.—This
21 paragraph shall be applied separately with re-
22 spect to the credit allowed under section 38 re-
23 garding a qualifying system of continuous emis-
24 sion control.”

1 (d) TRANSITIONAL RULE.—Section 39(d) (relating to
2 transitional rules) is amended by adding at the end the
3 following:

4 “(10) NO CARRYBACK OF SECTION 48A CREDIT
5 BEFORE EFFECTIVE DATE.—No portion of the un-
6 used business credit for any taxable year which is
7 attributable to the qualifying clean coal technology
8 unit credit determined under section 48A may be
9 carried back to a taxable year ending before the date
10 of enactment of section 48A.”

11 (e) TECHNICAL AMENDMENTS.—

12 (1) Section 49(a)(1)(C) is amended by striking
13 “and” at the end of clause (ii), by striking the pe-
14 riod at the end of clause (iii) and inserting “, and”,
15 and by adding at the end the following:

16 “(iv) the portion of the basis of any
17 qualifying system of continuous emission
18 control attributable to any qualified invest-
19 ment (as defined by section 48A(e)).”

20 (2) Section 50(a)(4) is amended by striking
21 “and (2)” and inserting “, (2), and (6)”.

22 (3) Section 50(c) is amended by adding at the
23 end the following:

1 “(6) NONAPPLICATION.—Paragraphs (1) and
2 (2) shall not apply to any qualifying clean coal tech-
3 nology unit credit under section 48A.”

4 (4) The table of sections for subpart E of part
5 IV of subchapter A of chapter 1 is amended by in-
6 serting after the item relating to section 48 the fol-
7 lowing:

“48A. Qualifying clean coal technology unit credit.”

8 (f) INSTALLATIONS NOT SUBJECT TO NEW SOURCE
9 REVIEW, ETC.—

10 (1) EXEMPTION FROM NEW SOURCE REVIEW.—

11 The installation of a qualifying system of continuous
12 emission control (as defined in section 48A(b)(1) of
13 the Internal Revenue Code of 1986, as added by
14 subsection (b)), shall be exempt from the new source
15 review provisions of the Clean Air Act (42 U.S.C.
16 7401 et seq.).

17 (2) EXEMPTION FROM EMISSION CONTROL RE-
18 QUIREMENTS.—The installation of a qualifying sys-
19 tem of continuous emission control (as so defined)
20 on an existing coal-based electricity generating unit,
21 which meets or exceeds, for the applicable source
22 category and pollutant being controlled by such
23 qualified system, the standard of performance for
24 new stationary sources, shall exempt the existing
25 unit from any new or increased emission control re-

1 requirements for the pollutant being controlled by such
2 qualified system under title I of the Clean Air Act
3 (42 U.S.C. 7401 et seq.) for a period of 10 years
4 after the date such qualified system is originally
5 placed in service.

6 (g) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to periods after December 31,
8 2000, under rules similar to the rules of section 48(m)
9 of the Internal Revenue Code of 1986 (as in effect on the
10 day before the date of enactment of the Revenue Reconcili-
11 ation Act of 1990).

12 **SEC. 942. CREDIT FOR PRODUCTION FROM A QUALIFYING**
13 **CLEAN COAL TECHNOLOGY UNIT.**

14 (a) CREDIT FOR PRODUCTION FROM A QUALIFYING
15 CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV
16 of subchapter A of chapter 1 (relating to business related
17 credits), as amended by this Act, is amended by adding
18 at the end the following:

19 **“SEC. 45F. CREDIT FOR PRODUCTION FROM A QUALIFYING**
20 **CLEAN COAL TECHNOLOGY UNIT.**

21 “(a) GENERAL RULE.—For purposes of section 38,
22 the qualifying clean coal technology production credit of
23 any taxpayer for any taxable year is equal to the product
24 of—

1 “(1) the applicable amount of clean coal tech-
2 nology production credit, multiplied by

3 “(2) the kilowatt hours of electricity produced
4 by the taxpayer during such taxable year at a quali-
5 fying clean coal technology unit during the 10-year
6 period beginning on the date the unit was returned
7 to service after retrofit, repowering, or replacement.

8 “(b) APPLICABLE AMOUNT.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the applicable amount of clean coal technology
11 production credit is equal to \$0.0034.

12 “(2) INFLATION ADJUSTMENT FACTOR.—For
13 calendar years after 2001, the applicable amount of
14 clean coal technology production credit shall be ad-
15 justed by multiplying such amount by the inflation
16 adjustment factor for the calendar year in which the
17 amount is applied. If any amount as increased under
18 the preceding sentence is not a multiple of 0.01 cent,
19 such amount shall be rounded to the nearest mul-
20 tiple of 0.01 cent.

21 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
22 poses of this section—

23 “(1) QUALIFYING CLEAN COAL TECHNOLOGY
24 UNIT.—The term ‘qualifying clean coal technology
25 unit’ means a unit of the taxpayer which—

1 “(A) is an existing coal-based electricity
2 generating steam generator-turbine unit,

3 “(B) has a nameplate capacity rating of
4 not more than 300,000 kilowatts, and

5 “(C) has been retrofitted, repowered, or re-
6 placed with a clean coal technology within 10
7 years of the effective date of this section.

8 “(2) CLEAN COAL TECHNOLOGY.—The term
9 ‘clean coal technology’ means technology which—

10 “(A) uses coal to produce 50 percent or
11 more of its thermal output as electricity, includ-
12 ing advanced pulverized coal or atmospheric flu-
13 idized bed combustion, pressurized fluidized bed
14 combustion, integrated gasification combined
15 cycle, or any other technology for the produc-
16 tion of electricity,

17 “(B) has a design heat rate not less than
18 500 Btu/kWh below that of the existing unit be-
19 fore it is retrofit, repowered, or replaced with
20 the qualifying clean coal technology,

21 “(C) has a maximum design heat rate of
22 not more than 9,000 Btu/kWh when the design
23 coal has a heat content of more than 8,000 Btu
24 per pound, and

1 “(D) has a maximum design heat rate of
2 not more than 10,500 Btu/kWh when the de-
3 sign coal has a heat content of 8,000 Btu per
4 pound or less.

5 “(3) APPLICATION OF CERTAIN RULES.—The
6 rules of paragraphs (3), (4), and (5) of section 45
7 shall apply.

8 “(4) INFLATION ADJUSTMENT FACTOR.—The
9 term ‘inflation adjustment factor’ means, with re-
10 spect to a calendar year, a fraction the numerator
11 of which is the GDP implicit price deflator for the
12 preceding calendar year and the denominator of
13 which is the GDP implicit price deflator for the cal-
14 endar year 2000.

15 “(5) GDP IMPLICIT PRICE DEFLATOR.—The
16 term ‘GDP implicit price deflator’ means the most
17 recent revision of the implicit price deflator for the
18 gross domestic product as computed by the Depart-
19 ment of Commerce before March 15 of the calendar
20 year.

21 “(d) COORDINATION WITH OTHER CREDITS.—This
22 section shall not apply to any property with respect to
23 which the qualifying clean coal technology unit credit
24 under section 48A is allowed unless the taxpayer elects
25 to waive the application of such credit to such property.”

1 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
 2 tion 38(b) is amended by striking “plus” at the end of
 3 paragraph (13), by striking the period at the end of para-
 4 graph (14) and inserting “, plus”, and by adding at the
 5 end the following:

6 “(15) the qualifying clean coal technology pro-
 7 duction credit determined under section 45F(a).”

8 (c) TRANSITIONAL RULE.—Section 39(d) (relating to
 9 transitional rules), as amended by this Act, is amended
 10 by adding at the end the following:

11 “(11) NO CARRYBACK OF SECTION 45F CREDIT
 12 BEFORE EFFECTIVE DATE.—No portion of the un-
 13 used business credit for any taxable year which is
 14 attributable to the qualifying clean coal technology
 15 production credit determined under section 45F may
 16 be carried back to a taxable year ending before the
 17 date of enactment of section 45F.”

18 (d) CLERICAL AMENDMENT.—The table of sections
 19 for subpart D of part IV of subchapter A of chapter 1
 20 is amended by adding at the end the following:

“Sec. 45F. Credit for production from a qualifying clean coal technology unit.”

21 (e) MODIFICATIONS AND INSTALLATIONS NOT SUB-
 22 JECT TO NEW SOURCE REVIEW, ETC.—

23 (1) EXEMPTION FROM NEW SOURCE REVIEW.—
 24 Modifications made to an existing coal-based genera-
 25 tion unit because of, or as part of a qualifying clean

1 coal technology unit (as defined in section 45F(e)(1)
2 of the Internal Revenue Code of 1986, as added by
3 subsection (a)), shall be exempt from the new source
4 review provisions of the Clean Air Act (42 U.S.C.
5 7401 et seq.).

6 (2) EXEMPTION FROM EMISSION CONTROL RE-
7 QUIREMENTS.—The installation of a qualifying clean
8 coal technology (as so defined) on an existing coal-
9 based electricity generating unit, which meets or ex-
10 ceeds, for the applicable source category, the stand-
11 ard of performance for new stationary sources under
12 section 111 of the Clean Air Act (42 U.S.C. 7411),
13 shall exempt the existing unit from any new or in-
14 creased emission control requirements under title I
15 of such Act (42 U.S.C. 7401 et seq.) for a period
16 of 10 years after the date the qualifying clean coal
17 technology is originally placed in service.

18 (f) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to production after the date of en-
20 actment of this Act.

1 **PART II—INCENTIVES FOR EARLY COMMERCIAL**
2 **APPLICATIONS OF ADVANCED CLEAN COAL**
3 **TECHNOLOGIES**

4 **SEC. 946. CREDIT FOR INVESTMENT IN QUALIFYING AD-**
5 **VANCED CLEAN COAL TECHNOLOGY.**

6 (a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN
7 COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (re-
8 lating to amount of credit), as amended by this Act, is
9 amended by striking “and” at the end of paragraph (3),
10 by striking the period at the end of paragraph (4) and
11 inserting “, and”, and by adding at the end the following:

12 “(5) the qualifying advanced clean coal tech-
13 nology facility credit.”

14 (b) AMOUNT OF QUALIFYING ADVANCED CLEAN
15 COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of
16 part IV of subchapter A of chapter 1 (relating to rules
17 for computing investment credit), as amended by this Act,
18 is amended by inserting after section 48A the following:

19 **“SEC. 48B. QUALIFYING ADVANCED CLEAN COAL TECH-**
20 **NOLOGY FACILITY CREDIT.**

21 “(a) IN GENERAL.—For purposes of section 46, the
22 qualifying advanced clean coal technology facility credit
23 for any taxable year is an amount equal to 10 percent
24 of the qualified investment in a qualifying advanced clean
25 coal technology facility for such taxable year.

1 “(b) QUALIFYING ADVANCED CLEAN COAL TECH-
2 NOLOGY FACILITY.—

3 “(1) IN GENERAL.—For purposes of subsection
4 (a), the term ‘qualifying advanced clean coal tech-
5 nology facility’ means a facility of the taxpayer—

6 “(A)(i)(I) which replaces a conventional
7 technology facility of the taxpayer and the origi-
8 nal use of which commences with the taxpayer,
9 or

10 “(II) which is a retrofitted or repowered
11 conventional technology facility, the retrofitting
12 or repowering of which is completed by the tax-
13 payer (but only with respect to that portion of
14 the basis which is properly attributable to such
15 retrofitting or repowering), or

16 “(ii) which is acquired through purchase
17 (as defined by section 179(d)(2)),

18 “(B) which is depreciable under section
19 167,

20 “(C) which has a useful life of not less
21 than 4 years,

22 “(D) which is located in the United States,
23 and

24 “(E) which uses qualifying advanced clean
25 coal technology.

1 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—
2 For purposes of subparagraph (A) of paragraph (1),
3 in the case of a facility that—

4 “(A) is originally placed in service by a
5 person, and

6 “(B) is sold and leased back by such per-
7 son, or is leased to such person, within 3
8 months after the date such facility was origi-
9 nally placed in service, for a period of not less
10 than 12 years,

11 such facility shall be treated as originally placed in
12 service not earlier than the date on which such prop-
13 erty is used under the leaseback (or lease) referred
14 to in subparagraph (B). The preceding sentence
15 shall not apply to any property if the lessee and les-
16 sor of such property make an election under this
17 sentence. Such an election, once made, may be re-
18 voked only with the consent of the Secretary.

19 “(3) QUALIFYING ADVANCED CLEAN COAL
20 TECHNOLOGY.—For purposes of paragraph (1)—

21 “(A) IN GENERAL.—The term ‘qualifying
22 advanced clean coal technology’ means, with re-
23 spect to clean coal technology—

24 “(i) multiple applications, with a com-
25 bined capacity of not more than 5,000

1 megawatts, of advanced pulverized coal or
2 atmospheric fluidized bed combustion
3 technology—

4 “(I) installed as a new, retrofit,
5 or repowering application,

6 “(II) operated between 2001 and
7 2011, and

8 “(III) with a design net heat rate
9 of not more than 9,500 Btu per kilo-
10 watt hour when the design coal has a
11 heat content of more than 8,000 Btu
12 per pound, or a design net heat rate
13 of not more than 9,900 Btu per kilo-
14 watt hour when the design coal has a
15 heat content of 8,000 Btu per pound
16 or less,

17 “(ii) multiple applications, with a
18 combined capacity of not more than 1,000
19 megawatts, of pressurized fluidized bed
20 combustion technology—

21 “(I) installed as a new, retrofit,
22 or repowering application,

23 “(II) operated between 2001 and
24 2011, and

1 “(III) with a design net heat rate
2 of not more than 8,400 Btu per kilo-
3 watt hour when the design coal has a
4 heat content of more than 8,000 Btu
5 per pound, or a design net heat rate
6 of not more than 9,900 Btu’s per kilo-
7 watt hour when the design coal has a
8 heat content of 8,000 Btu per pound
9 or less,

10 “(iii) multiple applications, with a
11 combined capacity of not more than 2,000
12 megawatts, of integrated gasification com-
13 bined cycle technology, with or without fuel
14 or chemical co-production—

15 “(I) installed as a new, retrofit,
16 or repowering application,

17 “(II) operated between 2001 and
18 2011,

19 “(III) with a design net heat rate
20 of not more than 8,550 Btu per kilo-
21 watt hour when the design coal has a
22 heat content of more than 8,000 Btu
23 per pound, or a design net heat rate
24 of not more than 9,900 Btu per kilo-
25 watt hour when the design coal has a

1 heat content of 8,000 Btu per pound
2 or less, and

3 “(IV) with a net thermal effi-
4 ciency on any fuel or chemical co-pro-
5 duction of not less than 39 percent
6 (higher heating value), and

7 “(iv) multiple applications, with a
8 combined capacity of not more than 2,000
9 megawatts of technology for the production
10 of electricity—

11 “(I) installed as a new, retrofit,
12 or repowering application,

13 “(II) operated between 2001 and
14 2011, and

15 “(III) with a carbon emission
16 rate that is not more than 85 percent
17 of conventional technology.

18 “(B) EXCEPTIONS.—Such term shall not
19 include clean coal technology projects receiving
20 or scheduled to receive funding under the Clean
21 Coal Technology Program of the Department of
22 Energy.

23 “(C) CLEAN COAL TECHNOLOGY.—The
24 term ‘clean coal technology’ means advanced
25 technology which uses coal to produce 75 per-

1 cent or more of its thermal output as electricity
2 including advanced pulverized coal or atmos-
3 pheric fluidized bed combustion, pressurized flu-
4 idized bed combustion, integrated gasification
5 combined cycle with or without fuel or chemical
6 co-production, and any other technology for the
7 production of electricity that exceeds the per-
8 formance of conventional technology.

9 “(D) CONVENTIONAL TECHNOLOGY.—The
10 term ‘conventional technology’ means—

11 “(i) coal-fired combustion technology
12 with a design net heat rate of not less than
13 9,500 Btu per kilowatt hour (HHV) and a
14 carbon equivalents emission rate of not
15 more than 0.54 pounds of carbon per kilo-
16 watt hour when the design coal has a heat
17 content of more than 8,000 Btu per
18 pound,

19 “(ii) coal-fired combustion technology
20 with a design net heat rate of not less than
21 10,500 Btu per kilowatt hour (HHV) and
22 a carbon equivalents emission rate of not
23 more than 0.60 pound of carbon per kilo-
24 watt hour when the design coal has a heat
25 content of 8,000 Btu per pound or less, or

1 “(iii) natural gas-fired combustion
2 technology with a design net heat rate of
3 not less than 7,500 Btu per kilowatt hour
4 (HHV) and a carbon equivalents emission
5 rate of not more than 0.24 pound of car-
6 bon per kilowatt hour.

7 “(E) DESIGN NET HEAT RATE.—The de-
8 sign net heat rate shall be based on the design
9 annual heat input to and the design annual net
10 electrical output from the qualifying advanced
11 clean coal technology (determined without re-
12 gard to such technology’s co-generation of
13 steam).

14 “(F) SELECTION CRITERIA.—Selection cri-
15 teria for clean coal technology facilities—

16 “(i) shall be established by the Sec-
17 retary of Energy as part of a competitive
18 solicitation,

19 “(ii) shall include primary criteria of
20 minimum design net heat rate, maximum
21 design thermal efficiency, and lowest cost
22 to the government, and

23 “(iii) shall include supplemental cri-
24 teria as determined appropriate by the
25 Secretary of Energy.

1 “(c) QUALIFIED INVESTMENT.—For purposes of sub-
2 section (a), the term ‘qualified investment’ means, with
3 respect to any taxable year, the basis of a qualifying ad-
4 vanced clean coal technology facility placed in service by
5 the taxpayer during such taxable year.

6 “(d) QUALIFIED PROGRESS EXPENDITURES.—

7 “(1) INCREASE IN QUALIFIED INVESTMENT.—
8 In the case of a taxpayer who has made an election
9 under paragraph (5), the amount of the qualified in-
10 vestment of such taxpayer for the taxable year (de-
11 termined under subsection (c) without regard to this
12 section) shall be increased by an amount equal to
13 the aggregate of each qualified progress expenditure
14 for the taxable year with respect to progress expend-
15 iture property.

16 “(2) PROGRESS EXPENDITURE PROPERTY DE-
17 FINED.—For purposes of this subsection, the term
18 ‘progress expenditure property’ means any property
19 being constructed by or for the taxpayer and which
20 it is reasonable to believe will qualify as a qualifying
21 advanced clean coal technology facility which is
22 being constructed by or for the taxpayer when it is
23 placed in service.

24 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
25 FINED.—For purposes of this subsection—

1 “(A) SELF-CONSTRUCTED PROPERTY.—In
2 the case of any self-constructed property, the
3 term ‘qualified progress expenditures’ means
4 the amount which, for purposes of this subpart,
5 is properly chargeable (during such taxable
6 year) to capital account with respect to such
7 property.

8 “(B) NONSELF-CONSTRUCTED PROP-
9 ERTY.—In the case of nonself-constructed prop-
10 erty, the term ‘qualified progress expenditures’
11 means the amount paid during the taxable year
12 to another person for the construction of such
13 property.

14 “(4) OTHER DEFINITIONS.—For purposes of
15 this subsection—

16 “(A) SELF-CONSTRUCTED PROPERTY.—
17 The term ‘self-constructed property’ means
18 property for which it is reasonable to believe
19 that more than half of the construction expendi-
20 tures will be made directly by the taxpayer.

21 “(B) NONSELF-CONSTRUCTED PROP-
22 ERTY.—The term ‘nonself-constructed property’
23 means property which is not self-constructed
24 property.

1 “(C) CONSTRUCTION, ETC.—The term
2 ‘construction’ includes reconstruction and erec-
3 tion, and the term ‘constructed’ includes recon-
4 structed and erected.

5 “(D) ONLY CONSTRUCTION OF QUALI-
6 FYING ADVANCED CLEAN COAL TECHNOLOGY
7 FACILITY TO BE TAKEN INTO ACCOUNT.—Con-
8 struction shall be taken into account only if, for
9 purposes of this subpart, expenditures therefor
10 are properly chargeable to capital account with
11 respect to the property.

12 “(5) ELECTION.—An election under this sub-
13 section may be made at such time and in such man-
14 ner as the Secretary may by regulations prescribe.
15 Such an election shall apply to the taxable year for
16 which made and to all subsequent taxable years.
17 Such an election, once made, may not be revoked ex-
18 cept with the consent of the Secretary.

19 “(e) COORDINATION WITH OTHER CREDITS.—This
20 section shall not apply to any property with respect to
21 which the rehabilitation credit under section 47 or the en-
22 ergy credit under section 48 is allowed unless the taxpayer
23 elects to waive the application of such credit to such prop-
24 erty.

1 “(f) TERMINATION.—This section shall not apply
2 with respect to any qualified investment made more than
3 10 years after the effective date of this section.”

4 (c) RECAPTURE.—Section 50(a) (relating to other
5 special rules), as amended by this Act, is amended by add-
6 ing at the end the following:

7 “(7) SPECIAL RULES RELATING TO QUALIFYING
8 ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—
9 For purposes of applying this subsection in the case
10 of any credit allowable by reason of section 48B, the
11 following shall apply:

12 “(A) GENERAL RULE.—In lieu of the
13 amount of the increase in tax under paragraph
14 (1), the increase in tax shall be an amount
15 equal to the investment tax credit allowed under
16 section 38 for all prior taxable years with re-
17 spect to a qualifying advanced clean coal tech-
18 nology facility (as defined by section 48B(b)(1))
19 multiplied by a fraction whose numerator is the
20 number of years remaining to fully depreciate
21 under this title the qualifying advanced clean
22 coal technology facility disposed of, and whose
23 denominator is the total number of years over
24 which such facility would otherwise have been
25 subject to depreciation. For purposes of the

1 preceding sentence, the year of disposition of
2 the qualifying advanced clean coal technology
3 facility property shall be treated as a year of re-
4 maining depreciation.

5 “(B) PROPERTY CEASES TO QUALIFY FOR
6 PROGRESS EXPENDITURES.—Rules similar to
7 the rules of paragraph (2) shall apply in the
8 case of qualified progress expenditures for a
9 qualifying advanced clean coal technology facil-
10 ity under section 48B, except that the amount
11 of the increase in tax under subparagraph (A)
12 of this paragraph shall be substituted in lieu of
13 the amount described in such paragraph (2).

14 “(C) APPLICATION OF PARAGRAPH.—This
15 paragraph shall be applied separately with re-
16 spect to the credit allowed under section 38 re-
17 garding a qualifying advanced clean coal tech-
18 nology facility.”

19 (d) TRANSITIONAL RULE.—Section 39(d) (relating to
20 transitional rules), as amended by this Act, is amended
21 by adding at the end the following:

22 “(12) NO CARRYBACK OF SECTION 48B CREDIT
23 BEFORE EFFECTIVE DATE.—No portion of the un-
24 used business credit for any taxable year which is
25 attributable to the qualifying advanced clean coal

1 technology facility credit determined under section
2 48B may be carried back to a taxable year ending
3 before the date of the enactment of section 48B.”

4 (e) TECHNICAL AMENDMENTS.—

5 (1) Section 49(a)(1)(C), as amended by this
6 Act, is amended by striking “and” at the end of
7 clause (iii), by striking the period at the end of
8 clause (iv) and inserting “, and”, and by adding at
9 the end the following:

10 “(v) the portion of the basis of any
11 qualifying advanced clean coal technology
12 facility attributable to any qualified invest-
13 ment (as defined by section 48B(c)).”

14 (2) Section 50(a)(4), as amended by this Act,
15 is amended by striking “and (6)” and inserting “(6),
16 and (7)”.

17 (3) Section 50(c)(6), as added by this Act, is
18 amended by inserting “or any advanced clean coal
19 technology facility credit under section 48B” after
20 “section 48A”.

21 (4) The table of sections for subpart E of part
22 IV of subchapter A of chapter 1, as amended by this
23 Act, is amended by inserting after the item relating
24 to section 48A the following:

“Sec. 48B. Qualifying advanced clean coal technology facility credit.”

1 (f) INSTALLATIONS NOT SUBJECT TO NEW SOURCE
2 REVIEW, ETC.—

3 (1) EXEMPTION FROM NEW SOURCE REVIEW.—

4 The installation of a qualifying advanced clean coal
5 technology facility (as defined in section 48B(b)(1)
6 of the Internal Revenue Code of 1986, as added by
7 subsection (b)), shall be exempt from the new source
8 review provisions of the Clean Air Act (42 U.S.C.
9 7401 et seq.).

10 (2) EXEMPTION FROM EMISSION CONTROL RE-

11 QUIREMENTS.—The installation of a qualifying ad-
12 vanced clean coal technology facility (as so defined)
13 which meets or exceeds, for the applicable source
14 category, the standard of performance for new sta-
15 tionary sources established under section 111 of the
16 Clean Air Act (42 U.S.C. 7411), shall exempt that
17 facility from any new or increased emission control
18 requirements under title I of such Act (42 U.S.C.
19 7401 et seq.) for a period of 10 years after the date
20 the qualifying advanced clean coal technology facility
21 is originally placed in service.

22 (g) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to periods after December 31,
24 2000, under rules similar to the rules of section 48(m)
25 of the Internal Revenue Code of 1986 (as in effect on the

1 day before the date of the enactment of the Revenue Rec-
 2 onciliation Act of 1990).

3 **SEC. 947. CREDIT FOR PRODUCTION FROM QUALIFYING**
 4 **ADVANCED CLEAN COAL TECHNOLOGY.**

5 (a) CREDIT FOR PRODUCTION FROM QUALIFYING
 6 ADVANCED CLEAN COAL TECHNOLOGY.—Subpart D of
 7 part IV of subchapter A of chapter 1 (relating to business
 8 related credits), as amended by this Act, is amended by
 9 adding at the end the following:

10 **“SEC. 45G. CREDIT FOR PRODUCTION FROM QUALIFYING**
 11 **ADVANCED CLEAN COAL TECHNOLOGY.**

12 “(a) GENERAL RULE.—For purposes of section 38,
 13 the qualifying advanced clean coal technology production
 14 credit of any taxpayer for any taxable year is equal to—

15 “(1) the applicable amount of advanced clean
 16 coal technology production credit, multiplied by

17 “(2) the sum of—

18 “(A) the kilowatt hours of electricity, plus

19 “(B) each 3413 Btu of fuels or chemicals,
 20 produced by the taxpayer during such taxable year
 21 at a qualifying advanced clean coal technology facil-
 22 ity during the 10-year period beginning on the date
 23 the facility was originally placed in service.

24 “(b) APPLICABLE AMOUNT.—For purposes of this
 25 section, the applicable amount of advanced clean coal tech-

1 nology production credit with respect to production from
 2 a qualifying advanced clean coal technology facility shall
 3 be determined as follows:

4 “(1) Where the design coal has a heat content
 5 of more than 8,000 Btu per pound:

6 “(A) In the case of a facility originally
 7 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	\$.0050	\$.0030
More than 8,400 but not more than 8,550	\$.0010	\$.0010
More than 8,550 but not more than 8,750	\$.0005	\$.0005.

8 “(B) In the case of a facility originally
 9 placed in service after 2007 and before 2012,
 10 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	\$.0090	\$.0075
More than 7,770 but not more than 8,125	\$.0070	\$.0050
More than 8,125 but not more than 8,350	\$.0060	\$.0040.

11 “(C) In the case of a facility originally
 12 placed in service after 2011 and before 2015,
 13 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	\$.0120	\$.0090
More than 7,380 but not more than 7,720	\$.0095	\$.0070.

14 “(2) Where the design coal has a heat content
 15 of not more than 8,000 Btu per pound:

1 “(A) In the case of a facility originally
 2 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	\$.0050	\$.0030
More than 8,500 but not more than 8,650	\$.0010	\$.0010
More than 8,650 but not more than 8,750	\$.0005	\$.0005.

3 “(B) In the case of a facility originally
 4 placed in service after 2007 and before 2012,
 5 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000	\$.0090	\$.0075
More than 8,000 but not more than 8,250	\$.0070	\$.0050
More than 8,250 but not more than 8,400	\$.0060	\$.0040.

6 “(C) In the case of a facility originally
 7 placed in service after 2011 and before 2015,
 8 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800	\$.0120	\$.0090
More than 7,800 but not more than 7,950	\$.0095	\$.0070.

9 “(3) Where the clean coal technology facility is
 10 producing fuel or chemicals:

11 “(A) In the case of a facility originally
 12 placed in service before 2008, if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	\$.0050	\$.0030
Less than 40.6 but not less than 40 percent	\$.0010	\$.0010
Less than 40 but not less than 39 percent	\$.0005	\$.0005.

1 “(B) In the case of a facility originally
 2 placed in service after 2007 and before 2012,
 3 if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	\$.0090	\$.0075
Less than 43.9 but not less than 42 percent	\$.0070	\$.0050
Less than 42 but not less than 40.9 percent	\$.0060	\$.0040.

4 “(C) In the case of a facility originally
 5 placed in service after 2011 and before 2015,
 6 if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	\$.0120	\$.0090
Less than 44.2 but not less than 43.6 percent	\$.0095	\$.0070.

7 “(c) INFLATION ADJUSTMENT FACTOR.—For cal-
 8 endar years after 2001, each amount in paragraphs (1),
 9 (2), and (3) of subsection (b) shall be adjusted by multi-
 10 plying such amount by the inflation adjustment factor for
 11 the calendar year in which the amount is applied. If any
 12 amount has increased under the preceding sentence is not
 13 a multiple of 0.01 cent, such amount shall be rounded to
 14 the nearest multiple of 0.01 cent.

15 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
 16 poses of this section—

17 “(1) IN GENERAL.—Any term used in this sec-
 18 tion which is also used in section 48B shall have the
 19 meaning given such term in section 48B.

1 “(2) APPLICABLE RULES.—The rules of para-
2 graphs (3), (4), and (5) of section 45 shall apply.

3 “(3) INFLATION ADJUSTMENT FACTOR.—The
4 term ‘inflation adjustment factor’ means, with re-
5 spect to a calendar year, a fraction the numerator
6 of which is the GDP implicit price deflator for the
7 preceding calendar year and the denominator of
8 which is the GDP implicit price deflator for the cal-
9 endar year 2000.

10 “(4) GDP IMPLICIT PRICE DEFLATOR.—The
11 term ‘GDP implicit price deflator’ means the most
12 recent revision of the implicit price deflator for the
13 gross domestic product as computed by the Depart-
14 ment of Commerce before March 15 of the calendar
15 year.”

16 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
17 tion 38(b), as amended by this Act, is amended by striking
18 “plus” at the end of paragraph (14), by striking the period
19 at the end of paragraph (15) and inserting “, plus”, and
20 by adding at the end the following:

21 “(16) the qualifying advanced clean coal tech-
22 nology production credit determined under section
23 45G(a).”

1 (c) TRANSITIONAL RULE.—Section 39(d) (relating to
2 transitional rules), as amended by this Act, is amended
3 by adding at the end the following:

4 “(13) NO CARRYBACK OF SECTION 45H CREDIT
5 BEFORE EFFECTIVE DATE.—No portion of the un-
6 used business credit for any taxable year which is
7 attributable to the qualifying advanced clean coal
8 technology production credit determined under sec-
9 tion 45G may be carried back to a taxable year end-
10 ing before the date of enactment of section 45G.”

11 (d) CLERICAL AMENDMENT.—The table of sections
12 for subpart D of part IV of subchapter A of chapter 1,
13 as amended by this Act, is amended by adding at the end
14 the following:

“Sec. 45G. Credit for production from qualifying advanced clean coal tech-
nology.”

15 (e) INSTALLATIONS NOT SUBJECT TO NEW SOURCE
16 REVIEW, ETC.—

17 (1) EXEMPTION FROM NEW SOURCE REVIEW.—
18 The installation of a qualifying advanced clean coal
19 technology facility which has qualified for a quali-
20 fying advanced clean coal technology production
21 credit determined under section 45G of the Internal
22 Revenue Code of 1986, as added by subsection (a),
23 shall be exempt from the new source review provi-
24 sions of the Clean Air Act (42 U.S.C. 7401 et seq.).

1 (2) EXEMPTION FROM EMISSION CONTROL RE-
2 QUIREMENTS.—The installation of a qualifying ad-
3 vanced clean coal technology facility which has quali-
4 fied for a qualifying advanced clean coal technology
5 production credit determined under such section
6 45G and which meets or exceeds, for the applicable
7 source category, the standard of performance for
8 new stationary sources established under section 111
9 of the Clean Air Act (42 U.S.C. 7411), shall exempt
10 that facility from any new or increased emission con-
11 trol requirements under title I of such Act (42
12 U.S.C. 7401 et seq.) for a period of 10 years after
13 the date the qualifying advanced clean coal tech-
14 nology facility is originally placed in service.

15 (f) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to production after the date of the
17 enactment of this Act.

18 **Subtitle C—Provisions Relating to** 19 **Natural Gas**

20 **SEC. 951. ARBITRAGE RULES NOT TO APPLY TO PREPAY-** 21 **MENTS FOR NATURAL GAS AND OTHER COM-** 22 **MODITIES.**

23 (a) IN GENERAL.—Section 148(b) (defining higher
24 yielding investments) is amended by adding at the end the
25 following new paragraph:

1 “(4) INVESTMENT PROPERTY NOT TO INCLUDE
2 CERTAIN PREPAYMENTS TO ENSURE COMMODITY
3 SUPPLY.—The term ‘investment property’ shall not
4 include a prepayment entered into for the purpose of
5 obtaining a supply of a commodity reasonably ex-
6 pected to be used in a business of one or more utili-
7 ties each of which is owned and operated by a State
8 or local government, any political subdivision or in-
9 strumentality thereof, or any governmental unit act-
10 ing for or on behalf of such a utility.”

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to obligations issued after the date
13 of the enactment of this Act.

14 **SEC. 952. PRIVATE LOAN FINANCING TEST NOT TO APPLY**
15 **TO PREPAYMENTS FOR NATURAL GAS AND**
16 **OTHER COMMODITIES.**

17 (a) IN GENERAL.—Section 141(c)(2) (providing ex-
18 ceptions to the private loan financing test) is amended by
19 striking “or” at the end of subparagraph (A), by striking
20 the period at the end of subparagraph (B) and inserting
21 “, or”, and by adding at the end the following:

22 “(C) arises from a transaction described in
23 section 148(b)(4).”

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to obligations issued after the date
 3 of the enactment of this Act.

4 **Subtitle D—Provisions Relating to** 5 **Electric Power**

6 **SEC. 956. DEPRECIATION OF PROPERTY USED IN THE GEN-** 7 **ERATION OR TRANSMISSION OF ELEC-** 8 **TRICITY.**

9 (a) DEPRECIATION OF PROPERTY USED IN THE
 10 GENERATION OR TRANSMISSION OF ELECTRICITY.—

11 (1) IN GENERAL.—Subparagraph (C) of section
 12 168(e)(3) (relating to 7-year property), as amended
 13 by this Act, is amended by striking “and” at the end
 14 of clause (v), by redesignating clause (vi) as clause
 15 (vii), and by inserting after clause (v) the following
 16 new clause:

17 “(vi) any property used in the genera-
 18 tion or transmission of electricity, and”.

19 (2) 10-YEAR CLASS LIFE.—The table contained
 20 in section 168(g)(3)(B) is amended by inserting
 21 after the item relating to subparagraph (C)(v) the
 22 following new item:

“(C)(vi) 10”.

23 (b) DEFINITION OF PROPERTY USED IN THE GEN-
 24 ERATION OR TRANSMISSION OF ELECTRICITY.—Sub-
 25 section (i) of section 168, as amended by this Act, is

1 amended by adding at the end the following new para-
2 graph:

3 “(18) PROPERTY USED IN THE GENERATION OR
4 TRANSMISSION OF ELECTRICITY.—

5 “(A) GENERATION.—The term ‘property
6 used in the generation of electricity’ means
7 property used in nuclear power production of
8 electricity for sale, property used in hydraulic
9 power production of electricity for sale, property
10 used in steam power production of electricity
11 for sale, and property used in combustion tur-
12 bine production of electricity for sale.

13 “(B) TRANSMISSION.—The term ‘property
14 used in the transmission of electricity’ means
15 property used in the transmission of electricity
16 for sale.”

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service after
19 the date of the enactment of this Act.

20 **SEC. 957. TAX-EXEMPT BOND FINANCING OF CERTAIN**
21 **ELECTRIC FACILITIES.**

22 (a) RULES APPLICABLE TO ELECTRIC OUTPUT FA-
23 CILITIES.—Subpart A of part IV of subchapter B of chap-
24 ter 1 (relating to tax exemption requirements for State

1 and local bonds) is amended by inserting after section 141
2 the following new section:

3 **“SEC. 141A. ELECTRIC OUTPUT FACILITIES.**

4 “(a) ELECTION TO TERMINATE TAX-EXEMPT BOND
5 FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILI-
6 TIES.—

7 “(1) IN GENERAL.—A governmental unit may
8 make an irrevocable election under this paragraph to
9 terminate certain tax-exempt financing for electric
10 output facilities. If the governmental unit makes
11 such election, then—

12 “(A) except as provided in paragraph (2),
13 on or after the date of such election the govern-
14 mental unit may not issue with respect to an
15 electric output facility any bond the interest on
16 which is exempt from tax under section 103,
17 and

18 “(B) notwithstanding paragraph (1) or (2)
19 of section 141(a) or paragraph (4) or (5) of
20 section 141(b), no bond which was issued by
21 such unit with respect to an electric output fa-
22 cility before the date of enactment of this sub-
23 section (or which is described in paragraph
24 (2)(B), (D), (E) or (F)) the interest on which

1 was exempt from tax on such date, shall be
2 treated as a private activity bond.

3 “(2) EXCEPTIONS.—An election under para-
4 graph (1) does not apply to any of the following
5 bonds:

6 “(A) Any qualified bond (as defined in sec-
7 tion 141(e)).

8 “(B) Any eligible refunding bond (as de-
9 fined in subsection (d)(6)).

10 “(C) Any bond issued to finance a quali-
11 fying transmission facility or a qualifying dis-
12 tribution facility.

13 “(D) Any bond issued to finance equip-
14 ment or facilities necessary to meet Federal or
15 State environmental requirements applicable to
16 an existing generation facility.

17 “(E) Any bond issued to finance repair of
18 any existing generation facility. Repairs of fa-
19 cilities may not increase the generation capacity
20 of the facility by more than 3 percent above the
21 greater of its nameplate or rated capacity as of
22 the date of the enactment of this section.

23 “(F) Any bond issued to acquire or con-
24 struct (i) a qualified facility, as defined in sec-
25 tion 45(c)(3), if such facility is placed in service

1 during a period in which a qualified facility may
2 be placed in service under such section, or (ii)
3 any energy property, as defined in section
4 48(a)(3).

5 “(3) FORM AND EFFECT OF ELECTION.—

6 “(A) IN GENERAL.—An election under
7 paragraph (1) shall be made in such a manner
8 as the Secretary prescribes and shall be binding
9 on any successor in interest to, or any related
10 party with respect to, the electing governmental
11 unit. For purposes of this paragraph, a govern-
12 mental unit shall be treated as related to an-
13 other governmental unit if it is a member of the
14 same controlled group.

15 “(B) TREATMENT OF ELECTING GOVERN-
16 MENTAL UNIT.—A governmental unit which
17 makes an election under paragraph (1) shall be
18 treated for purposes of section 141 as a person
19 which is not a governmental unit and which is
20 engaged in a trade or business, with respect to
21 its purchase of electricity generated by an elec-
22 tric output facility placed in service after such
23 election, if such purchase is under a contract
24 executed after such election.

1 “(4) DEFINITIONS.—For purposes of this sub-
2 section:

3 “(A) EXISTING GENERATION FACILITY.—
4 The term ‘existing generation facility’ means an
5 electric generation facility in service on the date
6 of the enactment of this subsection or the con-
7 struction of which commenced before June 1,
8 2000.

9 “(B) QUALIFYING DISTRIBUTION FACIL-
10 ITY.—The term ‘qualifying distribution facility’
11 means a distribution facility over which open
12 access distribution services described in sub-
13 section (b)(2)(C) are provided.

14 “(C) QUALIFYING TRANSMISSION FACIL-
15 ITY.—The term ‘qualifying transmission facil-
16 ity’ means a local transmission facility (as de-
17 fined in subsection (c)(3)(A)) over which open
18 access transmission services described in sub-
19 paragraph (A), (B), or (E) of subsection (b)(2)
20 are provided.

21 “(b) PERMITTED OPEN ACCESS ACTIVITIES AND
22 SALES TRANSACTIONS NOT A PRIVATE BUSINESS USE
23 FOR BONDS WHICH REMAIN SUBJECT TO PRIVATE USE
24 RULES.—

1 “(1) GENERAL RULE.—For purposes of this
2 section and section 141, the term ‘private business
3 use’ shall not include a permitted open access activ-
4 ity or a permitted sales transaction.

5 “(2) PERMITTED OPEN ACCESS ACTIVITIES.—
6 For purposes of this section, the term ‘permitted
7 open access activity’ means any of the following
8 transactions or activities with respect to an electric
9 output facility owned by a governmental unit:

10 “(A) Providing nondiscriminatory open ac-
11 cess transmission service and ancillary
12 services—

13 “(i) pursuant to an open access trans-
14 mission tariff filed with and approved by
15 FERC, but, in the case of a voluntarily
16 filed tariff, only if the governmental unit
17 voluntarily files a report described in para-
18 graph (c) or (h) of section 35.34 of title 18
19 of the Code of Federal Regulations or suc-
20 cessor provision (relating to whether or not
21 the issuer will join a regional transmission
22 organization) not later than the later of
23 the applicable date prescribed in such
24 paragraphs or 60 days after the date of
25 the enactment of this section,

1 “(ii) under an independent system op-
2 erator agreement, regional transmission or-
3 ganization agreement, or regional trans-
4 mission group agreement approved by
5 FERC, or

6 “(iii) in the case of an ERCOT utility
7 (as defined in section 212(k)(2)(B) of the
8 Federal Power Act (16 U.S.C.
9 824k(k)(2)(B)), pursuant to a tariff ap-
10 proved by the Public Utility Commission of
11 Texas.

12 “(B) Participation in—

13 “(i) an independent system operator
14 agreement,

15 “(ii) a regional transmission organiza-
16 tion agreement, or

17 “(iii) a regional transmission group,
18 which has been approved by FERC, or by the
19 Public Utility Commission of Texas in the case
20 of an ERCOT utility (as so defined). Such par-
21 ticipation may include transfer of control of
22 transmission facilities to an organization de-
23 scribed in clause (i), (ii), or (iii).

24 “(C) Delivery on a nondiscriminatory open
25 access basis of electric energy sold to end-users

1 served by distribution facilities owned by such
2 governmental unit.

3 “(D) Delivery on a nondiscriminatory open
4 access basis of electric energy generated by gen-
5 eration facilities connected to distribution facili-
6 ties owned by such governmental unit.

7 “(E) Other transactions providing non-
8 discriminatory open access transmission or dis-
9 tribution services under Federal, State, or local
10 open access, retail competition, or similar pro-
11 grams, to the extent provided in regulations
12 prescribed by the Secretary.

13 “(3) PERMITTED SALES TRANSACTION.—For
14 purposes of this subsection, the term ‘permitted
15 sales transaction’ means any of the following sales of
16 electric energy from existing generation facilities (as
17 defined in subsection (a)(4)(A)):

18 “(A) The sale of electricity to an on-system
19 purchaser, if the seller provides open access dis-
20 tribution service under paragraph (2)(C) and,
21 in the case of a seller which owns or operates
22 transmission facilities, if such seller provides
23 open access transmission under subparagraph
24 (A), (B), or (E) of paragraph (2).

1 “(B) The sale of electricity to a wholesale
2 native load purchaser or in a wholesale strand-
3 ed cost mitigation sale—

4 “(i) if the seller provides open access
5 transmission service described in subpara-
6 graph (A), (B), or (E) of paragraph (2), or

7 “(ii) if the seller owns or operates no
8 transmission facilities and transmission
9 providers to the seller’s wholesale native
10 load purchasers provide open access trans-
11 mission service described in subparagraph
12 (A), (B), or (E) of paragraph (2).

13 “(4) DEFINITIONS AND SPECIAL RULES.—For
14 purposes of this subsection—

15 “(A) ON-SYSTEM PURCHASER.—The term
16 ‘on-system purchaser’ means a person whose
17 electric facilities or equipment are directly con-
18 nected with transmission or distribution facili-
19 ties which are owned by a governmental unit,
20 and such person—

21 “(i) purchases electric energy from
22 such governmental unit at retail and either
23 was within such unit’s distribution area in
24 the base year or is a person as to whom

1 the governmental unit has a service obliga-
2 tion, or

3 “(ii) is a wholesale native load pur-
4 chaser from such governmental unit.

5 “(B) WHOLESALE NATIVE LOAD PUR-
6 CHASER.—The term ‘wholesale native load pur-
7 chaser’ means a wholesale purchaser as to
8 whom the governmental unit had—

9 “(i) a service obligation at wholesale
10 in the base year, or

11 “(ii) an obligation in the base year
12 under a requirements contract, or under a
13 firm sales contract which has been in effect
14 for (or has an initial term of) at least 10
15 years,

16 but only to the extent that in either case such
17 purchaser resells the electricity at retail to per-
18 sons within the purchaser’s distribution area.

19 “(C) WHOLESALE STRANDED COST MITI-
20 GATION SALE.—The term ‘wholesale stranded
21 cost mitigation sale’ means 1 or more wholesale
22 sales made in accordance with the following re-
23 quirements:

24 “(i) A governmental unit’s allowable
25 sales under this subparagraph during the

1 recovery period may not exceed the sum of
2 its annual load losses for each year of the
3 recovery period.

4 “(ii) The governmental unit’s annual
5 load loss for each year of the recovery pe-
6 riod is the amount (if any) by which—

7 “(I) sales in the base year to
8 wholesale native load purchasers
9 which do not constitute a private busi-
10 ness use, exceed

11 “(II) sales during that year of
12 the recovery period to wholesale native
13 load purchasers which do not con-
14 stitute a private business use.

15 “(iii) If actual sales under this sub-
16 paragraph during the recovery period are
17 less than allowable sales under clause (i),
18 the amount not sold (but not more than 10
19 percent of the aggregate allowable sales
20 under clause (i)) may be carried over and
21 sold as wholesale stranded cost mitigation
22 sales in the calendar year following the re-
23 covery period.

1 “(D) RECOVERY PERIOD.—The recovery
2 period is the 7-year period beginning with the
3 start-up year.

4 “(E) START-UP YEAR.—The start-up year
5 is whichever of the following calendar years the
6 governmental unit elects:

7 “(i) The year the governmental unit
8 first offers open transmission access.

9 “(ii) The first year in which at least
10 10 percent of the governmental unit’s
11 wholesale customers’ aggregate retail na-
12 tive load is open to retail competition.

13 “(iii) The calendar year which in-
14 cludes the date of the enactment of this
15 section, if later than the year described in
16 clause (i) or (ii).

17 “(F) PERMITTED SALES TRANSACTIONS
18 UNDER EXISTING CONTRACTS.—A sale to a
19 wholesale native load purchaser (other than a
20 person to whom the governmental unit had a
21 service obligation) under a contract which re-
22 sulted in private business use in the base year
23 shall be treated as a permitted sales transaction
24 only to the extent that sales under the contract
25 exceed the lesser of—

1 “(i) in any year, the private business
2 use which resulted during the base year, or

3 “(ii) the maximum amount of private
4 business use which could occur (absent the
5 enactment of this section) without causing
6 the bonds to be private activity bonds.

7 This subparagraph shall only apply to the ex-
8 tent that the sale is allocable to bonds issued
9 before the date of the enactment of this section
10 (or bonds issued to refund such bonds).

11 “(G) JOINT ACTION AGENCIES.—A joint
12 action agency, or a member of (or a wholesale
13 native load purchaser from) a joint action agen-
14 cy, which is entitled to make a sale described in
15 subparagraph (A) or (B) in a year, may trans-
16 fer the entitlement to make that sale to the
17 member (or purchaser), or the joint action
18 agency, respectively.

19 “(c) CERTAIN BONDS FOR TRANSMISSION AND DIS-
20 TRIBUTION FACILITIES NOT TAX EXEMPT.—

21 “(1) GENERAL RULE.—For purposes of this
22 title, no bond the interest on which is exempt from
23 taxation under section 103 may be issued on or after
24 the date of the enactment of this subsection if any
25 of the proceeds of such issue are used to finance—

1 “(A) any transmission facility which is not
2 a local transmission facility, or

3 “(B) a start-up utility distribution facility.

4 “(2) EXCEPTIONS.—Paragraph (1) shall not
5 apply to—

6 “(A) any qualified bond (as defined in sec-
7 tion 141(e)),

8 “(B) any eligible refunding bond (as de-
9 fined in subsection (d)(6)), or

10 “(C) any bond issued to finance—

11 “(i) any repair of a transmission facil-
12 ity in service on the date of the enactment
13 of this section, so long as the repair does
14 not increase the voltage level over its level
15 in the base year or increase the thermal
16 load limit of the transmission facility by
17 more than 3 percent over such limit in the
18 base year,

19 “(ii) any qualifying upgrade of a
20 transmission facility in service on the date
21 of the enactment of this section, or

22 “(iii) a transmission facility necessary
23 to comply with an obligation under a
24 shared or reciprocal transmission agree-

1 ment in effect on the date of the enact-
2 ment of this section.

3 “(3) LOCAL TRANSMISSION FACILITY DEFINI-
4 TIONS AND SPECIAL RULES.—For purposes of this
5 subsection—

6 “(A) LOCAL TRANSMISSION FACILITY.—
7 The term ‘local transmission facility’ means a
8 transmission facility which is located within the
9 governmental unit’s distribution area or which
10 is, or will be, necessary to supply electricity to
11 serve retail native load or wholesale native load
12 of 1 or more governmental units. For purposes
13 of this subparagraph, the distribution area of a
14 public power authority which was created in
15 1931 by a State statute and which, as of Janu-
16 ary 1, 1999, owned at least one-third of the
17 transmission circuit miles rated at 230kV or
18 greater in the State, shall be determined under
19 regulations of the Secretary.

20 “(B) RETAIL NATIVE LOAD.—The term
21 ‘retail native load’ is the electric load of end-
22 users served by distribution facilities owned by
23 a governmental unit.

24 “(C) WHOLESALE NATIVE LOAD.—The
25 term ‘wholesale native load’ is—

1 “(i) the retail native load of a govern-
2 mental unit’s wholesale native load pur-
3 chasers, and

4 “(ii) the electric load of purchasers
5 (not described in clause (i)) under whole-
6 sale requirements contracts which—

7 “(I) do not constitute private
8 business use under the rules in effect
9 absent this subsection, and

10 “(II) were in effect in the base
11 year.

12 “(D) NECESSARY TO SERVE LOAD.—For
13 purposes of determining whether a transmission
14 or distribution facility is, or will be, necessary
15 to supply electricity to retail native load or
16 wholesale native load—

17 “(i) electric reliability standards or re-
18 quirements of national or regional reli-
19 ability organizations, regional transmission
20 organizations, and the Electric Reliability
21 Council of Texas shall be taken into ac-
22 count, and

23 “(ii) transmission, siting, and con-
24 struction decisions of regional transmission
25 organizations or independent system opera-

1 tors and State and Federal agencies shall
2 be presumptive evidence regarding whether
3 transmission facilities are necessary to
4 serve native load.

5 “(E) QUALIFYING UPGRADE.—The term
6 ‘qualifying upgrade’ means an improvement or
7 addition to transmission facilities in service on
8 the date of the enactment of this section which
9 is ordered or approved by a regional trans-
10 mission organization, by an independent system
11 operator, or by a State regulatory or siting
12 agency.

13 “(4) START-UP UTILITY DISTRIBUTION FACIL-
14 ITY DEFINED.—For purposes of this subsection, the
15 term ‘start-up utility distribution facility’ means any
16 distribution facility to provide electric service to the
17 public that is placed in service—

18 “(A) by a governmental unit which did not
19 operate an electric utility on the date of the en-
20 actment of this section, and

21 “(B) before the date on which such govern-
22 mental unit operates in a qualified service area
23 (as such term is defined in section
24 141(d)(3)(B)).

1 A governmental unit is deemed to have operated an
2 electric utility on the date of the enactment of this
3 section if it operates electric output facilities which
4 were operated by another governmental unit to pro-
5 vide electric service to the public on such date.

6 “(d) DEFINITIONS; SPECIAL RULES.—For purposes
7 of this section—

8 “(1) BASE YEAR.—The term ‘base year’ means
9 the calendar year which includes the date of the en-
10 actment of this section or, at the election of the gov-
11 ernmental unit, either of the 2 immediately pre-
12 ceding calendar years.

13 “(2) DISTRIBUTION AREA.—The term ‘distribu-
14 tion area’ means the area in which a governmental
15 unit owns distribution facilities.

16 “(3) ELECTRIC OUTPUT FACILITY.—The term
17 ‘electric output facility’ means an output facility
18 that is an electric generation, transmission, or dis-
19 tribution facility.

20 “(4) DISTRIBUTION FACILITY.—The term ‘dis-
21 tribution facility’ means an electric output facility
22 that is not a generation or transmission facility.

23 “(5) TRANSMISSION FACILITY.—The term
24 ‘transmission facility’ means an electric output facil-
25 ity (other than a generation facility) that operates at

1 an electric voltage of 69kV or greater, except that
2 the owner of the facility may elect to treat any out-
3 put facility that is a transmission facility for pur-
4 poses of the Federal Power Act as a transmission fa-
5 cility for purposes of this section.

6 “(6) ELIGIBLE REFUNDING BOND.—The term
7 ‘eligible refunding bond’ means any State or local
8 bond issued after an election described in subsection
9 (a) that directly or indirectly refunds any tax-exempt
10 bond (other than a qualified bond) issued before
11 such election, if the weighted average maturity of
12 the issue of which the refunding bond is a part does
13 not exceed the remaining weighted average maturity
14 of the bonds issued before the election. In applying
15 such term for purposes of subsection (c)(2)(B), the
16 date of election shall be deemed to be the date of the
17 enactment of this section.

18 “(7) FERC.—The term ‘FERC’ means the
19 Federal Energy Regulatory Commission.

20 “(8) GOVERNMENT-OWNED FACILITY.—An elec-
21 tric output facility shall be treated as owned by a
22 governmental unit if it is an electric output facility
23 that either is—

24 “(A) owned or leased by such govern-
25 mental unit, or

1 “(B) a transmission facility in which the
2 governmental unit acquired before the base year
3 long-term firm capacity for the purposes of
4 serving customers to which the unit had at that
5 time either—

6 “(i) a service obligation, or

7 “(ii) an obligation under a require-
8 ments contract.

9 “(9) REPAIR.—The term ‘repair’ shall include
10 replacement of components of an electric output fa-
11 cility, but shall not include replacement of the facil-
12 ity.

13 “(10) SERVICE OBLIGATION.—The term ‘service
14 obligation’ means an obligation under State or Fed-
15 eral law (exclusive of an obligation arising solely
16 from a contract entered into with a person) to pro-
17 vide electric distribution services or electric sales
18 service, as provided in such law.

19 “(e) SAVINGS CLAUSE.—Subsection (b) shall not af-
20 fect the applicability of section 141 to (or the Secretary’s
21 authority to prescribe, amend, or rescind regulations re-
22 specting) any transaction which is not a permitted open
23 access transaction or permitted sales transaction.”

24 (b) REPEAL OF EXCEPTION FOR CERTAIN NON-
25 GOVERNMENTAL ELECTRIC OUTPUT FACILITIES.—Sec-

1 tion 141(d)(5) is amended by inserting “(except in the
2 case of an electric output facility which is a distribution
3 facility),” after “this subsection”.

4 (c) CONFORMING AMENDMENT.—The table of sec-
5 tions for subpart A of part IV of subchapter B of chapter
6 1 is amended by inserting after the item relating to section
7 141 the following new item:

“Sec. 141A. Electric output facilities.”

8 (d) EFFECTIVE DATE; APPLICABILITY.—

9 (1) EFFECTIVE DATE.—The amendments made
10 by this section shall take effect on the date of the
11 enactment of this Act, except that a governmental
12 unit may elect to apply paragraphs (1) and (2) of
13 section 141A(b) of the Internal Revenue Code of
14 1986, as added by subsection (a), with respect to
15 permitted open access activities entered into on or
16 after April 14, 1996.

17 (2) CERTAIN EXISTING AGREEMENTS.—The
18 amendment made by subsection (b) (relating to re-
19 peal of the exception for certain nongovernmental
20 output facilities) does not apply to any acquisition of
21 facilities made pursuant to an agreement that was
22 entered into before the date of the enactment of this
23 Act.

24 (3) APPLICABILITY.—References in this Act to
25 sections of the Internal Revenue Code of 1986, shall

1 be deemed to include references to comparable sec-
2 tions of the Internal Revenue Code of 1954.

3 **SEC. 958. INDEPENDENT TRANSMISSION COMPANIES.**

4 (a) SALES OR DISPOSITIONS TO IMPLEMENT FED-
5 ERAL ENERGY REGULATORY COMMISSION OR STATE
6 ELECTRIC RESTRUCTURING POLICY.—

7 (1) IN GENERAL.—Section 1033 (relating to in-
8 voluntary conversions) is amended by redesignating
9 subsection (k) as subsection (l) and by inserting
10 after subsection (j) the following new subsection:

11 “(k) SALES OR DISPOSITIONS TO IMPLEMENT FED-
12 ERAL ENERGY REGULATORY COMMISSION OR STATE
13 ELECTRIC RESTRUCTURING POLICY.—

14 “(1) IN GENERAL.—For purposes of this sub-
15 title, if a taxpayer elects the application of this sub-
16 section to a qualifying electric transmission trans-
17 action and the proceeds received from such trans-
18 action are invested in exempt utility property, such
19 transaction shall be treated as an involuntary con-
20 version to which this section applies.

21 “(2) EXTENSION OF REPLACEMENT PERIOD.—
22 In the case of any involuntary conversion described
23 in paragraph (1), subsection (a)(2)(B) shall be ap-
24 plied by substituting ‘4 years’ for ‘2 years’ in clause
25 (i) thereof.

1 “(3) QUALIFYING ELECTRIC TRANSMISSION
2 TRANSACTION.—For purposes of this subsection, the
3 term ‘qualifying electric transmission transaction’
4 means any sale or other disposition of property used
5 in the trade or business of electric transmission, or
6 an ownership interest in a person whose primary
7 trade or business consists of providing electric trans-
8 mission services, to another person that is an inde-
9 pendent transmission company.

10 “(4) INDEPENDENT TRANSMISSION COM-
11 PANY.—For purposes of this subsection, the term
12 ‘independent transmission company’ means—

13 “(A) a regional transmission organization
14 approved by the Federal Energy Regulatory
15 Commission,

16 “(B) a person—

17 “(i) who the Federal Energy Regu-
18 latory Commission determines in its au-
19 thorization of the transaction under section
20 203 of the Federal Power Act (16 U.S.C.
21 823b) is not a market participant within
22 the meaning of such Commission’s rules
23 applicable to regional transmission organi-
24 zations, and

1 “(ii) whose transmission facilities to
2 which the election under this subsection
3 applies are placed under the operational
4 control of a Federal Energy Regulatory
5 Commission-approved regional trans-
6 mission organization within the period
7 specified in such order, but not later than
8 the close of the replacement period, or

9 “(C) in the case of facilities subject to the
10 exclusive jurisdiction of the Public Utility Com-
11 mission of Texas, a person which is approved by
12 that Commission as consistent with Texas State
13 law regarding an independent transmission or-
14 ganization.

15 “(5) EXEMPT UTILITY PROPERTY.—For pur-
16 poses of this subsection, the term ‘exempt utility
17 property’ means—

18 “(A) property used in the trade or business
19 of generating, transmitting, distributing, or sell-
20 ing electricity or producing, transmitting, dis-
21 tributing, or selling natural gas, or

22 “(B) stock in a person whose primary
23 trade or business consists of generating, trans-
24 mitting, distributing, or selling electricity or

1 producing, transmitting, distributing, or selling
2 natural gas.

3 “(6) SPECIAL RULES FOR CONSOLIDATED
4 GROUPS.—

5 “(A) INVESTMENT BY QUALIFYING GROUP
6 MEMBERS.—

7 “(i) IN GENERAL.—This subsection
8 shall apply to a qualifying electric trans-
9 mission transaction engaged in by a tax-
10 payer if the proceeds are invested in ex-
11 empt utility property by a qualifying group
12 member.

13 “(ii) QUALIFYING GROUP MEMBER.—
14 For purposes of this subparagraph, the
15 term ‘qualifying group member’ means any
16 member of a consolidated group within the
17 meaning of section 1502 and the regula-
18 tions promulgated thereunder of which the
19 taxpayer is also a member.

20 “(B) COORDINATION WITH CONSOLIDATED
21 RETURN PROVISIONS.—A sale or other disposi-
22 tion of electric transmission property or an
23 ownership interest in a qualifying electric trans-
24 mission transaction, where an election is made
25 under this subsection, shall not result in the

1 recognition of income or gain under the consoli-
2 dated return provisions of subchapter A of
3 chapter 6. The Secretary shall prescribe such
4 regulations as may be necessary to provide for
5 the treatment of any exempt utility property re-
6 ceived in a qualifying electric transmission
7 transaction as successor assets subject to the
8 application of such consolidated return provi-
9 sions.

10 “(7) ELECTION.—Any election made by a tax-
11 payer under this subsection shall be made by a
12 statement to that effect in the return for the taxable
13 year in which the qualifying electric transmission
14 transaction takes place in such form and manner as
15 the Secretary shall prescribe, and such election shall
16 be binding for that taxable year and all subsequent
17 taxable years.”

18 (2) SAVINGS CLAUSE.—Nothing in section
19 1033(k) of the Internal Revenue Code of 1986, as
20 added by subsection (a), shall affect Federal or
21 State regulatory policy respecting the extent to
22 which any acquisition premium paid in connection
23 with the purchase of an asset in a qualifying electric
24 transmission transaction can be recovered in rates.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to transactions occur-
3 ring after the date of the enactment of this Act.

4 (b) DISTRIBUTIONS OF STOCK TO IMPLEMENT FED-
5 ERAL ENERGY REGULATORY COMMISSION OR STATE
6 ELECTRIC RESTRUCTURING POLICY.

7 (1) IN GENERAL.—Section 355(e)(4) is amend-
8 ed by redesignating subparagraphs (C), (D), and
9 (E) as subparagraphs (D), (E), and (F), respec-
10 tively, and by inserting after subparagraph (B) the
11 following new subparagraph:

12 “(C) DISTRIBUTIONS OF STOCK TO IMPLE-
13 MENT FEDERAL ENERGY REGULATORY COMMIS-
14 SION OR STATE ELECTRIC RESTRUCTURING
15 POLICY.—

16 “(i) IN GENERAL.—Paragraph (1)
17 shall not apply to any distribution which is
18 a qualifying electric transmission trans-
19 action. For purposes of this subparagraph,
20 a ‘qualifying electric transmission trans-
21 action’ means any distribution of stock in
22 a corporation whose primary trade or busi-
23 ness consists of providing electric trans-
24 mission services, where such stock is later
25 acquired (or where the assets of such cor-

1 poration are later acquired) by another
2 person that is an independent transmission
3 company.

4 “(ii) INDEPENDENT TRANSMISSION
5 COMPANY.—For purposes of this sub-
6 section, the term ‘independent trans-
7 mission company’ means—

8 “(I) a regional transmission or-
9 ganization approved by the Federal
10 Energy Regulatory Commission,

11 “(II) a person who the Federal
12 Energy Regulatory Commission deter-
13 mines in its authorization of the
14 transaction under section 203 of the
15 Federal Power Act (16 U.S.C. 824b)
16 is not a market participant within the
17 meaning of such Commission’s rules
18 applicable to regional transmission or-
19 ganizations, and whose transmission
20 facilities transferred as a part of such
21 qualifying electric transmission trans-
22 action are placed under the oper-
23 ational control of a Federal Energy
24 Regulatory Commission-approved re-
25 gional transmission organization with-

1 in the period specified in such order,
 2 but not later than the close of the re-
 3 placement period (as defined in sec-
 4 tion 1033(k)(2)), or

5 “(III) in the case of facilities
 6 subject to the exclusive jurisdiction of
 7 the Public Utility Commission of
 8 Texas, a person that is approved by
 9 that Commission as consistent with
 10 Texas State law regarding an inde-
 11 pendent transmission organization.”

12 (2) EFFECTIVE DATE.—The amendments made
 13 by this subsection shall apply to distributions occur-
 14 ring after the date of the enactment of this Act.

15 **SEC. 959. CERTAIN AMOUNTS RECEIVED BY ENERGY, NAT-**
 16 **URAL GAS, OR STEAM UTILITIES EXCLUDED**
 17 **FROM GROSS INCOME AS CONTRIBUTIONS TO**
 18 **CAPITAL.**

19 (a) IN GENERAL.—Subsection (c) of section 118 (re-
 20 lating to contributions to the capital of a corporation) is
 21 amended—

22 (1) by striking “WATER AND SEWAGE DIS-
 23 POSAL” in the heading and inserting “CERTAIN”,

24 (2) by striking “water or,” in the matter pre-
 25 ceding subparagraph (A) of paragraph (1) and in-

1 serting “electric energy, natural gas (through a local
2 distribution system or by pipeline), steam, water,
3 or”,

4 (3) by striking “water or” in paragraph (1)(B)
5 and inserting “electric energy (but not including as-
6 sets used in the generation of electricity), natural
7 gas, steam, water, or”,

8 (4) by striking “water or” in paragraph
9 (2)(A)(ii) and inserting “electric energy (but not in-
10 cluding assets used in the generation of electricity),
11 natural gas, steam, water, or”,

12 (5) by inserting “such term shall include
13 amounts paid as customer connection fees (including
14 amounts paid to connect the customer’s line to an
15 electric line, a gas main, a steam line, or a main
16 water or sewer line) and” after “except that” in
17 paragraph (3)(A), and

18 (6) by striking “water or” in paragraph (3)(C)
19 and inserting “electric energy, natural gas, steam,
20 water, or”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to amounts received after the date
23 of the enactment of this Act.

1 **Subtitle E—Provisions Relating to**
2 **Nuclear Energy**

3 **SEC. 961. EXPENSING OF COSTS INCURRED FOR TEM-**
4 **PORARY STORAGE OF SPENT NUCLEAR FUEL.**

5 (a) **IN GENERAL.**—Part VI of subchapter B of chap-
6 ter 1 (relating to itemized deductions for individuals and
7 corporations) is amended by adding at the end the fol-
8 lowing new section:

9 **“SEC. 199. EXPENSING OF COSTS FOR TEMPORARY STOR-**
10 **AGE OF SPENT NUCLEAR FUEL.**

11 “A taxpayer may elect to treat any amount paid or
12 incurred during the taxable year for the temporary storage
13 or isolation of spent nuclear fuel as an expense which is
14 not chargeable to capital account. Any expenditure which
15 is so treated shall be allowed as a deduction for the taxable
16 year in which it is paid or incurred.”

17 (b) **CONFORMING AMENDMENT.**—The table of sec-
18 tions for part VI of subchapter B of chapter 1 is amended
19 by adding at the end the following new item:

“Sec. 199. Expensing of costs for temporary storage of spent nuclear fuel.”

20 (c) **EFFECTIVE DATE.**—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2000.

1 **SEC. 962. NUCLEAR DECOMMISSIONING RESERVE FUND.**

2 (a) INCREASE IN AMOUNT PERMITTED TO BE PAID
3 INTO NUCLEAR DECOMMISSIONING RESERVE FUND.—

4 Subsection (b) of section 468A is amended to read as fol-
5 lows:

6 “(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

7 “(1) IN GENERAL.—The amount which a tax-
8 payer may pay into the Fund for any taxable year
9 during the funding period shall not exceed the level
10 funding amount determined pursuant to subsection
11 (d), except—

12 “(A) where the taxpayer is permitted by
13 Federal or State law or regulation (including
14 authorization by a public service commission) to
15 charge customers a greater amount for nuclear
16 decommissioning costs, in which case the tax-
17 payer may pay into the Fund such greater
18 amount; or

19 “(B) in connection with the transfer of a
20 nuclear powerplant, where the transferor or
21 transferee (or both) is required pursuant to the
22 terms of the transfer to contribute a greater
23 amount for nuclear decommissioning costs, in
24 which case the transferor or transferee (or
25 both) may pay into the Fund such greater
26 amount.

1 “(2) CONTRIBUTIONS AFTER FUNDING PE-
2 RIOD.—Notwithstanding any other provision of this
3 section, a taxpayer may make deductible payments
4 to the Fund in any taxable year between the end of
5 the funding period and the termination of the license
6 issued by the Nuclear Regulatory Commission for
7 the nuclear powerplant to which the Fund relates
8 but only if such payments do not cause the assets
9 of the Fund to exceed the nuclear decommissioning
10 costs allocable to the taxpayer’s current or former
11 interest in the nuclear powerplant to which the Fund
12 relates. The foregoing limitation shall be applied by
13 taking into account a reasonable rate of inflation for
14 the nuclear decommissioning costs and a reasonable
15 after-tax rate of return on the assets of the Fund
16 until such assets are anticipated to be expended.”

17 (b) DEDUCTION FOR NUCLEAR DECOMMISSIONING
18 COSTS WHEN PAID.—Paragraph (2) of section 468A(c)
19 is amended to read as follows:

20 “(2) DEDUCTION OF NUCLEAR DECOMMIS-
21 SIONING COSTS.—In addition to any deduction under
22 subsection (a), nuclear decommissioning costs paid
23 or incurred by the taxpayer during any taxable year
24 shall constitute ordinary and necessary expenses in
25 carrying on a trade or business under section 162.”

1 (c) LEVEL FUNDING AMOUNTS.—Subsection (d) of
2 section 468A is amended to read as follows:

3 “(d) LEVEL FUNDING AMOUNTS.—

4 “(1) ANNUAL AMOUNTS.—For purposes of this
5 section, the level funding amount for any taxable
6 year shall equal the annual amount required to be
7 contributed to the Fund in each year remaining in
8 the funding period in order for the Fund to accumu-
9 late the nuclear decommissioning costs allocable to
10 the taxpayer’s current or former interest in the nu-
11 clear powerplant to which the Fund relates. The an-
12 nual amount described in the preceding sentence
13 shall be calculated by taking into account a reason-
14 able rate of inflation for the nuclear decommis-
15 sioning costs and a reasonable after-tax rate of re-
16 turn on the assets of the Fund until such assets are
17 anticipated to be expended.

18 “(2) FUNDING PERIOD.—The funding period
19 for a Fund shall end on the last day of the last tax-
20 able year of the expected operating life of the nu-
21 clear powerplant.

22 “(3) NUCLEAR DECOMMISSIONING COSTS.—For
23 purposes of this section, the term ‘nuclear decom-
24 missioning costs’ means all costs to be incurred in
25 connection with entombing, decontaminating, dis-

1 mantling, removing, and disposing of a nuclear power-
2 erplant, and includes all associated preparation, se-
3 curity, fuel storage, and radiation monitoring costs.
4 The taxpayer may identify such costs by reference
5 either to a site-specific engineering study or to the
6 financial assurance amount calculated pursuant to
7 section 50.75 of title 10 of the Code of Federal Reg-
8 ulations. The term shall include all such costs which,
9 outside of the decommissioning context, might other-
10 wise be capital expenditures.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to amounts paid after June 8,
13 1999, in taxable years ending after such date.

14 **Subtitle F—Tax Incentives for** 15 **Energy Efficiency**

16 **SEC. 971. CREDIT FOR CERTAIN DISTRIBUTED POWER AND** 17 **COMBINED HEAT AND POWER SYSTEM PROP-** 18 **ERTY USED IN BUSINESS.**

19 (a) IN GENERAL.—Section 48(a)(3) (defining energy
20 property) is amended by inserting before the last sentence
21 the following: “The term ‘energy property’ includes dis-
22 tributed power property or combined heat and power sys-
23 tem property, but only if the requirements of subpara-
24 graphs (B) and (C) are met with respect to the property.”

1 (b) DEFINITIONS.—Subsection (a) of section 48 (re-
2 relating to the energy credit) is amended by adding at the
3 end the following new paragraphs:

4 “(6) DISTRIBUTED POWER PROPERTY.—The
5 term ‘distributed power property’ means property—

6 “(A) which is used in the generation of
7 electricity for primary use—

8 “(i) in nonresidential real or residen-
9 tial rental property used in the taxpayer’s
10 trade or business, with a rated total capac-
11 ity in excess of 1 kilowatt, or

12 “(ii) in the taxpayer’s industrial man-
13 ufacturing process or plant activity, with a
14 rated total capacity in excess of 500 kilo-
15 watts,

16 “(B) which may also produce usable ther-
17 mal energy or mechanical power for use in a
18 heating or cooling application, but only if at
19 least 30 percent of the total useful energy pro-
20 duced consists of—

21 “(i) with respect to assets described in
22 subparagraph (A)(i), electrical power
23 (whether sold or used by the taxpayer), or

24 “(ii) with respect to assets described
25 in subparagraph (A)(ii), electrical power

1 (whether sold or used by the taxpayer) and
2 thermal or mechanical energy used in the
3 taxpayer's industrial manufacturing proc-
4 ess or plant activity,

5 “(C) which is not used to transport pri-
6 mary fuel to the generating facility or to dis-
7 tribute energy within or outside of the facility,
8 and

9 “(D) if it is reasonably expected that not
10 more than 50 percent of the produced elec-
11 tricity will be sold to, or used by, unrelated per-
12 sons.

13 “(7) COMBINED HEAT AND POWER SYSTEM
14 PROPERTY.—For purposes of this subsection—

15 “(A) COMBINED HEAT AND POWER SYS-
16 TEM PROPERTY.—The term ‘combined heat and
17 power system property’ means property com-
18 prising a system—

19 “(i) which uses the same energy
20 source for the simultaneous or sequential
21 generation of electrical power, mechanical
22 shaft power, or both, in combination with
23 the generation of steam or other forms of
24 useful thermal energy (including heating
25 and cooling applications),

1 “(ii) which has an electrical capacity
2 of more than 50 kilowatts or a mechanical
3 energy capacity of more than 67 horse-
4 power or an equivalent combination of elec-
5 trical and mechanical energy capacities,

6 “(iii) which produces—

7 “(I) at least 20 percent of its
8 total useful energy in the form of
9 thermal energy, and

10 “(II) at least 20 percent of its
11 total useful energy in the form of elec-
12 trical or mechanical power (or a com-
13 bination thereof), and

14 “(iv) the energy efficiency percentage
15 of which exceeds 60 percent (70 percent in
16 the case of a system with an electrical ca-
17 pacity in excess of 50 megawatts or a me-
18 chanical energy capacity in excess of
19 67,000 horsepower, or an equivalent com-
20 bination of electrical and mechanical en-
21 ergy capacities).

22 “(B) SPECIAL RULES.—

23 “(i) ENERGY EFFICIENCY PERCENT-
24 AGE.—For purposes of subparagraph

1 (A)(iv), the energy efficiency percentage of
2 a system is the fraction—

3 “(I) the numerator of which is
4 the total useful electrical, thermal,
5 and mechanical power produced by
6 the system at normal operating rates,
7 and

8 “(II) the denominator of which is
9 the lower heating value of the primary
10 fuel source for the system.

11 “(ii) DETERMINATIONS MADE ON BTU
12 BASIS.—The energy efficiency percentage
13 and the percentages under subparagraph
14 (A)(iii) shall be determined on a Btu basis.

15 “(iii) INPUT AND OUTPUT PROPERTY
16 NOT INCLUDED.—The term ‘combined heat
17 and power system property’ does not in-
18 clude property used to transport the en-
19 ergy source to the facility or to distribute
20 energy produced by the facility.

21 “(iv) PUBLIC UTILITY PROPERTY.—

22 “(I) ACCOUNTING RULE FOR
23 PUBLIC UTILITY PROPERTY.—If the
24 combined heat and power system
25 property is public utility property (as

1 defined in section 46(f)(5) as in effect
2 on the day before the date of the en-
3 actment of the Revenue Reconciliation
4 Act of 1990), the taxpayer may only
5 claim the credit under this subsection
6 if, with respect to such property, the
7 taxpayer uses a normalization method
8 of accounting.

9 “(II) CERTAIN EXCEPTION NOT
10 TO APPLY.—The matter in paragraph
11 (3) which follows subparagraph (D)
12 shall not apply to combined heat and
13 power system property.”

14 (c) NO CARRYBACK OF ENERGY CREDIT BEFORE
15 EFFECTIVE DATE.—Subsection (d) of section 39, as
16 amended by this Act, is amended by adding at the end
17 the following new paragraph:

18 “(14) NO CARRYBACK OF ENERGY CREDIT BE-
19 FORE EFFECTIVE DATE.—No portion of the unused
20 business credit for any taxable year which is attrib-
21 utable to the portion of the energy credit described
22 in section 48(a) (6) or (7) may be carried back to
23 a taxable year ending before the date of the enact-
24 ment of this paragraph.”

25 (d) DEPRECIATION.—

1 credits) is amended by inserting after section 25A the fol-
2 lowing new section:

3 **“SEC. 25B. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
4 **ING HOMES.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
6 dividual, there shall be allowed as a credit against the tax
7 imposed by this chapter for the taxable year an amount
8 equal to 20 percent of the amount paid or incurred by
9 the taxpayer for qualified energy efficiency improvements
10 installed during such taxable year.

11 “(b) LIMITATIONS.—

12 “(1) MAXIMUM CREDIT.—The credit allowed by
13 this section with respect to a dwelling shall not ex-
14 ceed \$2,000.

15 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
16 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
17 credit was allowed to the taxpayer under subsection
18 (a) with respect to a dwelling in 1 or more prior tax-
19 able years, the amount of the credit otherwise allow-
20 able for the taxable year with respect to that dwell-
21 ing shall not exceed the amount of \$2,000 reduced
22 by the sum of the credits allowed under subsection
23 (a) to the taxpayer with respect to the dwelling for
24 all prior taxable years.

1 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
2 credit allowable under subsection (a) exceeds the limita-
3 tion imposed by section 26(a) for such taxable year re-
4 duced by the sum of the credits allowable under subpart
5 A of part IV of subchapter A (other than this section),
6 such excess shall be carried to the succeeding taxable year
7 and added to the credit allowable under subsection (a) for
8 such taxable year.

9 “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-
10 MENTS.—For purposes of this section, the term ‘qualified
11 energy efficiency improvements’ means any energy effi-
12 cient building envelope component that is certified to meet
13 or exceed the prescriptive criteria for such component es-
14 tablished by the 1998 International Energy Conservation
15 Code, if—

16 “(1) such component is installed in or on a
17 dwelling—

18 “(A) located in the United States, and

19 “(B) owned and used by the taxpayer as
20 the taxpayer’s principal residence (within the
21 meaning of section 121),

22 “(2) the original use of such component com-
23 mences with the taxpayer, and

24 “(3) such component reasonably can be ex-
25 pected to remain in use for at least 5 years.

1 “(e) CERTIFICATION.—The certification described in
2 subsection (d) shall be—

3 “(1) determined on the basis of the technical
4 specifications or applicable ratings (including prod-
5 uct labeling requirements) for the measurement of
6 energy efficiency, based upon energy use or building
7 envelope component performance, for the energy effi-
8 cient building envelope component,

9 “(2) provided by the contractor who installed
10 such building envelope component, a local building
11 regulatory authority, a utility, a manufactured home
12 production inspection primary inspection agency
13 (IPIA), or an accredited home energy rating system
14 provider who is accredited by or otherwise author-
15 ized to use approved energy performance measure-
16 ment methods by the Home Energy Ratings Systems
17 Council or the National Association of State Energy
18 Officials, and

19 “(3) made in writing in a manner that specifies
20 in readily verifiable fashion the energy efficient
21 building envelope components installed and their re-
22 spective energy efficiency levels.

23 “(f) DEFINITIONS AND SPECIAL RULES.—

24 “(1) TENANT-STOCKHOLDER IN COOPERATIVE
25 HOUSING CORPORATION.—In the case of an indi-

1 vidual who is a tenant-stockholder (as defined in sec-
2 tion 216) in a cooperative housing corporation (as
3 defined in such section), such individual shall be
4 treated as having paid his tenant-stockholder's pro-
5 portionate share (as defined in section 216(b)(3)) of
6 the cost of qualified energy efficiency improvements
7 made by such corporation.

8 “(2) CONDOMINIUMS.—

9 “(A) IN GENERAL.—In the case of an indi-
10 vidual who is a member of a condominium man-
11 agement association with respect to a condo-
12 minium which he owns, such individual shall be
13 treated as having paid his proportionate share
14 of the cost of qualified energy efficiency im-
15 provements made by such association.

16 “(B) CONDOMINIUM MANAGEMENT ASSO-
17 CIATION.—For purposes of this paragraph, the
18 term ‘condominium management association’
19 means an organization which meets the require-
20 ments of paragraph (1) of section 528(c) (other
21 than subparagraph (E) thereof) with respect to
22 a condominium project substantially all of the
23 units of which are used as residences.

24 “(3) BUILDING ENVELOPE COMPONENT.—The
25 term ‘building envelope component’ means—

1 “(A) insulation material or system which is
2 specifically and primarily designed to reduce the
3 heat loss or gain or a dwelling when installed
4 in or on such dwelling, and

5 “(B) exterior windows (including skylights)
6 and doors.

7 “(4) MANUFACTURED HOMES INCLUDED.—For
8 purposes of this section, the term ‘dwelling’ includes
9 a manufactured home which conforms to Federal
10 Manufactured Home Construction and Safety Stand-
11 ards (24 C.F.R. 3280).

12 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
13 title, if a credit is allowed under this section for any ex-
14 penditure with respect to any property, the increase in the
15 basis of such property which would (but for this sub-
16 section) result from such expenditure shall be reduced by
17 the amount of the credit so allowed.

18 “(h) TERMINATION.—Subsection (a) shall apply to
19 qualified energy efficiency improvements installed during
20 the period beginning on January 1, 2001, and ending on
21 December 31, 2005.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subsection (c) of section 23 is amended by
24 inserting “, section 25B, and section 1400C” after
25 “other than this section”.

1 (2) Subparagraph (C) of section 25(e)(1) is
2 amended by striking “section 23” and inserting
3 “sections 23, 25B, and 1400C”.

4 (3) Subsection (d) of section 1400C is amended
5 by inserting “and section 25B” after “other than
6 this section”.

7 (4) Subsection (a) of section 1016 is amended
8 by striking “and” at the end of paragraph (26), by
9 striking the period at the end of paragraph (27) and
10 inserting “; and”, and by adding at the end the fol-
11 lowing new paragraph:

12 “(28) to the extent provided in section 25B(f),
13 in the case of amounts with respect to which a credit
14 has been allowed under section 25B.”.

15 (5) The table of sections for subpart A of part
16 IV of subchapter A of chapter 1 is amended by in-
17 serting after the item relating to section 25A the fol-
18 lowing new item:

 “Sec. 25B. Energy efficiency improvements to existing homes.”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years ending after De-
21 cember 31, 2000.

22 **SEC. 973. BUSINESS CREDIT FOR CONSTRUCTION OF NEW**
23 **ENERGY EFFICIENT HOME.**

24 (a) IN GENERAL.—Subpart D of part IV of sub-
25 chapter A of chapter 1 (relating to business related cred-

1 its), as amended by this Act, is amended by inserting after
2 section 45G the following new section:

3 **“SEC. 45H. NEW ENERGY EFFICIENT HOME CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 38, in
5 the case of an eligible contractor, the credit determined
6 under this section for the taxable year is an amount equal
7 to the aggregate adjusted bases of all energy efficient
8 property installed in a qualified new energy efficient home
9 during construction of such home.

10 “(b) LIMITATIONS.—

11 “(1) MAXIMUM CREDIT.—

12 “(A) IN GENERAL.—The credit allowed by
13 this section with respect to a dwelling shall not
14 exceed \$2,000.

15 “(B) PRIOR CREDIT AMOUNTS ON SAME
16 DWELLING TAKEN INTO ACCOUNT.—If a credit
17 was allowed under subsection (a) with respect
18 to a dwelling in 1 or more prior taxable years,
19 the amount of the credit otherwise allowable for
20 the taxable year with respect to that dwelling
21 shall not exceed the amount of \$2,000 reduced
22 by the sum of the credits allowed under sub-
23 section (a) with respect to the dwelling for all
24 prior taxable years.

1 “(2) COORDINATION WITH REHABILITATION
2 AND ENERGY CREDITS.—For purposes of this
3 section—

4 “(A) the basis of any property referred to
5 in subsection (a) shall be reduced by that por-
6 tion of the basis of any property which is attrib-
7 utable to qualified rehabilitation expenditures
8 (as defined in section 47(c)(2)) or to the energy
9 percentage of energy property (as determined
10 under section 48(a)), and

11 “(B) expenditures taken into account
12 under either section 47 or 48(a) shall not be
13 taken into account under this section.

14 “(c) DEFINITIONS.—For purposes of this section—

15 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
16 ble contractor’ means the person who constructed
17 the new energy efficient home, or in the case of a
18 manufactured home which conforms to Federal
19 Manufactured Home Construction and Safety Stand-
20 ards (24 C.F.R. 3280), the manufactured home pro-
21 ducer of such home.

22 “(2) ENERGY EFFICIENT PROPERTY.—The
23 term ‘energy efficient property’ means any energy
24 efficient building envelope component, and any en-
25 ergy efficient heating or cooling appliance.

1 “(3) QUALIFIED NEW ENERGY EFFICIENT
2 HOME.—The term ‘qualified new energy efficient
3 home’ means a dwelling—

4 “(A) located in the United States,

5 “(B) the construction of which is substan-
6 tially completed after December 31, 2000,

7 “(C) the original use of which is as a prin-
8 cipal residence (within the meaning of section
9 121) which commences with the person who ac-
10 quires such dwelling from the eligible con-
11 tractor, and

12 “(D) which is certified to have a level of
13 annual heating and cooling energy consumption
14 that is at least 30 percent below the annual
15 level of heating and cooling energy consumption
16 of a comparable dwelling constructed in accord-
17 ance with the standards of the 1998 Inter-
18 national Energy Conservation Code.

19 “(4) CONSTRUCTION.—The term ‘construction’
20 includes reconstruction and rehabilitation.

21 “(5) ACQUIRE.—The term ‘acquire’ includes
22 purchase and, in the case of reconstruction and re-
23 habilitation, such term includes a binding written
24 contract for such reconstruction or rehabilitation.

1 “(6) BUILDING ENVELOPE COMPONENT.—The
2 term ‘building envelope component’ means—

3 “(A) insulation material or system which is
4 specifically and primarily designed to reduce the
5 heat loss or gain of a dwelling when installed in
6 or on such dwelling, and

7 “(B) exterior windows (including skylights)
8 and doors.

9 “(7) MANUFACTURED HOME INCLUDED.—The
10 term ‘dwelling’ includes a manufactured home con-
11 forming to Federal Manufactured Home Construc-
12 tion and Safety Standards (24 C.F.R. 3280).

13 “(d) CERTIFICATION.—

14 “(1) METHOD.—A certification described in
15 subsection (c)(3)(D) shall be determined on the
16 basis of one of the following methods:

17 “(A) The technical specifications or appli-
18 cable ratings (including product labeling re-
19 quirements) for the measurement of energy effi-
20 ciency for the energy efficient building envelope
21 component or energy efficient heating or cooling
22 appliance, based upon energy use or building
23 envelope component performance.

24 “(B) An energy performance measurement
25 method that utilizes computer software ap-

1 proved by organizations designated by the Sec-
2 retary.

3 “(2) PROVIDER.—Such certification shall be
4 provided by—

5 “(A) in the case of a method described in
6 paragraph (1)(A), the eligible contractor, a
7 local building regulatory authority, a utility, a
8 manufactured home production inspection pri-
9 mary inspection agency (IPIA), or an accred-
10 ited home energy rating systems provider who
11 is accredited by, or otherwise authorized to use,
12 approved energy performance measurement
13 methods by the Home Energy Ratings Systems
14 Council or the National Association of State
15 Energy Officials, or

16 “(B) in the case of a method described in
17 paragraph (1)(B), an individual recognized by
18 an organization designated by the Secretary for
19 such purposes.

20 “(3) FORM.—Such certification shall be made
21 in writing in a manner that specifies in readily
22 verifiable fashion the energy efficient building enve-
23 lope components and energy efficient heating or
24 cooling appliances installed and their respective en-
25 ergy efficiency levels, and in the case of a method

1 described in subparagraph (B) of paragraph (1), ac-
2 companied by written analysis documenting the
3 proper application of a permissible energy perform-
4 ance measurement method to the specific cir-
5 cumstances of such dwelling.

6 “(4) REGULATIONS.—

7 “(A) IN GENERAL.—In prescribing regula-
8 tions under this subsection for energy perform-
9 ance measurement methods, the Secretary shall
10 prescribe procedures for calculating annual en-
11 ergy costs for heating and cooling and cost sav-
12 ings and for the reporting of the results. Such
13 regulations shall—

14 “(i) be based on the National Home
15 Energy Rating Technical Guidelines of the
16 National Association of State Energy Offi-
17 cials and the 1998 California Residential
18 ACM manual,

19 “(ii) provide that any calculation pro-
20 cedures be developed such that the same
21 energy efficiency measures allow a home to
22 qualify for the credit under this section re-
23 gardless of whether the house uses a gas
24 or oil furnace or boiler or an electric heat
25 pump, and

1 “(iii) require that any computer soft-
2 ware allow for the printing of the Federal
3 tax forms necessary for the credit under
4 this section and explanations for the home-
5 buyer of the energy efficient features that
6 were used to comply with the requirements
7 of this section.

8 “(B) PROVIDERS.—For purposes of para-
9 graph (2)(B), the Secretary shall establish re-
10 quirements for the designation of individuals
11 based on the requirements for energy consult-
12 ants and home energy raters specified by the
13 National Association of State Energy Officials.

14 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
15 title, if a credit is allowed under this section for any ex-
16 penditure with respect to any property, the increase in the
17 basis of such property which would (but for this sub-
18 section) result from such expenditure shall be reduced by
19 the amount of the credit so allowed.

20 “(f) TERMINATION.—Subsection (a) shall apply to
21 dwellings purchased during the period beginning on Janu-
22 ary 1, 2001, and ending on December 31, 2005.”

23 (b) CREDIT MADE PART OF GENERAL BUSINESS
24 CREDIT.—Subsection (b) of section 38 (relating to current
25 year business credit) is amended by striking “plus” at the

1 end of paragraph (15), by striking the period at the end
2 of paragraph (16) and inserting “, plus”, and by adding
3 at the end thereof the following new paragraph:

4 “(17) the new energy efficient home credit de-
5 termined under section 45H.”

6 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
7 (relating to certain expenses for which credits are allow-
8 able) is amended by adding at the end thereof the fol-
9 lowing new subsection:

10 “(d) NEW ENERGY EFFICIENT HOME EXPENSES.—
11 No deduction shall be allowed for that portion of expenses
12 for a new energy efficient home otherwise allowable as a
13 deduction for the taxable year which is equal to the
14 amount of the credit determined for such taxable year
15 under section 45H.”

16 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-
17 IMUM TAX.—

18 (1) IN GENERAL.—Subsection (c) of section 38
19 (relating to limitation based on amount of tax) is
20 amended by redesignating paragraph (5) as para-
21 graph (6) and by inserting after paragraph (4) the
22 following new paragraph:

23 “(5) SPECIAL RULES FOR NEW ENERGY EFFI-
24 CIENT HOME CREDIT.—

1 “(A) IN GENERAL.—In the case of the new
2 energy efficient home credit—

3 “(i) this section and section 39 shall
4 be applied separately with respect to the
5 credit, and

6 “(ii) in applying paragraph (1) to the
7 credit—

8 “(I) subparagraph (A) thereof
9 shall not apply, and

10 “(II) the limitation under para-
11 graph (1) (as modified by subclause
12 (I)) shall be reduced by the credit al-
13 lowed under subsection (a) for the
14 taxable year (other than the new en-
15 ergy efficient home credit).

16 “(B) NEW ENERGY EFFICIENT HOME
17 CREDIT.—For purposes of this subsection, the
18 term ‘new energy efficient home credit’ means
19 the credit allowable under subsection (a) by rea-
20 son of section 45H.”

21 (2) CONFORMING AMENDMENTS.—Subclause
22 (II) of section 38(c)(2)(A)(ii), subclause (II) of sec-
23 tion 38(c)(3)(A)(ii), and subclause (II) of section
24 38(c)(4)(A)(ii) are each amended by inserting “or

1 the new energy efficient home credit” after “en-
2 hanced oil recovery credit”.

3 (e) LIMITATION ON CARRYBACK.—Subsection (d) of
4 section 39, as amended by this Act, is amended by adding
5 at the end the following new paragraph:

6 “(15) NO CARRYBACK OF NEW ENERGY EFFI-
7 CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—
8 No portion of the unused business credit for any
9 taxable year which is attributable to the credit deter-
10 mined under section 45H may be carried back to
11 any taxable year ending before the date of the enact-
12 ment of section 45H.”

13 (f) DEDUCTION FOR CERTAIN UNUSED BUSINESS
14 CREDITS.—Subsection (c) of section 196 is amended by
15 striking “and” at the end of paragraph (7), by striking
16 the period at the end of paragraph (8) and inserting “,
17 and”, and by adding after paragraph (8) the following new
18 paragraph:

19 “(9) the new energy efficient home credit deter-
20 mined under section 45H.”

21 (g) CLERICAL AMENDMENT.—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1
23 is amended by inserting after the item relating to section
24 45G the following new item:

“Sec. 45H. New energy efficient home credit.”

1 (h) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years ending after De-
3 cember 31, 2000.

4 **SEC. 974. TAX CREDIT FOR ENERGY EFFICIENT APPLI-**
5 **ANCES.**

6 (a) IN GENERAL.—Subpart B of part IV of sub-
7 chapter A of chapter 1 (relating to other credits) is
8 amended by adding at the end the following new section:

9 **“SEC. 30B. ENERGY EFFICIENT APPLIANCE CREDIT.**

10 “(a) GENERAL RULE.—There shall be allowed as a
11 credit against the tax imposed by this chapter for the tax-
12 able year an amount equal to the amount paid or incurred
13 by the taxpayer during the taxable year for qualified en-
14 ergy efficient appliances.

15 “(b) LIMITATIONS.—

16 “(1) DOLLAR AMOUNT.—The amount which
17 may be taken into account under subsection (a) shall
18 not exceed—

19 “(A) in the case of an energy efficient
20 clothes washer described in subsection (c)(2)(A)
21 or an energy efficient refrigerator described in
22 subsection (c)(3)(B)(i), \$50, and

23 “(B) in the case of an energy efficient
24 clothes washer described in subsection (c)(2)(B)

1 or an energy efficient refrigerator described in
 2 subsection (c)(3)(B)(ii), \$100.

3 “(2) APPLICATION WITH OTHER CREDITS.—

4 The credit allowed under subsection (a) for any tax-
 5 able year shall not exceed the excess (if any) of—

6 “(A) the regular tax for the taxable year
 7 reduced by the sum of the credits allowable
 8 under subpart A and sections 27 and 30, over

9 “(B) the tentative minimum tax for the
 10 taxable year.

11 “(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—

12 For purposes of this section—

13 “(1) IN GENERAL.—The term ‘qualified energy
 14 efficient appliance’ means—

15 “(A) an energy efficient clothes washer, or

16 “(B) an energy efficient refrigerator.

17 “(2) ENERGY EFFICIENT CLOTHES WASHER.—

18 The term ‘energy efficient clothes washer’ means a
 19 residential clothes washer, including a residential
 20 style coin operated washer, which is manufactured
 21 with—

22 “(A) a 1.26 Modified Energy Factor (re-
 23 ferred to in this paragraph as ‘MEF’) (as de-
 24 termined by the Secretary of Energy), or

1 “(B) a 1.42 MEF (as determined by the
2 Secretary of Energy) (1.5 MEF for calendar
3 years beginning after 2004).

4 “(3) ENERGY EFFICIENT REFRIGERATOR.—The
5 term ‘energy efficient refrigerator’ means an auto-
6 matic defrost refrigerator-freezer which—

7 “(A) has an internal volume of at least
8 16.5 cubic feet, and

9 “(B) consumes—

10 “(i) 10 percent less kw/hr/yr than the
11 energy conservation standards promulgated
12 by the Department of Energy for such re-
13 frigerator for 2001, or

14 “(ii) 15 percent less kw/hr/yr than
15 such energy conservation standards.

16 “(d) VERIFICATION.—The taxpayer shall submit such
17 information or certification as the Secretary, in consulta-
18 tion with the Secretary of Energy, determines necessary
19 to claim the credit amount under subsection (a).

20 “(e) TERMINATION.—This section shall not apply—

21 “(1) with respect to energy efficient refrig-
22 erators described in subsection (c)(3)(B)(i) pur-
23 chased in calendar years beginning after 2004, and

1 “(2) with respect to all other qualified energy
2 efficient appliances purchased in calendar years be-
3 ginning after 2006.”

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subpart B of part IV of subchapter A of chapter 1
6 is amended by inserting at the end the following new item:

 “Sec. 30B. Energy efficient appliance credit.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2000.

10 **SEC. 975. CREDIT FOR CERTAIN ENERGY EFFICIENT**
11 **MOTOR VEHICLES.**

12 (a) IN GENERAL.—Subpart B of part IV of sub-
13 chapter A of chapter 1, as amended by this Act, is amend-
14 ed by adding at the end the following new section:

15 **“SEC. 30C. CREDIT FOR HYBRID VEHICLES.**

16 “(a) ALLOWANCE OF CREDIT.—There shall be al-
17 lowed as a credit against the tax imposed by this chapter
18 for the taxable year an amount equal to the sum of the
19 credit amounts for each qualified hybrid vehicle placed in
20 service during the taxable year.

21 “(b) CREDIT AMOUNT.—For purposes of this section,
22 the credit amount for each qualified hybrid vehicle with
23 a rechargeable energy storage system which provides the
24 applicable percentage of the maximum available power
25 shall be the amount specified in the following table:

“Applicable percentage	Credit amount
Greater than or equal to 20 percent but less than 40 percent	\$500
Greater than or equal to 40 percent but less than 60 percent	\$1,000
Greater than or equal to 60 percent	\$2,000.

1 “(c) DEFINITIONS.—For purposes of this section—

2 “(1) QUALIFIED HYBRID VEHICLE.—The term
3 ‘qualified hybrid vehicle’ means an automobile which
4 meets all applicable regulatory requirements and
5 which can draw propulsion energy from both of the
6 following onboard sources of stored energy:

7 “(A) A consumable fuel.

8 “(B) A rechargeable energy storage sys-
9 tem.

10 “(2) MAXIMUM AVAILABLE POWER.—The term
11 ‘maximum available power’ means the maximum
12 value of the sum of the heat engine and electric
13 drive system power or other nonheat energy conver-
14 sion devices available for a driver’s command for
15 maximum acceleration at vehicle speeds under 75
16 miles per hour.

17 “(3) AUTOMOBILE.—The term ‘automobile’ has
18 the meaning given such term by section 4064(b)(1)
19 (without regard to subparagraphs (B) and (C) there-
20 of). A vehicle shall not fail to be treated as an auto-
21 mobile solely by reason of weight if such vehicle is
22 rated at 8,500 pounds gross vehicle weight rating or
23 less.

1 “(d) APPLICATION WITH OTHER CREDITS.—The
2 credit allowed by subsection (a) for any taxable year shall
3 not exceed the excess (if any) of—

4 “(1) the regular tax for the taxable year re-
5 duced by the sum of the credits allowable under sub-
6 part A and sections 27, 30, and 30B of this subpart,
7 over

8 “(2) the tentative minimum tax for the taxable
9 year.

10 “(e) SPECIAL RULES.—

11 “(1) BASIS REDUCTION.—The basis of any
12 property for which a credit is allowable under sub-
13 section (a) shall be reduced by the amount of such
14 credit (determined without regard to subsection (d)).

15 “(2) RECAPTURE.—The Secretary shall, by reg-
16 ulations, provide for recapturing the benefit of any
17 credit allowable under subsection (a) with respect to
18 any property which ceases to be property eligible for
19 such credit.

20 “(3) PROPERTY USED OUTSIDE UNITED
21 STATES, ETC., NOT QUALIFIED.—No credit shall be
22 allowed under this section with respect to—

23 “(A) any property for which a credit is al-
24 lowed under section 30,

1 “(B) any property referred to in section
2 50(b), or

3 “(C) any property taken into account
4 under section 179 or 179A.

5 “(4) ELECTION TO NOT TAKE CREDIT.—No
6 credit shall be allowed under subsection (a) for any
7 vehicle if the taxpayer elects to not have this section
8 apply to such vehicle.

9 “(5) LEASED VEHICLES.—No credit shall be al-
10 lowed under this section with respect to a leased
11 motor vehicle unless the lease documents clearly dis-
12 close to the lessee the specific amount of any credit
13 otherwise allowable to the lessor under this section.

14 “(f) REGULATIONS.—

15 “(1) TREASURY.—The Secretary shall prescribe
16 such regulations as may be necessary or appropriate
17 to carry out the purposes of this section.

18 “(2) ENVIRONMENTAL PROTECTION AGENCY.—
19 The Administrator of the Environmental Protection
20 Agency, in coordination with the Secretary of Trans-
21 portation and consistent with the laws administered
22 by such agency for automobiles, shall timely pre-
23 scribe such regulations as may be necessary or ap-
24 propriate solely for the purpose of specifying the
25 testing and calculation procedures to determine

1 whether a vehicle meets the qualifications for a cred-
 2 it under this section.

3 “(g) APPLICATION OF SECTION.—This section shall
 4 apply to any qualified hybrid vehicles placed in service
 5 after December 31, 2000, and before January 1, 2009.”

6 (b) CONFORMING AMENDMENTS.—

7 (1) Subsection (a) of section 1016, as amended
 8 by this Act, is amended by striking “and” at the end
 9 of paragraph (27), by striking the period at the end
 10 of paragraph (28) and inserting “, and”, and by
 11 adding at the end the following new paragraph:

12 “(29) to the extent provided in section
 13 30C(e)(1).”

14 (2) The table of sections for subpart B of part
 15 IV of subchapter A of chapter 1 is amended by add-
 16 ing at the end the following new item:

“Sec. 30C. Credit for hybrid vehicles.”

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this title shall apply to vehicles placed in service after De-
 19 cember 31, 2000.

20 **Subtitle G—Alternative Fuels**

21 **SEC. 981. CREDIT FOR ALTERNATIVE FUEL VEHICLES.**

22 (a) IN GENERAL.—Subpart B of part IV of sub-
 23 chapter A of chapter 1 (relating to foreign tax credit, etc.),
 24 as amended by this Act, is amended by inserting after sec-
 25 tion 30C the following:

1 **“SEC. 30D. CREDIT FOR ALTERNATIVE FUEL VEHICLES.**

2 “(a) ALLOWANCE OF CREDIT.—There shall be al-
3 lowed as a credit against the tax imposed by this chapter
4 an amount equal to the applicable percentage of the incre-
5 mental cost of any qualified alternative fuel motor vehicle
6 placed in service by the taxpayer during the taxable year.

7 “(b) APPLICABLE PERCENTAGE.—For purposes of
8 subsection (a), the applicable percentage with respect to
9 any qualified alternative fuel motor vehicle is—

10 “(1) 50 percent, plus

11 “(2) 35 percent, if such vehicle—

12 “(A) has a gross weight vehicle rating of
13 less than 14,000 pounds, and

14 “(i) has received a certificate of con-
15 formity under the Clean Air Act and meets
16 or exceeds the most stringent standard
17 available for certification under the Clean
18 Air Act for that make and model year vehi-
19 cle (other than a zero emission standard),
20 or

21 “(ii) has received an order certifying
22 the vehicle for sale in California and meets
23 or exceeds the most stringent standard
24 available for certification under the laws of
25 the State of California for that make and

1 model year vehicle (other than a zero emis-
2 sion standard), or

3 “(B) has a gross weight vehicle rating of
4 14,000 or more pounds, and

5 “(i) has received a certificate of con-
6 formity under the Clean Air Act at emis-
7 sions levels that are not more than 50 per-
8 cent of the standard applicable to a vehicle
9 of that make and model year, or

10 “(ii) has received an order certifying
11 the vehicle for sale in California at emis-
12 sions levels that are not more than 50 per-
13 cent of the standard applicable under the
14 laws of the State of California to a vehicle
15 of that make and model year.

16 “(c) INCREMENTAL COST.—For purposes of this sec-
17 tion, the incremental cost of any qualified alternative fuel
18 motor vehicle is equal to the amount of the excess of the
19 manufacturer’s suggested retail price for such vehicle over
20 such price for a gasoline or diesel fuel motor vehicle of
21 the same model, to the extent such amount does not
22 exceed—

23 “(1) \$5,000, if such vehicle has a gross vehicle
24 weight rating of not more than 8,500 pounds,

1 “(2) \$10,000, if such vehicle has a gross vehicle
2 weight rating of more than 8,500 pounds but not
3 more than 14,000 pounds,

4 “(3) \$25,000, if such vehicle has a gross vehicle
5 weight rating of more than 14,000 pounds but not
6 more than 26,000 pounds, and

7 “(4) \$50,000, if such vehicle has a gross vehicle
8 weight rating of more than 26,000 pounds.

9 “(d) QUALIFIED ALTERNATIVE FUEL MOTOR VEHI-
10 CLE DEFINED.—For purposes of this section, the term
11 ‘qualified alternative fuel motor vehicle’ means any motor
12 vehicle—

13 “(1) which is only capable of operating on an
14 alternative fuel,

15 “(2) the original use of which commences with
16 the taxpayer, and

17 “(3) which is acquired by the taxpayer for use
18 or to lease, but not for resale.

19 “(e) APPLICATION WITH OTHER CREDITS.—The
20 credit allowed under subsection (a) for any taxable year
21 shall not exceed the excess (if any) of—

22 “(1) the regular tax for the taxable year re-
23 duced by the sum of the credits allowable under sub-
24 part A and sections 27, 29, 30, 30A, 30B, and 30C,
25 over

1 “(2) the tentative minimum tax for the taxable
2 year.

3 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) ALTERNATIVE FUEL.—The term ‘alter-
6 native fuel’ has the meaning given such term by sec-
7 tion 301(2) of the Energy Policy Act of 1992 (42
8 U.S.C. 13211(2)), as in effect on the date of the en-
9 actment of this section.

10 “(2) MOTOR VEHICLE.—The term ‘motor vehi-
11 cle’ has the meaning given such term by section
12 30(c)(2).

13 “(3) REDUCTION IN BASIS.—For purposes of
14 this subtitle, the basis of any property for which a
15 credit is allowable under subsection (a) shall be re-
16 duced by the amount of such credit so allowed (de-
17 termined without regard to subsection (e)).

18 “(4) NO DOUBLE BENEFIT.—The amount of
19 any deduction or credit allowable under this chapter
20 for any incremental cost taken into account in com-
21 puting the amount of the credit determined under
22 subsection (a) shall be reduced by the amount of
23 such credit attributable to such cost.

24 “(5) LEASED VEHICLES.—No credit shall be al-
25 lowed under subsection (a) with respect to a leased

1 motor vehicle unless the lease documents clearly dis-
2 close to the lessee the specific amount of any credit
3 otherwise allowable to the lessor under subsection
4 (a).

5 “(6) RECAPTURE.—The Secretary shall, by reg-
6 ulations, provide for recapturing the benefit of any
7 credit allowable under subsection (a) with respect to
8 any property which ceases to be property eligible for
9 such credit.

10 “(7) PROPERTY USED OUTSIDE UNITED
11 STATES, ETC., NOT QUALIFIED.—No credit shall be
12 allowed under subsection (a) with respect to any
13 property referred to in section 50(b) or with respect
14 to the portion of the cost of any property taken into
15 account under section 179.

16 “(8) ELECTION TO NOT TAKE CREDIT.—No
17 credit shall be allowed under subsection (a) for any
18 vehicle if the taxpayer elects to not have this section
19 apply to such vehicle.

20 “(g) TERMINATION.—This section shall not apply to
21 any property placed in service after December 31, 2007.”

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 1016(a), as amended by this Act, is
24 amended by striking “and” at the end of paragraph
25 (28), by striking the period at the end of paragraph

1 (29) and inserting “, and”, and by adding at the
2 end the following:

3 “(30) to the extent provided in section
4 30D(f)(3).”

5 (2) Section 53(d)(1)(B)(iii) is amended by in-
6 serting “, or not allowed under section 30D solely by
7 reason of the application of section 30D(e)(2)” be-
8 fore the period.

9 (3) Section 55(c)(2) is amended by inserting
10 “30D(e),” after “30(b)(3)”.

11 (4) Section 6501(m) is amended by inserting
12 “30D(f)(8),” after “30(d)(4),”.

13 (5) The table of sections for subpart B of part
14 IV of subchapter A of chapter 1 is amended by in-
15 serting after the item relating to section 30C the fol-
16 lowing:

“Sec. 30D. Credit for alternative fuel vehicles.”

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service after
19 December 31, 2000, in taxable years ending after such
20 date.

21 **SEC. 982. MODIFICATION OF CREDIT FOR QUALIFIED ELEC-**
22 **TRIC VEHICLES.**

23 (a) AMOUNT OF CREDIT.—

1 (1) IN GENERAL.—Section 30(a) (relating to al-
2 lowance of credit) is amended by striking “10 per-
3 cent of”.

4 (2) LIMITATION OF CREDIT ACCORDING TO
5 TYPE OF VEHICLE.—Section 30(b) (relating to limi-
6 tations) is amended—

7 (A) by striking paragraphs (1) and (2) and
8 inserting the following new paragraph:

9 “(1) LIMITATION ACCORDING TO TYPE OF VE-
10 HICLE.—The amount of the credit allowed under
11 subsection (a) for any vehicle shall not exceed the
12 greatest of the following amounts applicable to such
13 vehicle:

14 “(A) In the case of a vehicle with a rated
15 top speed not exceeding 50 miles per hour, the
16 lesser of—

17 “(i) 10 percent of the cost of the vehi-
18 cle, or

19 “(ii) \$4,250.

20 “(B) In the case of a vehicle with a gross
21 vehicle weight rating not exceeding 8,500
22 pounds and a rated top speed exceeding 50
23 miles per hour, \$4,250.

24 “(C) In the case of a vehicle capable of a
25 driving range of at least 100 miles on a single

1 charge of the vehicle’s rechargeable batteries
2 and measured pursuant to the urban dynamom-
3 eter schedules under appendix I to part 86 of
4 title 40, Code of Federal Regulations, \$6,375.

5 “(D) In the case of a vehicle capable of a
6 payload capacity of at least 1000 pounds,
7 \$6,375.

8 “(E) In the case of a vehicle with a gross
9 vehicle weight rating exceeding 8,500 but not
10 exceeding 14,000 pounds, \$8,500.

11 “(F) In the case of a vehicle with a gross
12 vehicle weight rating exceeding 14,000 but not
13 exceeding 26,000 pounds, \$21,250.

14 “(G) In the case of a vehicle with a gross
15 vehicle weight rating exceeding 26,000 pounds,
16 \$42,500.”, and

17 (B) by redesignating paragraph (3) as
18 paragraph (2).

19 (3) CONFORMING AMENDMENTS.—

20 (A) Section 53(d)(1)(B)(iii) is amended by
21 striking “section 30(b)(3)(B)” and inserting
22 “section 30(b)(2)(B)”.

23 (3) Section 55(c)(2) is amended by striking
24 “30(b)(3)” and inserting “30(b)(2)”.

1 (b) QUALIFIED ELECTRIC VEHICLE.—Section
2 30(c)(1)(A) (defining qualified electric vehicle) is amended
3 to read as follows:

4 “(A) which is powered primarily by an
5 electric motor drawing current from recharge-
6 able batteries, fuel cells which generate elec-
7 trical current from an alternative fuel (as de-
8 fined in section 30D(f)(1)), or other portable
9 sources of electrical current generated on board
10 the vehicle from an alternative fuel (as so de-
11 fined),”.

12 (c) ADDITIONAL SPECIAL RULES.—Section 30(d)
13 (relating to special rules) is amended by adding at the end
14 the following new paragraphs:

15 “(5) NO DOUBLE BENEFIT.—The amount of
16 any deduction or credit allowable under this chapter
17 for any cost taken into account in computing the
18 amount of the credit determined under subsection
19 (a) shall be reduced by the amount of such credit at-
20 tributable to such cost.

21 “(6) LEASED VEHICLES.—No credit shall be al-
22 lowed under subsection (a) with respect to a leased
23 motor vehicle unless the lease documents clearly dis-
24 close to the lessee the specific amount of any credit

1 otherwise allowable to the lessor under subsection
2 (a).”

3 (d) EXTENSION.—Section 30(e) (relating to termi-
4 nation) is amended by striking “2004” and inserting
5 “2007”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to property placed in service after
8 December 31, 2000, in taxable years ending after such
9 date.

10 **SEC. 983. CREDIT FOR RETAIL SALE OF ALTERNATIVE**
11 **FUELS AS MOTOR VEHICLE FUEL.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-
13 chapter A of chapter 1 (relating to business related cred-
14 its) is amended by inserting after section 40 the following:

15 **“SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE**
16 **FUELS AS MOTOR VEHICLE FUEL.**

17 “(a) GENERAL RULE.—For purposes of section 38,
18 the alternative fuel retail sales credit of any taxpayer for
19 any taxable year is 25 cents for each gasoline gallon equiv-
20 alent of alternative fuel sold at retail by the taxpayer dur-
21 ing such year as a fuel to propel any qualified motor vehi-
22 cle.

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

24 “(1) ALTERNATIVE FUEL.—The term ‘alter-
25 native fuel’ has the meaning given such term by sec-

1 tion 301(2) of the Energy Policy Act of 1992 (42
2 U.S.C. 13211(2)), as in effect on the date of the en-
3 actment of this section.

4 “(2) GASOLINE GALLON EQUIVALENT.—The
5 term ‘gasoline gallon equivalent’ means, with respect
6 to any alternative fuel, the amount (determined by
7 the Secretary) of such fuel having a Btu content of
8 114,000.

9 “(3) QUALIFIED MOTOR VEHICLE.—The term
10 ‘qualified motor vehicle’ means any motor vehicle (as
11 defined in section 179A(e)(2)) which meets any ap-
12 plicable Federal or State emissions standards with
13 respect to each fuel by which such vehicle is de-
14 signed to be propelled.

15 “(4) SOLD AT RETAIL.—

16 “(A) IN GENERAL.—The term ‘sold at re-
17 tail’ means the sale, for a purpose other than
18 resale, after manufacture, production, or impor-
19 tation.

20 “(B) USE TREATED AS SALE.—If any per-
21 son uses alternative fuel as a fuel to propel any
22 qualified motor vehicle (including any use after
23 importation) before such fuel is sold at retail,
24 then such use shall be treated in the same man-

1 ner as if such fuel were sold at retail as a fuel
2 to propel such a vehicle by such person.

3 “(c) NO DOUBLE BENEFIT.—The amount of any de-
4 duction or credit allowable under this chapter for any fuel
5 taken into account in computing the amount of the credit
6 determined under subsection (a) shall be reduced by the
7 amount of such credit attributable to such fuel.

8 “(d) PASS-THRU IN THE CASE OF ESTATES AND
9 TRUSTS.—Under regulations prescribed by the Secretary,
10 rules similar to the rules of subsection (d) of section 52
11 shall apply.

12 “(e) TERMINATION.—This section shall not apply to
13 any fuel sold at retail after December 31, 2007.”.

14 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
15 tion 38(b) (relating to current year business credit), as
16 amended by this Act, is amended by striking “plus” at
17 the end of paragraph (16), by striking the period at the
18 end of paragraph (17) and inserting “, plus”, and by add-
19 ing at the end the following:

20 “(18) the alternative fuel retail sales credit de-
21 termined under section 40A(a).”.

22 (c) TRANSITIONAL RULE.—Section 39(d) (relating to
23 transitional rules), as amended by this Act, is amended
24 by adding at the end the following:

1 December 31, 2000, in taxable years ending after such
2 date.

3 **SEC. 985. ADDITIONAL DEDUCTION FOR COST OF INSTAL-**
4 **LATION OF ALTERNATIVE FUELING STA-**
5 **TIONS.**

6 (a) IN GENERAL.—Subparagraph (A) of section
7 179A(b)(2) (relating to qualified clean-fuel vehicle refuel-
8 ing property) is amended to read as follows:

9 “(A) IN GENERAL.—The aggregate cost
10 which may be taken into account under sub-
11 section (a)(1)(B) with respect to qualified
12 clean-fuel vehicle refueling property placed in
13 service during the taxable year at a location
14 shall not exceed the sum of—

15 “(i) with respect to costs not de-
16 scribed in clause (ii), the excess (if any)
17 of—

18 “(I) \$100,000, over

19 “(II) the aggregate amount of
20 such costs taken into account under
21 subsection (a)(1)(B) by the taxpayer
22 (or any related person or predecessor)
23 with respect to property placed in
24 service at such location for all pre-
25 ceding taxable years, plus

1 “(ii) the lesser of—
 2 “(I) the cost of the installation of
 3 such property, or
 4 “(II) \$30,000.”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 this section shall apply to property placed in service after
 7 December 31, 2000.

8 **Subtitle H—Renewable Energy**

9 **SEC. 991. MODIFICATIONS TO CREDIT FOR ELECTRICITY** 10 **PRODUCED FROM RENEWABLE RESOURCES** 11 **AND EXTENSION TO WASTE ENERGY.**

12 (a) EXPANSION OF QUALIFIED ENERGY RE-
 13 SOURCES.—

14 (1) IN GENERAL.—Section 45(c)(1) (defining
 15 qualified energy resources) is amended by striking
 16 “and” at the end of subparagraph (A), by striking
 17 subparagraph (B), and by adding at the end the fol-
 18 lowing:

19 “(B) biomass,
 20 “(C) municipal solid waste,
 21 “(D) incremental hydropower,
 22 “(E) geothermal,
 23 “(F) landfill gas, and
 24 “(G) steel cogeneration.”

1 (2) DEFINITIONS.—Section 45(c) is amended
2 by redesignating paragraph (3) as paragraph (8)
3 and by striking paragraph (2) and inserting the fol-
4 lowing:

5 “(2) BIOMASS.—The term ‘biomass’ means—

6 “(A) any organic material from a plant
7 which is planted exclusively for purposes of
8 being used at a qualified facility to produce
9 electricity, or

10 “(B) any solid, nonhazardous waste mate-
11 rial which is derived from—

12 “(i) any of the following forest-related
13 resources: mill residues, precommercial
14 thinnings, slash, and brush, but not includ-
15 ing old-growth timber,

16 “(ii) waste pallets, crates, and
17 dunnage, and landscape or right-of-way
18 tree trimmings, but not including unsegre-
19 gated municipal solid waste or paper that
20 is destined for recycling, or

21 “(iii) agriculture sources, including
22 switchgrass, orchard tree crops, vineyards,
23 grain, legumes, sugar, and other crop by-
24 products or residues.

1 “(3) MUNICIPAL SOLID WASTE.—The term
2 ‘municipal solid waste’ has the same meaning given
3 the term ‘solid waste’ under section 2(27) of the
4 Solid Waste Utilization Act (42 U.S.C. 6903).

5 “(4) INCREMENTAL HYDROPOWER.—The term
6 ‘incremental hydropower’ means additional gener-
7 ating capacity achieved from increased efficiency or
8 additions of new capacity at existing hydroelectric
9 dams licensed by the Federal Energy Regulatory
10 Commission.

11 “(5) GEOTHERMAL.—The term ‘geothermal’
12 means energy derived from a geothermal deposit
13 (within the meaning of section 613(e)(2)), but only,
14 in the case of electricity generated by geothermal
15 power, up to (but not including) the electrical trans-
16 mission stage.

17 “(6) LANDFILL GAS.—The term ‘landfill gas’
18 means gas generated from the decomposition of any
19 household solid waste, commercial solid waste, and
20 industrial solid waste disposed of in a municipal
21 solid waste landfill unit (as such terms are defined
22 in regulations promulgated under subtitle D of the
23 Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

24 “(7) STEEL COGENERATION.—The term ‘steel
25 cogeneration’ means the production of electricity and

1 steam (or other form of thermal energy) from any
2 or all waste sources in subparagraphs (A), (B), and
3 (C) within an operating facility which produces or
4 integrates the production of coke, direct reduced
5 iron ore, iron, or steel but only if the cogeneration
6 meets any regulatory energy-efficiency standards es-
7 tablished by the Secretary, and only to the extent
8 that such energy is produced from—

9 “(A) gases or heat generated from the pro-
10 duction of metallurgical coke,

11 “(B) gases or heat generated from the pro-
12 duction of direct reduced iron ore or iron, from
13 blast furnace or direct ironmaking processes, or

14 “(C) gases or heat generated from the
15 manufacture of steel.”

16 (b) EXTENSION AND MODIFICATION OF PLACED-IN-
17 SERVICE RULES.—Paragraph (8) of section 45(c), as re-
18 designated by subsection (a), is amended to read as fol-
19 lows:

20 “(8) QUALIFIED FACILITY.—

21 “(A) IN GENERAL.—The term ‘qualified
22 facility’ means any facility owned or leased by
23 the taxpayer which is originally placed in
24 service—

1 “(i) in the case of a facility using
2 wind to produce electricity, after December
3 31, 1993, and before July 1, 2011,

4 “(ii) in the case of a facility using
5 municipal solid waste, geothermal or land-
6 fill gas to produce electricity, after the
7 date of the enactment of this subparagraph
8 and before July 1, 2011,

9 “(iii) in the case of a facility using
10 biomass to produce electricity, before July
11 1, 2011, except that a facility shall not be
12 treated as a qualified facility for any
13 month unless, for such month, biomass
14 comprises not less than 75 percent (on a
15 Btu basis) of the average monthly fuel
16 input of the facility for the taxable year
17 which includes such month, and

18 “(iv) in the case of a facility using
19 steel cogeneration to produce electricity,
20 after December 31, 2000, and before Jan-
21 uary 1, 2011.

22 “(B) COMBINED PRODUCTION FACILITIES
23 INCLUDED.—For purposes of this paragraph,
24 the term ‘qualified facility’ shall include a facil-
25 ity using biomass to produce electricity and

1 other biobased products such as chemicals and
2 fuels from renewable resources.

3 “(C) SPECIAL RULES.—In the case of a
4 qualified facility described in subparagraph (A)
5 (ii), (iii), or (iv)—

6 “(i) the 10-year period referred to in
7 subsection (a) shall be treated as beginning
8 no earlier than the date of the enactment
9 of this paragraph, and

10 “(ii) subsection (b)(3) shall not apply
11 to any such facility originally placed in
12 service before January 1, 1997.”

13 (c) SPECIAL RULES FOR LANDFILL GAS.—Section
14 45(d) is amended by adding at the end the following:

15 “(8) CREDIT ALLOWABLE FOR SALE OF LAND-
16 FILL GAS.—

17 “(A) IN GENERAL.—In the case of landfill
18 gas which is produced by the taxpayer but not
19 used by the taxpayer to produce electricity,
20 paragraph (2) of subsection (a) shall be applied
21 as if it read as follows:

22 ““(2) the kilowatt-hour equivalent of the landfill
23 gas—

24 ““(A) produced by the taxpayer at a quali-
25 fied facility during the 10-year period beginning

1 on the date the facility was originally placed in
2 service, and

3 ““(B) sold by the taxpayer to an unrelated
4 person during the taxable year.’.

5 ““(B) KILOWATT HOUR EQUIVALENT.—For
6 purposes of applying subparagraph (A), the kil-
7 owatt hour equivalent for landfill gas is the
8 amount of such gas which has a Btu content of
9 10,000.

10 ““(C) SPECIAL RULES.—In the case of
11 landfill gas to which subparagraph (A)
12 applies—

13 ““(i) the reference to electricity in
14 paragraphs (1) and (4) shall be treated as
15 including a reference to such gas,

16 ““(ii) the reference price for such gas
17 shall be determined under paragraph
18 (2)(C) on the basis of kilowatt hour
19 equivalents, and

20 ““(iii) the reference to ownership inter-
21 ests in paragraph (3) shall be treated as
22 including a reference to any economic in-
23 terest.”

1 (d) COORDINATION WITH OTHER CREDITS.—Section
2 45(d) (relating to definitions and special rules) is amended
3 by adding at the end the following:

4 “(9) COORDINATION WITH OTHER CREDITS.—
5 This section shall not apply to any production with
6 respect to which the clean coal technology produc-
7 tion credit under section 45F or 45G, or the non-
8 conventional fuel production credit under section 29,
9 is allowed unless the taxpayer elects to waive the ap-
10 plication of such credit to such production.”.

11 (e) CONFORMING AMENDMENTS.—

12 (1) The heading for section 45 is amended by
13 inserting “and waste energy” after “renewable”.

14 (2) The item relating to section 45 in the table
15 of sections subpart D of part IV of subchapter A of
16 chapter 1 is amended by inserting “and waste en-
17 ergy” after “renewable”.

18 (f) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to electricity produced after the
20 date of the enactment of this Act.

21 **SEC. 992. CREDIT FOR RESIDENTIAL SOLAR AND WIND EN-**
22 **ERGY PROPERTY.**

23 (a) IN GENERAL.—Subpart A of part IV of sub-
24 chapter A of chapter 1 (relating to nonrefundable personal

1 credits), as amended by this Act, is amended by inserting
2 after section 25B the following new section:

3 **“SEC. 25C. RESIDENTIAL SOLAR AND WIND ENERGY PROP-**
4 **ERTY.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
6 dividual, there shall be allowed as a credit against the tax
7 imposed by this chapter for the taxable year an amount
8 equal to the sum of—

9 “(1) 15 percent of the qualified photovoltaic
10 property expenditures made by the taxpayer during
11 the taxable year,

12 “(2) 15 percent of the qualified solar water
13 heating property expenditures made by the taxpayer
14 during the taxable year, and

15 “(3) 15 percent of the qualified wind energy
16 property expenditures made by the taxpayer during
17 the taxable year.

18 “(b) LIMITATIONS.—

19 “(1) MAXIMUM CREDIT.—The credit allowed
20 under subsection (a)(2) shall not exceed \$2,000 for
21 each system of solar energy property.

22 “(2) TYPE OF PROPERTY.—No expenditure may
23 be taken into account under this section unless such
24 expenditure is made by the taxpayer for property in-
25 stalled on or in connection with a dwelling unit

1 which is located in the United States and which is
2 used as a residence.

3 “(3) SAFETY CERTIFICATIONS.—No credit shall
4 be allowed under this section for an item of property
5 unless—

6 “(A) in the case of solar water heating
7 equipment, such equipment is certified for per-
8 formance and safety by the non-profit Solar
9 Rating Certification Corporation or a com-
10 parable entity endorsed by the government of
11 the State in which such property is installed,
12 and

13 “(B) in the case of a photovoltaic or wind
14 energy system, such system meets appropriate
15 fire and electric code requirements.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) QUALIFIED SOLAR WATER HEATING PROP-
18 erty expenditure.—The term ‘qualified solar
19 water heating property expenditure’ means an ex-
20 penditure for property that uses solar energy to heat
21 water for use in a dwelling unit with respect to
22 which a majority of the energy is derived from the
23 sun.

24 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
25 penditure.—The term ‘qualified photovoltaic prop-

1 erty expenditure' means an expenditure for property
2 that uses solar energy to generate electricity for use
3 in a dwelling unit.

4 “(3) SOLAR PANELS.—No expenditure relating
5 to a solar panel or other property installed as a roof
6 (or portion thereof) shall fail to be treated as prop-
7 erty described in paragraph (1) or (2) solely because
8 it constitutes a structural component of the struc-
9 ture on which it is installed.

10 “(4) QUALIFIED WIND ENERGY PROPERTY EX-
11 PENDITURE.—The term ‘qualified wind energy prop-
12 erty expenditure’ means an expenditure for property
13 which uses wind energy to generate electricity for
14 use in a dwelling unit.

15 “(5) LABOR COSTS.—Expenditures for labor
16 costs properly allocable to the onsite preparation, as-
17 sembly, or original installation of the property de-
18 scribed in paragraph (1), (2), or (4) and for piping
19 or wiring to interconnect such property to the dwell-
20 ing unit shall be taken into account for purposes of
21 this section.

22 “(6) ENERGY STORAGE MEDIUM.—Expendi-
23 tures which are properly allocable to a swimming
24 pool, hot tub, or any other energy storage medium
25 which has a function other than the function of such

1 storage shall not be taken into account for purposes
2 of this section.

3 “(d) SPECIAL RULES.—For purposes of this
4 section—

5 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
6 CUPANCY.—In the case of any dwelling unit which is
7 jointly occupied and used during any calendar year
8 as a residence by 2 or more individuals the following
9 shall apply:

10 “(A) The amount of the credit allowable
11 under subsection (a) by reason of expenditures
12 (as the case may be) made during such cal-
13 endar year by any of such individuals with re-
14 spect to such dwelling unit shall be determined
15 by treating all of such individuals as 1 taxpayer
16 whose taxable year is such calendar year.

17 “(B) There shall be allowable with respect
18 to such expenditures to each of such individ-
19 uals, a credit under subsection (a) for the tax-
20 able year in which such calendar year ends in
21 an amount which bears the same ratio to the
22 amount determined under subparagraph (A) as
23 the amount of such expenditures made by such
24 individual during such calendar year bears to

1 the aggregate of such expenditures made by all
2 of such individuals during such calendar year.

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

11 “(3) CONDOMINIUMS.—

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

18 “(B) CONDOMINIUM MANAGEMENT ASSO-
19 CIATION.—For purposes of this paragraph, the
20 term ‘condominium management association’
21 means an organization which meets the require-
22 ments of paragraph (1) of section 528(c) (other
23 than subparagraph (E) thereof) with respect to
24 a condominium project substantially all of the
25 units of which are used as residences.

1 “(4) JOINT OWNERSHIP OF ITEMS OF SOLAR OR
2 WIND ENERGY PROPERTY.—

3 “(A) IN GENERAL.—Any expenditure oth-
4 erwise qualifying as an expenditure described in
5 paragraph (1), (2), or (4) of subsection (c) shall
6 not be treated as failing to so qualify merely be-
7 cause such expenditure was made with respect
8 to 2 or more dwelling units.

9 “(B) LIMITS APPLIED SEPARATELY.—In
10 the case of any expenditure described in sub-
11 paragraph (A), the amount of the credit allow-
12 able under subsection (a) shall (subject to para-
13 graph (1)) be computed separately with respect
14 to the amount of the expenditure made for each
15 dwelling unit.

16 “(5) ALLOCATION IN CERTAIN CASES.—If less
17 than 80 percent of the use of an item is for nonbusi-
18 ness residential purposes, only that portion of the
19 expenditures for such item which is properly allo-
20 cable to use for nonbusiness residential purposes
21 shall be taken into account. For purposes of this
22 paragraph, use for a swimming pool shall be treated
23 as use which is not for residential purposes.

24 “(6) WHEN EXPENDITURE MADE; AMOUNT OF
25 EXPENDITURE.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), an expenditure with respect
3 to an item shall be treated as made when the
4 original installation of the item is completed.

5 “(B) EXPENDITURES PART OF BUILDING
6 CONSTRUCTION.—In the case of an expenditure
7 in connection with the construction or recon-
8 struction of a structure, such expenditure shall
9 be treated as made when the original use of the
10 constructed or reconstructed structure by the
11 taxpayer begins.

12 “(C) AMOUNT.—The amount of any ex-
13 penditure shall be the cost thereof.

14 “(7) REDUCTION OF CREDIT FOR GRANTS, TAX-
15 EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANC-
16 ING.—The rules of section 29(b)(3) shall apply for
17 purposes of this section.

18 “(e) BASIS ADJUSTMENTS.—For purposes of this
19 subtitle, if a credit is allowed under this section for any
20 expenditure with respect to any property, the increase in
21 the basis of such property which would (but for this sub-
22 section) result from such expenditure shall be reduced by
23 the amount of the credit so allowed.

1 “(f) TERMINATION.—The credit allowed under this
2 section shall not apply to taxable years beginning after
3 December 31, 2011.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Subsection (a) of section 1016 is amended
6 by striking “and” at the end of paragraph (29), by
7 striking the period at the end of paragraph (30) and
8 inserting “; and”, and by adding at the end the fol-
9 lowing new paragraph:

10 “(31) to the extent provided in section 25C(e),
11 in the case of amounts with respect to which a credit
12 has been allowed under section 25C.”

13 (2) The table of sections for subpart A of part
14 IV of subchapter A of chapter 1 is amended by in-
15 serting after the item relating to section 25B the fol-
16 lowing new item:

 “Sec. 25C. Residential solar and wind energy property.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years ending after De-
19 cember 31, 2001.

1 **SEC. 993. TREATMENT OF FACILITIES USING BAGASSE TO**
2 **PRODUCE ENERGY AS SOLID WASTE DIS-**
3 **POSAL FACILITIES ELIGIBLE FOR TAX-EX-**
4 **EMPT FINANCING.**

5 (a) **IN GENERAL.**—Section 142 (relating to exempt
6 facility bond) is amended by adding at the end the fol-
7 lowing:

8 “(k) **SOLID WASTE DISPOSAL FACILITIES.**—For pur-
9 poses of subsection (a)(6), the term ‘solid waste disposal
10 facilities’ includes property used for the collection, storage,
11 treatment, utilization, processing, or final disposal of ba-
12 gasse in the manufacture of ethanol.”.

13 (b) **EFFECTIVE DATE.**—The amendment made by
14 this section shall apply to bonds issued after the date of
15 the enactment of this Act.

○